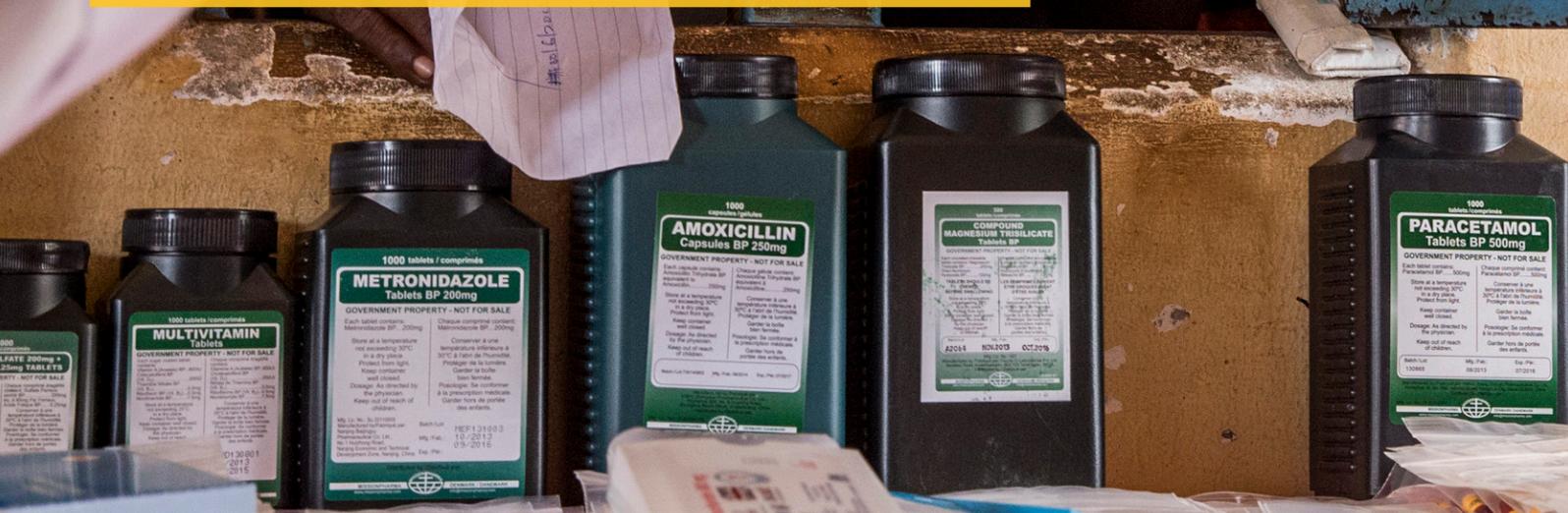


Researching livelihoods and  
services affected by conflict

# Statebuilding and legitimacy Experiences of South Sudan

Report 15

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January 2017



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SLRC reports present information, analysis and key policy recommendations on issues relating to livelihoods, basic services and social protection in conflict affected situations. This and other SLRC reports are available from [www.securelivelihoods.org](http://www.securelivelihoods.org). Funded by DFID, Irish Aid and EC.

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Cover photo: Medicines at Warrap State Hospital.  
Credit: United Nations Photo

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# About us



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The Secure Livelihoods Research Consortium (SLRC) is a six-year project funded by DFID, Irish Aid and EC. SLRC aims to bridge the gaps in knowledge about:

- When it is appropriate to build secure livelihoods in conflict-affected situations (CAS) in addition to meeting immediate acute needs;
- What building blocks (e.g. humanitarian assistance, social protection, agriculture and basic services) are required in different contexts;
- Who can best deliver building blocks to secure livelihoods in different contexts; and
- How key investments can be better and more predictably supported by effective financing mechanisms.

The Overseas Development Institute (ODI) is the lead organisation with three other core partners; Centre for Poverty Analysis (CEPA), Feinstein International Centre (Tufts University) and Save the Children UK and is supported by a network of affiliates consisting of The Afghanistan Research and Evaluation Unit (AREU), The Sustainable Development Policy Institute (SDPI), Humanitarian Aid and Reconstruction based at Wageningen University (WUR) and the Nepal Center for Contemporary Research (NCCR).

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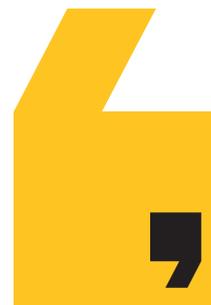
# Acronyms

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CANS	Civil Authority of the New Sudan	NGO	Non-governmental organisation
CPA	Comprehensive Peace Agreement	OLS	Operation Lifeline Sudan
GoS	Government of Sudan	SLRC	Secure Livelihoods Research Consortium
GoSS	Government of Southern Sudan	SPLM/A	Sudan People's Liberation Movement/Army
IDPs	Internally displaced persons	SPLM/A- IO	Sudan People's Liberation Movement/Army- in Opposition
NA	National Assembly		

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# Contents



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<b>About Us</b>	<b>1</b>
<b>1 Introduction</b>	<b>4</b>
<b>2 Literature on statebuilding and sources of legitimacy</b>	<b>7</b>
<b>3 Second War and legitimacy</b>	<b>10</b>
3.1 'New Sudan' ideology	11
3.2 The 1991 split and 1994 Chukudum convention	13
3.3 Summary of sources of legitimacy during Second War	16
<b>4 Statebuilding and legitimacy after the CPA</b>	<b>18</b>
4.1 Wobbly 'big tent' and power consolidation	19
4.2 Return to factionalism and war	21
<b>5 Conclusion</b>	<b>23</b>
<b>References</b>	<b>25</b>

# 1 Introduction

In 2005, the Government of Sudan<sup>1</sup> and the Sudan People's Liberation Movement/Army (SPLM/A) concluded the landmark Comprehensive Peace Agreement (CPA), formally ending the civil war that had been raging since 1983. The Government of Southern Sudan (GoSS) was subsequently formed in the southern region of the country and the Government of National Unity was formed in Khartoum, the national capital. As agreed in the CPA, in January 2011, Southern Sudanese voted in a referendum on the independence of their region, which was overwhelmingly supported, and six months later Southern Sudan seceded. Less than three years later, however, the newest state in the world relapsed yet again into war, triggering a humanitarian crisis that the South Sudanese and the international community continue to grapple with.

Between 2005 and the outbreak of fighting in December 2013, donors provided billions of dollars for recovery, humanitarian aid, development and for building new state institutions for first GoSS and then the new South Sudanese state (Maxwell et al. 2016). In 2012 and 2013, for example, official development assistance was between USD 1.5 and USD 2 billion (ibid). The prevalent approach of statebuilding focused mainly on infrastructure and bureaucracy. Engagement was based on the underlying assumption that service delivery fosters state legitimacy, a popular theory in the 'New Deal' era of statebuilding (see Zaum 2015). Emerging literature, however, indicates that there is no strong direct correlation between service delivery and government or state legitimacy (see Mcloughlin 2015). This is partly because, as Mcloughlin argues, the notion that service delivery enhances state legitimacy is apolitical and fails to grasp the fact that legitimation and de-legitimation are about political structures, ideas and agency. This concept also neglects the historical dimensions of state structures and history of divisions within the society and the political sphere in South Sudan.

Using South Sudan as its case, then, this report further interrogates people's perceptions of the state, focusing on sources of legitimacy that are not primarily related to service delivery.<sup>2</sup> It covers the period from the onset of civil war in 1983 to the present time. We contend that the war period (1983-2005) was a formative one for the government or state structures and practices that emerged after this period, especially following the

<sup>1</sup> This refers to the Sudan before the secession of Southern Sudan on 9 July 2011.

<sup>2</sup> A comprehensive analysis of the nexus of basic service delivery and legitimacy in Southern/South Sudan is presented in Maxwell et al. (2016).

birth of the South Sudanese state in 2011. We therefore underline the importance of historical antecedents of policies and practices of the GoSS during the Interim Period (2005-2011) and subsequently of the South Sudanese state. Accordingly, the report addresses the following key questions:

- What ideas, ideologies and actions did leaders of the SPLM/A employ during the war to challenge the legitimacy of the Sudanese state and also to mobilise public support for their cause?
- How did these ideas, ideologies and actions influence the legitimacy of government and state structures after the war ended in 2005?
- What are the key sources of legitimacy of the South Sudanese state?

In this report, we understand state legitimacy as ‘popular approval of the state’s “rules of the game”, or the system of rules and expectations on which government actions are based’ (McCloughlin 2015: 1). By so doing we are not attempting to measure or evidence legitimacy but to explore the different dimensions of legitimacy in relation to South Sudan. We consider different concepts of legitimacy that ‘coexist and intersect’ (Lentz 1998: 59) and potentially also compete. For instance, the state is often associated with individuals and not with government or state institutions; public authority is also wielded and claimed by non-state actors; and the line between state and society is blurred (Lund 2006: 1). We therefore explore not only legitimacy of the state but also a broader concept of legitimacy. This is further developed in later sections of the report.

SLRC research and publications on South Sudan illustrate that how citizens view government or state structures in South Sudan is not only shaped by the access to basic services (Maxwell et al. 2015). What is important to respondents is to have access to services irrespectively of the provider. Other factors play a key role in influencing citizens’ view of the state in South Sudan. These include the provision of security before and after the signing of the CPA as well as the role of SPLM/A leaders during the armed rebellion against the regimes based in Khartoum ending in the independence of the country. Without doubt, provision of basic services and security is crucial for South Sudanese because the region has been devastated by years of civil war, and insecurity remained a significant problem even after peace was

formally attained in 2005. Jonglei State – a focus area of SLRC – had been affected by inter-communal violence, cattle raiding and insurgencies before December 2013 (Maxwell et al. 2014; Gordon 2014). Since December 2013, insecurity has even become more problematic in South Sudan as many areas have been engulfed in fighting between government and rebel forces. But also the long armed rebellion against the Khartoum-based regimes is important for most South Sudanese when legitimacy questions are raised. At least before the recent resurgence of major armed conflict, many leaders of the SPLM/A were often viewed as liberators from Khartoum’s misrule. Therefore, the contribution of this paper is to highlight the role of the leaders of the armed struggle in shaping people’s view of the state in South Sudan.

There is a long history of oppression and exploitation of Southern Sudanese by Khartoum-based regimes. Like many postcolonial regimes in Africa, most of the former Sudanese<sup>3</sup> regimes were led by military ‘big men.’<sup>4</sup> Notably, before the signing of the CPA, there were only three short multiparty periods: from 1953 to 1958, 1964 to 1969, and 1986 to 1989 (Willis et al. 2009). The last of the military ‘big men’ of Sudan is President Omer el Bashir, who has been in power since 1989.

Like other ‘big men’ elsewhere, el Bashir has been perceived as an illegitimate leader by many people both in and outside of the country. Although he regularly engages in elections, the results are questionable: the most recent election gave him 94 percent of the total votes cast. The citizens of the present Sudan are bracing themselves for ‘more of the same,’ including no respite from armed rebellions in Darfur, the Nuba Mountains and Blue Nile (Suliman 2015).

One of the clear manifestations of the illegitimacy of military ‘big men’ is unending armed rebellions against their rule. The first civil war in the former Sudan began before the attainment of independence in 1956 and ended in March 1972, although any organised form of rebellion in the south only really started in 1963 (Rolandsen 2011). After a ten-year interlude of peace, civil war resumed in 1983, this time waged against Khartoum by the SPLM/A. When the civil war ended in 2005, the new GoSS was dominated by the former rebel leaders of the SPLM/A. Southern Sudan had wide-ranging powers. Some people thought it had a quasi-confederal status (see Khalid 2010: 232), while others claimed it

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3 By this we mean Sudan before the secession of the Southern region on 9 July 2011.

4 The concept of ‘Little Men’ and ‘Big Men’ has been employed by Jean-Francois Bayart (2009) to illustrate the inequality manufactured by the state in Africa through notion of development that breeds inequality.

was a de facto state (Deng 2013). It formally became independent in 2011 but continued to be dogged by rebellions, the worst of which began in 2013.

This paper is based on writings on Southern/South Sudan developments from the onset of the second civil war in 1983 to the present time and draws on literature on statebuilding and legitimacy as well as our experiences and information acquired mainly during research trips in South Sudan under the Secure Livelihoods Research Consortium (SLRC). Over the course of four years, we conducted interviews with: members of the Nuer ethnic group in northern Jonglei in early 2013; Murle internally displaced persons (IDPs) in Juba in late 2013; Dinka IDPs in Lakes State and Nuer IDPs in Ganyiel in Unity State in 2014; and Dinka IDPs and members of the host community in Eastern Equatoria State in 2015.

Moreover, information was collected during interviews and other engagements with political leaders and civil servants; local and international aid workers, donors, and diplomats; academics; members of civil society organisations (CSOs) and others in Juba.<sup>5</sup>

The next section explores the literature on legitimacy, focusing on its sources in conflict and post-conflict settings. Section 3 covers the armed rebellion from 1983 to 2005, analysing the ideas and ideologies that the SPLM/A leaders adopted to mobilise support and examining processes and motivations for the development of governance structures and perceptions of these processes and practices. Section 4 traces continuities in governance practices into the post-CPA period and also examines sources of legitimacy from that time. The last section concludes.



Women in a market in Lakes state. Credit: UNDP South Sudan / Brian Sokol

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<sup>5</sup> Details on interviews and other methods used in generating information during field trips in South Sudan are available from SLRC website

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## 2 Literature on statebuilding and sources of legitimacy



Current statebuilding discourses and practices are influenced by academic and policy debates on ‘failed,’ ‘weak’ and fragile states that developed in the 1990s in response to civil wars in Africa and other continents and in response to other crises affecting states, especially terrorism (Migdal and Schlichte 2005; Raeymaekers 2005). After the events of 9/11, ‘failed’ and fragile states increasingly came to be seen as a menace to the international system of states (Raeymaekers 2005). Fragile states are associated with limited control over territory, weak institutions, limited legitimacy, limited capacity to deliver services, and weak leadership (Rocha Menocal 2011). They are therefore perceived as ‘vulnerable to overthrow or collapse’ (Gilley 2006a), leading to more violence and humanitarian crises, mass displacement, terrorism and other negative outcomes.

In response to that perceived threat, international engagement of bilateral donors, multilateral agencies and international NGOs since the 1990s has focused on statebuilding (Goetschel and Hagmann 2009; Migdal and Schlichte 2005). In particular, ‘rebuilding the deficient bureaucratic apparatuses of sub-Saharan African governments then [became] a major preoccupation and challenge for international donors’ (Hagmann and Péclard 2010). Statebuilding in this context means ‘actions undertaken by national and/or international actors to establish, reform, and strengthen state institutions where these have been seriously eroded or are missing’ (Rocha Menocal 2011: 1719). The underlying expectation is that the state will be able to deliver services to its people and hence improve people’s perceptions about the state (Clements 2014).

The link between statebuilding and legitimacy has, however, been increasingly questioned. Perceptions and conceptions of the state and legitimacy vary between individuals and change over time. Values, norms, emic concepts, past experiences, expectations and political contexts shape views about legitimacy – that is, whether institutions, regulations, laws, individuals including politicians and bureaucrats or practices and processes are seen as legitimate (McCloughlin 2015: 1; Gilley 2006b; Roberts 2008). As Lund stressed: ‘what is legitimate varies between and within cultures and over time, and is continuously (re-)established through conflict and negotiation. Somewhat polemically, one could argue that legitimacy’s most constant feature is people’s preoccupation with it’ (Lund 2006: 693). Notions of legitimacy, authority and statehood that are grounded

only in Western (and particularly Weberian) concepts of the state, cannot adequately characterise the complexity of ideas of legitimacy in Southern/South Sudan.

In many countries, the state is understood as ‘the basic institutional and ideological structure of a political community’ (Gilley 2006b) while the government constitutes ‘the particular occupants of executive office at any given time’ (ibid). In politically fragile countries such as South Sudan, however, the lines between government and state are blurred. States are ‘an effect of everyday practices, representational discourses, and multiple modalities of power’ (Sharma and Gupta 2006: 165) and ‘historical processes that include and span the pre-colonial, colonial and post-colonial periods’ (Hagmann and Péclard 2010: 542). Neither can state and society be easily distinguished (Lund 2006). While it is important to distinguish between state and government at an analytical level, most people in South Sudan use the Arabic term *hakuma* for both the state and the government interchangeably.

Political and state legitimacy is made, contested, claimed and negotiated in public discourse by a variety of actors. These include citizens, with their various views of political legitimacy, and individuals and groups that make claims of legitimacy. Legitimacy is ‘engineered through political processes – such as when elites draw on people’s norms and ideas to persuade them that the rules of power are justifiable’ (McCloughlin 2015: 2). Depending on context and interests, leaders, politicians, officials, administrators, chiefs, rebels and other individuals and groups who claim to represent the state or who claim public authority refer to different repertoires and different sources of legitimacy (Hagmann and Péclard 2010). According to Bierschenck (1993: 241):

*Their strategies in the struggle for public authority, power and material wealth have been described as ‘straddling’, i.e. the conscious linking of political, economic and other resources, the combination of traditional and modern sources of political legitimacy, the fusion of public and private spheres and the social roles they engender.*

These sources of legitimacy may include reference to and different interpretations of tradition. These interpretations of tradition constitute a ‘repertoire’ of political action and emerge as the common reference to traditional authority, institutions, rules, symbols and practices (Clements 2014; Rocha Menocal 2011). Political leaders in South Sudan often utilise symbols of authority, such as walking sticks, or refer to their

family background as belonging to a chiefly family or the family of a traditional leader, which can be a source of authority and legitimacy (Santschi 2016). Identity, competence in traditional fields of engagement such as conflict resolution, local justice, and mediation, as well as the provision of security and skills in warfare are also identified as traditional bases for claiming legitimacy (Gledhill 1994).

Personal qualities and charisma may also be a source of legitimacy. This is common in some areas of South Sudan where the legitimacy of leaders, for example chiefs, is grounded in personal qualities and to a lesser degree in ‘official functions’ (Bierschenck and de Sardan 1997: 453).

Other forms of legitimacy are performance and procedural legitimacy (Rocha Menocal 2011: 1724). Performance legitimacy refers to the ‘(effective) provision of public goods and services (eg the modern welfare state), or sustained economic growth,’ among other aspects (ibid). These public goods also include security and rule of law (Carter 2011: 9). Fragile and conflict-affected states are often able to provide public goods, only to a limited degree. Procedural legitimacy is ‘more process-oriented, depending less on outcomes than on agreed-upon formal rules and procedures for decision-making and political participation’ (Rocha Menocal 2011: 1724).

Elections can be a source of procedural legitimacy. African leaders have long been instrumentalising elections and multi-partyism – practices associated with democracy – in order to claim and increase their internal and international legitimacy or/and for self-preservation (Gledhill 1994; Bayart and Ellis 2000). Bayart and Ellis noted that the ‘transition to multi-partyism was not more than a fig leaf from the prudish view of the West the enhanced exercise of the *politique du ventre* by authoritarian regimes’ (2000: 225).

State practices and symbols are also applied by non-state actors such as rebel groups that act officially to enhance their authority and legitimacy (Sharma and Gupta 2006). Rebel groups that claim to govern and hold public authority often establish administrations or institutions and attempt and claim to provide security, basic services, legislatures and justice in the territory which they control (Mampilly 2011). During the civil war period (1983-2005), the SPLM/A followed this strategy by establishing government institutions and passing acts of ‘the New Sudan.’

Legitimacy can also be conferred by external actors. By following or pretending to follow the policies of external actors focused on good governance and statebuilding, African leaders try to secure international support and legitimacy. Bayart suggested that African elites tend to capture discourses on democracy and good governance without actually following them. Such notions and discourses constitute a 'new type of economic rent' (Bayart 2009: xiii) whereby African elites attract international funds and other forms of support (Bayart and Ellis 2000). Cooperation with donors, humanitarian agencies and international NGOs within the framework of Operation Lifeline Sudan (OLS) – as discussed in other parts of this report – was an important source of external recognition and internal legitimacy for the SPLM/A. This external support and conferral of recognition and legitimacy continued even after the signing of the CPA in 2005 with massive donor-funded statebuilding and peacebuilding projects.

Different levels of government and state institutions are perceived and seen differently by citizens. In the case of South Sudan, national government structures formerly in Khartoum and now in Juba are often seen by those outside the capital or otherwise without access to them as distant and alien: '...an animal called government. And nobody knows this animal' (Santschi 2016: 313). By contrast, local government institutions, including the chiefs, are seen as close and reachable, and their underlying norms and practices predictable. 'They are closely connected to the government, and yet somehow apart from it too,' say Leonardi. et al (2010). Their legitimacy is not straightforward, but nevertheless 'the chiefs are distinguished from the even less-trusted government and police' (ibid). In contrast to other higher-level officials and administrators, chiefs can be challenged and held accountable for unpopular decisions and practices (Santschi 2016).

Statebuilding endeavours championed by donors

have come under criticism for a number of reasons, including for being grounded in an ahistorical and linear understanding of states and state development in Africa, and for promoting a decontextualised 'ideal of Western liberal democracy' (Hagmann and Péclard 2010: 541). Statebuilding is criticised for being based on technical tools and an externally driven, top-down approach that does not take into account the highly political and contextual dimensions of statebuilding and peacebuilding activities (Clements 2014; Goetschel and Hagmann 2009). Further, donor engagements that aim to foster statebuilding and the legitimacy of the state 'have tended to over-privilege a focus on building and strengthening formal state institutions' (Rocha Menocal 2011: 1726) and process and performance legitimacy. In doing this, informal institutions that are often important to governance have been neglected. Given that legitimacy is strongly influenced by experiences, norms and values, the neglect of informal legitimacy and authority is questioned by some (Clements 2014).

Gradually, debates on statebuilding have begun to take on a more nuanced approach. For example, the Organization for Economic Co-operation and Development (OECD) pointed out in a 2011 report that: 'statebuilding is a deeply political process, and understanding the context – especially what is perceived as legitimate in a specific context – is crucial if international support is to be useful' (OECD DAC 2012: 11). Despite the changing debate, however, statebuilding in practice continues to be informed by models of liberal democracy and neoliberal economic practices, and is still dominated by technical approaches and externally driven (Roberts 2008). In the case of South Sudan, critics have observed that, starting from 2005, donors and other international actors have largely focused their efforts on technical activities. Their engagement has been largely ahistorical and apolitical, and hence has neglected the political tensions among key players in South Sudan that boiled over into war in 2013 (Pantuliano 2014).



Protest, Juba. Credit: Gregg Carlstrom

### 3 Second War and legitimacy



As noted, the legitimacy of the recently born South Sudanese state is partly shaped by the long history of armed struggle against the (former) Sudanese state. Since the colonial days, most South Sudanese have viewed 'the state' as exploitative and repressive. Many South Sudanese will point out that the worst kind of exploitation was slavery, perpetrated before and during colonial times and later in the midst of the 1983-2005 Sudanese civil war, mainly by people from groups from the north of the country who came to dominate the state after the independence of Sudan from the Anglo-Egyptian Condominium in 1956 (Jok 2001). Indeed, southern Sudanese politicians accepted independence only after northern politicians agreed to give 'full consideration' to federation in the preparation of the postcolonial constitution. This promise was dishonoured after independence was achieved, however. Subsequently, the perceived exploitation, repression and marginalisation of southerners by the Sudanese state continued, as the leaders of the country tried to impose Islam and Arabism throughout the country as a way of creating a unified nation (Johnson 2003). Hence, most southern Sudanese viewed the postcolonial state as a new form of colonialism that excluded them and did not represent their interests. Indeed, Dunstan Wai succinctly argued that, 'Southern Sudan had no concept of a Southern Sudan united with the Northern Arab Sudan' (Wai 1980: 394). For southerners, the Sudanese state was not only illegitimate but also coercive, and hence they took up arms against it.

The first civil war began in 1955, some months before the attainment of Sudanese independence the following year, and ceased in 1972 with the signing of the Addis Ababa Peace Agreement between the regime of General Jaafar Mohamed Nimeiri (1969-1985) and the Southern Sudan Liberation Movement, also known as the 'Anyanya' movement. A largely autonomous regional government, managed by southern Sudanese, was set up in southern Sudan. Attempts by successive northern-dominated governments to impose Islam as well as the Arabic language and Arabic culture on the south temporarily ceased, and English was made the working language in government offices. Also, southern Sudanese chose their leaders through relatively free and fair elections and were promised a more equitable share of the country's resources. In general, the agreement addressed some of the key grievances that had fuelled the civil war. It therefore conferred some legitimacy on the Sudanese state, and increased the popularity of Jaafar Nimeiri, who became a 'uniquely popular Northerner in the South, enjoying a reputation as the region's savior from civil war'

(Woodward 1996: 4).

However, Jaafar Nimeiri abrogated the agreement in 1982, divided the southern region into three regions in June 1983, and imposed Islamic law, or shari'a, over the whole country in September of the same year. Thus, the Addis Ababa Agreement, at one point arguably his greatest achievement, ended as just another dishonoured deal (Alier 1990). As a result, southerners reverted to their old hostility towards a state that had become illegitimate and coercive once more. According to Bona Malwal, the abrogation of the Addis Ababa Peace Agreement 'triggered the real war for South Sudan's independence and facilitated its eventual independence in 2011' (Malwal 2014: 51).

The second round of armed rebellion started in 1983. It was led by the SPLM/A, which championed the struggle against the regimes of the so-called 'Old Sudan' that were led by military 'strong men' whose leadership was invariably perceived as illegitimate by many southern Sudanese (Macklin 2004). Contrary to the first rebellion, however, the SPLM/A leadership under John Garang aimed to maintain the unity of the country but under a different political and economic dispensation. The SPLM/A manifesto, issued in 1983, categorically rejected independence, and insisted that the south was 'an integral and inseparable part of the Sudan' (SPLM/A 1983: 16). It employed the slogan of a united 'New Sudan' to mobilise support from the Ethiopian leader, Mengistu Haile Mariam, and the Eastern Block. At that time Mengistu was battling secessionist Eritrean rebels, and therefore would not support any groups struggling for independence. However, the majority of Southerners favoured the independence of Southern Sudan (Malwal 2003). After the end of the Cold War and the collapse of the Mengistu regime, the SPLM/A got embroiled in a major internal power struggle, which nearly led to the end of the insurgency. The power struggle was partly over the direction of the movement: whether it should be struggle for John Garang's 'New Sudan' or embrace self-determination, leading to independence.

This next section discusses the notion of 'New Sudan' and the adoption of self-determination at the 1994 Chukudum Convention, and ends with a summary of sources of legitimacy of the SPLM/A, which also had to do with the popularity of SPLM leaders, especially John Garang. The notion of 'New Sudan', and the contests for power that surrounded it, partly shaped the institutions that emerged after the war ended in 2005 as well as the expectations of the southern Sudanese people.

### 3.1. 'New Sudan' ideology

John Garang espoused the notion of a 'New Sudan', which he claimed was quite different from the 'Old Sudan,' a system considered oppressive and exploitative and hence lacking in legitimacy. Speaking on the second anniversary of the founding of the SPLM/A in 1984, he claimed that leaders of the 'Old Sudan' were brought together 'by ties of opportunism, of "trim trim" or of whisky- and beer-drinking parties' (Wel 2013: 89). The SPLM/A, he continued, was the only rebellion in the history of the country to have started in the south and provided

*a new force capable of galvanizing all revolutionary, progressive, democratic and patriotic forces into a united political alternative capable of tackling and correcting the fundamental problems such as the 'National Question', destruction of the present exploitative and repressive socio-economic and socio-political structure in our country and the building of new structures consistent with particularity of the New Sudan so that we shall never again be hungry in the midst of vast agricultural and mineral riches. (Wel 2013)*

The SPLM (1998) proclaimed that with its vision of the 'New Sudan' that its aim was:

*a new Sudanese commonality that seeks to include rather than exclude; a new Sudanese political dispensation that provides equal opportunities for every Sudanese to develop and realise his or her potential; a Sudan where there is justice and equality of opportunity for all; a democratic Sudan in which governance is based on popular will and the rule of law; a New Sudan where religion and state are constitutionally separated; a New Sudan in which oppression and hegemony by any particular ethnic group are banished; a Sudan in which all the institutions of social, cultural and racial hegemony are dismantled; a Sudan in which there is respect for universal human rights.*

John Garang was advocating a revolution that would bring about a new system that represented the interests of all Sudanese peoples, hence one that would not be lacking in legitimacy. In his book, *The Power of Creative Reasoning: The Ideas and Vision of John Garang*, his kinsman and confidant Lual Deng argues that John Garang, in contrast to other leaders of the country, had the competence and vision to correctly diagnose the malaise of the country and propose effective prescriptions that could cure it forever (Deng 2013a: 80).

John Garang promoted socialism as the antidote to the country's economic problems. According to the SPLM Manifesto, the rebellion would 'spearhead socialist transformation of the Sudan, beginning in the Southern Sudan' (SPLM/A 1983: 27). He further argued that the economic backwardness of Sudan was a result of colonial policies and practices, which were compounded by the actions of neo-colonialist regimes of the postcolonial era. Having lived in Tanzania during the time of Julius Nyerere, who championed African socialism and at a time when Pan Africanism was popular among the African diaspora, his ideas were most likely influenced by African socialism and Pan Africanism. Significantly, in Tanzania, he came under the mentorship of Professor Walter Rodney, the author of *How Europe Underdeveloped Africa* and a powerful advocate of Pan Africanism (Wel 2013). These ideas were also promoted by anti-colonial African leaders, particularly Kwame Nkrumah of Ghana and Patrice Lumumba of Congo.

John Garang's diagnosis of Sudan's problems was actually not novel, but his proposed solution was. Many Sudanese, especially those who believed in communism or socialism, had argued earlier than John Garang that the main problem that faced the country was uneven development, and specifically the inequality in basic service provision, entrenched by the actions of the bourgeoisie or elites who dominated political power in the centre (Khalid 2009).

Before embarking on the revolution, however, John Garang had to deal with the secessionist fervour in the South. The notion of the 'New Sudan', an aim to legitimate the rebellion, did not garner southern-wide support (Washburne 2010); it actually went against the rudimentary southern nationalism that had been evolving over the years. The unity of the disparate southern Sudanese groups was engendered by collective opposition to the north, especially the dominant northern Muslim and 'Arab' political elite. The glue that bound the multiple southern ethnicities was 'their struggle for freedom and collective action against the north' (Jok 2011: 2). Hence, John Garang's revolution was a departure from what the majority of southern Sudanese believed in but won him support and admiration from long-marginalised groups in the north, for whom the dream of independence was nearly impossible. Nonetheless, this support did not translate to a substantial number of northern fighters committed to the SPLM/A cause, at least not in the beginning. Islam was a potent force used by regimes in Khartoum to dissuade northern Sudanese groups, especially in the west of the country, from joining those they labelled as infidels

or kuffar in the south. Many of the soldiers who fought for regimes in Khartoum were recruited from among marginalised groups in Darfur and Kordofan.

John Garang used his rhetorical prowess to try to win over the southern populace to the 'New Sudan' idea. Alongside propaganda, John Garang's SPLM/A employed heavy-handed tactics against civilians in areas under its control, compelling some to flee into garrison towns, where a number of them were forcibly recruited into militias deployed against the SPLA (Nyaba 1997: 53). Some civilians headed for refugee camps in neighbouring countries. Thus, 'in the absence of an ideology meaningful for the southern Sudanese, the party/army relied on violence against civilians' (Young 2012: 63).

Garang and his close aides monopolised decision-making in the rebellion despite the fact that some institutions had already been established. A Political-Military High Command was appointed to be the central organising body of the SPLM/A in 1986, but a meeting of its members was never called until 1991, and actually took place after the attempt to oust Garang (Douglas 2003: 91; Rolandsen 2005). After 1986, a rudimentary 'Civil/Military Administration' was also formed (Bure 2005). In this, the SPLM/A depended on chiefs whose authority dated back to the period of the Anglo-Egyptian colonial rule, and thus it 'relied mainly on the old "indirect" rule system for governing the civilian population, and on a small number of civil/military administrators who functioned as the link between local SPLM/A commanders and chiefs' (Rolandsen 2005: 29). The Sudan Relief and Rehabilitation Association (SRRRA), the humanitarian wing of the SPLM/A, was also established during this period (Chol 1996).

Garang used force against the armed southern Sudanese who rejected his ideas and contested his leadership. The support of the Ethiopian government, under Mengistu, enabled Garang to defeat southern secessionists, who had by then organised as the 'Anyanya 2' rebel group. They were originally Anyanya fighters who rejected the Addis Ababa and were later joined by other mutineers between 1975 and 1983. As the Addis Peace Agreement collapsed, more and more fighters joined their ranks. Anyanya 2 leaders who did not succeed in the leadership struggle against Garang and who rejected the idea of a united Sudan withdrew from the SPLM/A (Johnson 2003). Many of the survivors of the SPLM/A onslaught on Anyanya 2 were reabsorbed into the SPLA, their interest in separatism driven underground and anger repressed. As Rolandsen has pointed out, wounds inflicted on

Anyanya 2, mainly on Nuer fighters, were never healed, which led to another round of fighting among southerners in 1991 (Rolandsen 2005: 36). Even most of the loyal Dinka followers of Garang harboured a hidden separatist motive, contrary to his vision of the unified 'New Sudan'. According to Francis Deng, also a Dinka, the popular saying attributed to Dinka soldiers – 'Ke thartu, angicku' or 'What we are fighting for, we know' – encapsulated the Dinka, and indeed wider southern, attitude toward the armed struggle; it meant southerners were actually fighting for a separate state, and not the idea of a united 'New Sudan' (Deng 2007: 93).

As is common in many conflicts, people were fighting for a host of reasons. Some people joined up because of local grievances, such as the predatory activities of the Reziegat and Misseriya militias in Bahr el Ghazal. Such local conflicts compelled thousands of Dinka young men to enlist and head to Ethiopia to collect guns to defend their communities with; they ended up disappointed when the SPLM/A deployed them elsewhere (Mathok 2009: xxv). Returning SPLA troops protected communities in Bahr el-Ghazal, for instance, from attacks by northern militias. SPLA troops also stopped inter-communal violence through draconic punishments (Santschi 2016). Thus in some contexts, the SPLM/A provided security and in others was perceived as a source of insecurity, particularly in Ekuatoria (Bradbury 2006; Mampilly 2011; Jok 2015). The provision of security is understood as a key source of legitimacy for rebel groups (Mampilly 2011).

A lot of blood was spilled in the struggle between the SPLM/A and Anyanya 2. To counter Jaafar Nimeiri's propaganda, and also to win support among marginalised northern Sudanese, Garang declared that 'the concrete proof of our belief in commitment to the Sudanese unity lies in the blood shed with these separatists and bandits in order to preserve the unity of the Sudan' (Mampilly 2011: 65). The blood of the fallen southerners was the cement for Sudanese unity, he added. People from different nationalities and regions in the country were 'cemented together by ties of struggle, ties of sweat, ties of blood and ties of common concerns and tears,' he concluded (68). The shedding of blood of southerners did not enhance the legitimacy of the SPLM/A among southern Sudanese but facilitated Garang's total control over the rebellion by eliminating or side-lining challengers to his leadership. Indeed, some of Garang's critics have argued that the bloodletting was principally over leadership (Akol 2009).

Another repercussion, perhaps less recognised, of the repression of separatists was the deepening of ethnic antagonisms, especially between the Dinka and the Nuer. The Dinka Bor dominated the SPLA (Rolandsen 2005). John Young argues that John Garang actually 'built the core of the SPLM/A around his Bor Dinka community' (Young 2012). Many of the Anyanya 2 fighters were Nuer, and probably saw Garang's targeting of their group as ethnically motivated. These divisions quickly led to inter-ethnic bloodshed. In May 1984, for example, the Anyanya 2 under William Abdallah Choul reportedly murdered about 3,000 SPLA recruits in Fangak while transiting to Ethiopia, leaving many Dinka families in Bahr el Ghazal grieving and probably planning eventual revenge (Johnson 2003: 198). Further ethnically based massacres involving Dinka and Nuer as perpetrators or victims took place, though we distinguish between these and the framing of South Sudan's wars – particularly the current one – as 'ethnic conflict,' as some analyses have done. The ethnic biases that have come to the fore during these conflicts are the result of the histories of political discrimination and marginalisation along ethnic lines, as outlined here, and are not absolute, as demonstrated by the alliance of Bul Nuer in Unity State with the GoSS in the current conflict.

### 3.2 The 1991 split and 1994 Chukudum convention

Garang's 'New Sudan' idea and leadership faced a major challenge after the Cold War ended, and the subsequent overthrow of the Mengistu regime in May 1991. In August, three prominent SPLM/A commanders – Riek Machar, Lam Akol and Gordon Kong – tried to oust him, in part because they wanted southerners to fight for independence from the north and not for a united 'New Sudan'. They also disapproved of Garang's leadership style, which they claimed was dictatorial and heavy-handed (Akol 2003).

This internal power struggle resulted in a split, with armed factions turning their guns against civilians because of their ethnic identity, leading to more shedding of blood. Nuer fighters, led by Machar massacred Dinka civilians in Garang's home area in Greater Bor in Jonglei. In retaliation, Dinka fighters attacked Nuer areas and also massacred civilians. Thus, political antagonisms took on an ethnic form. Without doubt, the leaders of the factions reached for and played the 'ethnic card' in pursuit of their leadership ambitions (Jok and Hutchinson 1999).

The ethnicity-based violence continued in the 1990s, and the southern struggle against Khartoum took a backseat. The Khartoum regime exploited the bloody factionalism in an attempt to end the rebellion. President el Bashir, who had come to power in 1989 through a coup, rebranded his war against southern rebels as a holy war or jihad against infidels. Religion was therefore used to mobilise Muslims to participate in the war in essentially the same manner that ethnicity was being mobilised in the south (Schlichte 2008: 85). Together with Hassan el Turabi, an Islamist ideologue, he forged ties with extremist countries, groups and individuals in North Africa and the Middle East, including Osama bin Laden, partly to gather resources for the war effort. For example, Iran provided military hardware and technical advice to the Sudanese regime (Simone 1994).

Garang turned for support to eastern African countries, especially to Uganda, whose president, Yoweri Museveni, he had known since the days he lived in Tanzania. Museveni and other eastern African leaders were scared of the Islamic fanaticism of el Bashir, and provided crucial military and political backing to the weakened SPLM/A. As Young points out, 'the fact remains that the most significant military accomplishments of the SPLA were the result of Ethiopian and Eastern Bloc support in the early years, and later due to the support provided by Eritrea, Ethiopia, and Uganda' (Young 2012). In revenge, the el Bashir regime supplied arms and other supplies to the Lord's Resistance Army, which abducted children and women and committed appalling atrocities in northern Uganda and southern Sudan (Dunn 2007). Museveni and other eastern Africa leaders later received backing from the United States, which was increasingly concerned by the hard-line Islamic policies of the Sudanese regime and its links with fundamentalist Islamic groups and individuals. This external backing, another form of legitimation, proved crucial for Garang's faction's ability to survive and weather threats from opponents within the country.

Meanwhile, Machar and other rebel commanders opposed to Garang failed to maintain a cohesive group. Their faction splintered into several factions supported by the el Bashir regime. In 1997, they entered into peace agreements – the Khartoum Peace Agreement and Fashoda Agreement – with the el Bashir regime that promised, among other things, self-determination for the people of southern Sudan. Although some of the elements of the Khartoum Peace Agreement and the Fashoda Agreement became a model for the CPA, the agreements were neither backed by regional powers

nor implemented fully by the el Bashir government, and ended as yet more dishonoured deals. Consequently, the factions that signed up to these agreements lost legitimacy among southern Sudanese. Their leaders, especially Machar and Akol, were easily painted by their detractors as sell-outs who could not deliver on their promises.

Nonetheless, Garang seemingly learned hard lessons from these struggles and subsequently modified his adamant rejection of the independence of South Sudan, and also had to 'temper his ideological convictions' and revolutionary zeal (Young 2012). According to Lual Deng, the SPLM/A, on the verge of defeat, had to consult the people in the parts of Sudan under its control on the overarching goal of the liberation struggle (Deng 2013: 135). In April and May 1994, Garang's SPLM/A faction held its first National Convention in Chukudum, drawing participants from a wide range of constituencies, including chiefs, women, church leaders and youths. The 'New Sudan,' comprising liberated areas in Southern Sudan, the Nuba Mountains and the Southern Blue Nile, was subsequently proclaimed, and 'self-determination' was pronounced as an objective of the struggle. According to Mansour Khalid (2010), a former aide to Garang, the reference to self-determination was a response to the breakaway commanders' call for the same. By endorsing the idea, Garang connected with what mattered most to much of the southern Sudanese populace, and hence it won over the support of many separatists in the south, increasing the support base and legitimacy of his leadership and his faction.

The Chukudum Convention established institutions of governance such as the National Liberation Council (NLC) and an executive body called the National Executive Council (NEC). Lual Deng described the Convention as proffering a social contract that required the SPLM to deliver on its promises (Deng 2013). After a conference in 1996, the Civil Authority of the New Sudan (CANS), or civil service, was formed and administrative structures and entities – including county, payam and boma – were introduced throughout the areas under its control (Dak 1996; Leonardi, Mijak and Hot 2005; Deng 2010a). Pieces of legislation were passed in the following years, including the Penal Code 2003. Hence, the SPLM/A was forming a kind of a state in the areas it controlled without claiming international recognition for it as an independent state. Meanwhile, international engagement, especially through the OLS, as pointed out earlier, facilitated these SPLM 'state'-building activities.

Views on Garang's change of heart about self-determination and building of institutions varied. Some observers thought that the administrative structures were intended to more efficiently capture labour and resources for the civil war (Bure 2005). Indeed, one key function of the administration, including the chiefs, was to raise revenues, collect food and to mobilise recruits for the SPLA (Bradbury et al. 2006; Leonardi 2007). Although CANS and the SPLM were portrayed as structures separate from the SPLA, in reality these institutions were dominated by the SPLA (Duffield et al. 2000; Rolandsen 2005). Rolandsen argues that the introduction of these institutions was 'pro forma' and that the SPLM leadership was not actually willing 'to transfer authority to the newly established institutions' (Rolandsen 2005: 14). Moreover, the institutions lacked human and financial resources and were only operational to a limited extent (Local Government Board 2006). Another critical voice, Peter Nyaba, noted that, 'the promised changes remained superficial, unable to penetrate the ossified military core where absolute power was concentrated in the hands of one person as it was before the 1991 crisis' (Nyaba 1997).

Other observers assumed that Garang simply wanted to address internal criticism in the SPLM/A. Notably, he not only introduced institutions but also set free some of those jailed for opposing him. Thus, he aimed at capturing state-like legitimacy for the SPLM/A in the eyes of the communities living in the areas under the control of the movement. Others believed that he aimed mainly at increasing external legitimacy and support. Nyaba (1997), for example, insisted that reforms within the SPLM/A were driven by external actors: 'Those semblance of reforms, democratization or liberalization in the Movement were a half-hearted response to the pressure of the international community and a means of relating to it.'

International aid and engagement with the SPLM/A, as already pointed out, indeed mirrored external recognition of the SPLM/A as a 'quasi-legitimate political institution' (Duffield et al. 200: 179). A senior SPLM/A member shed light on this (ibid):

*We acknowledge the positive role of OLS in our struggle, but not because it provides food. It is primarily because it helps us to run a state. Our people now feel that they belong to a government, and that is all because of aid. They think that the SPLM government is responsible for the coming of aid, and in a way we are responsible for it. If it continues and we manage it well, we can actually continue our struggle until the day of victory. So when*

*aid agencies wonder whether or not this humanitarian assistance is fueling the war, they must know that it does to a certain degree.*

This quote also illustrates that international aid enhanced people's recognition of the SPLM/A because they attributed aid and services provided by international actors with the SPLM/A. SLRC research shows that southern Sudanese continue to attribute credit for aid and services provided by international actors to state institutions and assume that the latter invite and coordinate aid (Maxwell et al. 2015). As Garang rebuilt his weakened position in southern Sudan, Machar and Akol soon realised that el Bashir was not serious about implementation of the agreements he had signed, and so left Khartoum and rejoined the SPLM/A. This appeared to dash any hope of a final victory for the government army, and many southern Sudanese threw their support behind the struggle. Serious peace talks, under the mediation of the Intergovernmental Authority on Development (IGAD), got underway, with attention focused on self-determination becoming a right for southerners. Jok Madut Jok (2011) points out that:

*The entire southern population had hung their aspirations for a better future on this right: Most southerners wanted it at any cost, and eventually, it became the single issue on which every southerner was unwilling to compromise. Any political leader who had different opinions about it could only voice them to his or her own detriment.*

Sudan's exportation of oil for the first time in 1999 also helped the peace process as el Bashir was worried about the negative effect of more violence on the booming oil industry, while the movement was scared of the prospect of more revenues for Khartoum's war machine. As Lual Deng argued, oil 'contributed to the acceleration of the breakup of Sudan into two countries' (Deng 2013a).

Moreover, the negotiations received a boost with the committed backing of the US following the 9/11 attacks masterminded by Osama bin Laden, who was once the guest of el Bashir. In 1997, President Clinton had imposed comprehensive trade and economic sanctions on the el Bashir regime, and in November 1999, he had authorised 'the US to supply food directly to the SPLA' (Young 2012). Moreover, the US was providing some support to Uganda and other countries in the eastern African region to counter el Bashir's regime. Aware of the heightened threat to his regime in the wake of 9/11, el Bashir was keen to play a positive role in the negotiations, apparently to mollify US anger.

In July 2002, the parties reached the groundbreaking Machakos Protocol, signed by Garang's deputy, Salva Kiir, on behalf of the SPLM/A, which called for the holding of a referendum in southern Sudan after a six-year interim period so that southerners could choose whether to remain part of Sudan or found a new state. The US sustained the pressure on the el Bashir regime in October by adopting the Sudan Peace Act, which threatened more sanctions if it was found that the Sudanese government was not acting in good faith.

The negotiations remained on track and international engagement in areas under the SPLM increased. International engagement aimed partly at bolstering the emerging governance structures in the New Sudan or areas under SPLM/A. For example, the United Nations Development Programme helped in the process of drafting a Local Government Framework, which in due course was to become the basis of the Local Government Act after the CPA (Harragin 2007). Also, Pact Sudan, USAID, the Food and Agriculture Organization and UN Population Fund started engaging the SPLM in land policy discussions in 2004 (Paul 2008). Moreover, the British Council supported the process of creating legal frameworks. Thus international actors supported institution building in southern Sudan before the signing of the CPA.

With the peace talks progressing rapidly, tensions heightened within the SPLM/A. In 2004, a dispute erupted between Garang and Kiir, who after signing of the Machakos Protocol was replaced in the peace negotiations by Nhial Deng Nhial. The leaders of the Movement gathered in Rumbek for reconciliation. The gathering proved to be challenging for Garang, who was accused of some of the same weaknesses that the leaders of the 1991 revolt had levelled against him. In particular, Kiir was very critical, accusing him of not leaving anybody to act when he was away.<sup>6</sup> Moreover, he was blamed for practising nepotism and not doing anything about rampant corruption in the SPLM/A. The meeting resolved to deal with these grievances, but this did not happen. Instead, Kiir was subsequently retired from the SPLA. There is little doubt that the real reason for his dismissal from the army was his role in challenging Garang (Young 2005). Being removed from the army effectively removed Kiir from the structures of power at that time, despite his continuing to serve as Deputy Chairman of the SPLM.

In January 2005, the CPA was signed, addressing most of the grievances of the southern Sudanese and included a right of self-determination. Garang seemed to have finally embraced separatism. On 15 May 2005, he reportedly told southern Sudanese in Rumbek that:

*I and those who joined me in the bush and fought for more than twenty years have brought to you the CPA on a golden plate. Our mission is accomplished. It is now your turn, especially those who did not have a chance to experience bush life. When the time comes to vote at referendum, it is your golden chance to determine your fate. Would you like to vote to be second-class citizens in your own country? It is absolutely your choice. (Deng 2013)*

Pursuant to the CPA implementation, a Government of National Unity, Government of Southern Sudan (GoSS) and other governance institutions were established. On 8 June 2005, Garang was given a rapturous welcome in Khartoum and subsequently became the First Vice President of the country and President of the GoSS. The kind of welcome he received illustrated the huge backing he commanded across the country at that moment. Three weeks later, however, he died in a helicopter accident while en route to his base in southern Sudan after a visit with President Museveni. Kiir assumed the reins of power as Chairman and Commander-in-Chief of the SPLM/A, First Vice President of the Government of National Unity in Khartoum and President of the Government of South Sudan.

### **3.3 Summary of sources of legitimacy during the Second War**

To summarise the above discussion, John Garang had assumed that his struggle against the exploitative and repressive regimes based in Khartoum would be popular with the majority of southern Sudanese. Even though southern Sudanese belong to different ethnic groups, they generally agreed to oppose northern Sudanese governments whom they accused of misruling the country. Garang relied greatly on the support of the Ethiopian government and other external backing, and external legitimacy was key to the SPLM/A. However, the longer he had to contend with the strength of separatism and ethnic loyalties in southern Sudan, the more Garang and his supporters came to realise that legitimacy in the eyes of southern Sudanese could not be taken for granted.

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<sup>6</sup> The minutes of historical SPLM meeting in Rumbek 2004 are available online: [www.sudantribune.com/spip.php?article26320](http://www.sudantribune.com/spip.php?article26320). (Accessed 14 December 2015).

In the 1980s, with the military help of Ethiopia, he defeated southern opponents, loosely organised as Anyanya 2, who opposed his united 'New Sudan' idea and favoured independence. Most of the defeated Anyanya 2 fighters were Nuer, which deepened ethnic schisms. However, in the 1990s separatism re-emerged and ethnic tensions were further politicised. Three commanders attempted to oust Garang and rejected his 'New Sudan' idea, triggering ethnically based violence. Most of the victims of the violence were Dinka or Nuer.

John Garang survived the attempt to oust him but modified his opposition to separatism and also made an effort to build institutions as a way of bolstering legitimacy. In 1994, a convention was organised for the first time to consult on the goals of the rebellion, and the SPLM subsequently established some governance institutions. Importantly, the convention endorsed self-determination, which became the cornerstone of the future political settlement with the regime in Khartoum.

The in-fighting in southern Sudan gave Khartoum the upper hand on the battlefield, at least for some years. Some of Garang's opponents made peace with Khartoum, but were disappointed later as the deals they signed were not implemented. They subsequently lost legitimacy among southern Sudanese and made peace with Garang, rejoining the SPLM/A. The war intensified with Garang receiving the backing of the eastern African countries and some Western powers, including the US, which were worried by Khartoum's ties with Islamic militants, particularly Osama bin Laden. Again, international legitimacy and backing helped Garang's rebellion.

In the 2000s, peace talks backed by the US and regional countries picked up pace and culminated in the historic CPA. When Garang returned to Khartoum in July 2005, over a million Sudanese came onto the streets to welcome him. His popularity and the legitimacy of the movement he founded, which were intertwined, had become unquestionable.

## 4 Statebuilding and legitimacy after the CPA

The CPA was based on the notion of ‘one country, two systems’ (Deng 2010a). Backed by the US, it was informed by the liberal model of peacebuilding, which meant ‘the promotion of democracy, market-based economic reforms and a range of institutions associated with “modern” states as a driving force for building “peace”’ (Newman et al. 2009: 2). The post-war south was supposed to develop along democratic, decentralised, market-oriented, and rule-based principles, quite different from those pursued by el Bashir and other leaders of what Garang called ‘Old Sudan’. It was supposed to develop institutions with the capacity to deliver basic services to citizens so as to fulfil its social contract and enhance the legitimacy of the government of southern Sudan, particularly after it became the state of South Sudan in 2011.

The signatories to the CPA had committed themselves to work during the six-year interim period to make continued unity of the former Sudan attractive for the war-weary and largely separatist southern Sudanese. Southern Sudanese were supposed to receive peace dividends in the form of access to education, health, water and sanitation, and other basic services so as to benefit from the ‘peace’, which would, in theory, motivate them to vote for unity during the referendum. The US and other donors pledged billions of dollars for peacebuilding, ‘also known as post-conflict reconstruction and nation building’ (Higashi 2015: 1). The former Sudan itself had lots of petrodollars and was supposed to actively engage in provision of basic services so as to make unity attractive.

What emerged in the two parts of the former Sudan diverged substantially from the basic tenets of liberal peacebuilding, however. The ‘peace dividends’ did not materialise. Many southern Sudanese did not see the promised peace, security and basic services, partly because the fighting did not end throughout the country. In Jonglei, for example, inter and intra-communal violence remained a major problem despite peace agreements (Thomas 2015: 292). SLRC respondents from Jonglei recognised that the state was young and lacked capacity but they expected it to at least provide security from violence (Maxwell et al. 2014). The violence in this part of southern Sudan continued to worsen after the declaration of independence in 2011, with the number of conflict-affected people who were internally displaced reaching 188,526 by November 2013 (All Party Parliamentary Group for Sudan and South Sudan 2015).

A study carried out by Jok Madut Jok for the United

States Institute of Peace (USIP: 3) in 2011 observes the centrality of insecurity to people's perceptions of 'peace dividends':

*Undoubtedly, the security of individual and property is a major concern for people: Many who were interviewed for this report spoke of it [security] as the single most important expected peace dividend and have been most disappointed by its failure to materialize.*

The results of the research carried out by SLRC not only confirmed the persistence of violence and the deepening disappointment on the part of ordinary people, but also revealed that some aspects of service delivery in the peripheral areas of South(ern) Sudan, such as livelihood services, were actually much better during the OLS time compared to the period after the CPA (Maxwell et al. 2014). Infrastructure and services improved after 2005 but remained limited, particularly in peripheral areas such as Jonglei (Maxwell et al. 2014; Santschi et al. 2014). Hence, neglect of peripheral parts of South(ern) Sudan did not end and, in fact, grew worse in some areas. Yet, despite the inadequate service provision, the respondents still had a positive attitude to the government – a government which was still seen by many as legitimate because of independence from Sudan. Respondents explained the limited capacity and the resources of the government in terms of the newness of the country.

Ironically, the way donors and other international actors operated, as well as the policies of the new authorities in South(ern) Sudan, led to a sharpening of the development divide between the rural and urban areas. This was in distinct contrast to the war-time SPLM/A's 'New Sudan' idea, particularly the notion of 'taking towns to the people' (Deng 2013a). Development was supposed to be provided throughout the country in an equitable manner for practical reasons as well: so that citizens would not flock into urban areas to access basic services. Yet, due partly to lack of roads and mobility, the dearth of service delivery to rural areas left rural people almost entirely without access or support.

Moreover, international actors did not prioritise conflict resolution and reconciliation after the CPA, which very disproportionately impacted people in rural areas due to insecurity. Instead it mainly pursued a technical approach to statebuilding (All Party Parliamentary Group for Sudan and South Sudan 2015). Donors and other international actors assumed 'that greater development – improved services, infrastructure, access to food – would lead to

stability and lasting peace' (Pantuliano 2014). Indeed, a multi-donor evaluation of support to conflict prevention and peacebuilding 2005-2010, found no evidence of the assumed causal link between provision of basic services or peace dividends and lessening of violent conflict (Bennet et al. 2010).

Another reason for the continued neglect of some areas was the apparent lack of political will for prioritising basic service delivery. Top leaders were focused on achieving southern secession and building their power bases through patronage, and did not prioritise providing services to their people. Meanwhile, el Bashir and his allies had seemingly lost hope of making unity attractive, and were working to entrench themselves in power after the south had gone. Hence, leaders on both sides shared an interest in consolidating power and positioning themselves as the leaders of the soon-to-be-born new countries. It was therefore not surprising that when separation finally happened 'two countries, one system' was the outcome (Chun 2013). The expected transformation of Southern Sudan on the basis of a liberal peacebuilding model did not happen, partly because it did not serve the real interests of the leaders who ascended to the leadership of the new country, and partly because of the questionable assumptions of the model itself.

The following discussion examines how southern leaders steered their new state toward the same system as that of the 'Old Sudan'. In particular, it focuses on the sources of legitimacy that these leaders relied on after the end of the war in 2005, up to and including the resumption of conflict in late 2013.

#### 4.1 Wobbly 'big tent' and power consolidation

In contrast to John Garang, who was 'extraordinarily charismatic, highly intelligent and unusually arrogant' (Lusk, 2005), Kiir was viewed as quiet, deferential, and 'glowing with dignified humility,' in the words of Francis Deng (2010b: 484). He inherited a 'big tent' governance approach – aimed at bringing into government as many opponents as possible to build political unity and counter insecurity and infighting – and made it even bigger by co-opting more militiamen, some of them with a penchant for changing sides whenever it suited them (LeRiche and Arnold, 2012: 160; Gordon 2014: vi). In January 2006, for example, the most prominent of them, General Paulino Matip, a Nuer strongman who helped the el Bashir regime to secure and control the oilfields in Unity State during the war years, joined the SPLA. Following the CPA, Kiir and the

SPLM/A genuinely enjoyed legitimacy or public popularity because of the liberation struggle (NDI 2005). Indeed, for a long time, the SPLM's major source of legitimacy was its 'claims of ownership in achieving liberation' (LeRiche and Arnold 2012: 213). However, tensions were building up among key SPLM leaders. At the time of the second SPLM convention in Juba in May 2008, tensions between the key figures of the SPLM, including the party chairman, his deputies and the secretary general, came to the surface. These were quickly contained to avoid derailing progress towards independence, but they became more pronounced again during the elections of 2010.

In April 2010, Kiir unsurprisingly won a landslide victory. Many southern Sudanese considered him as the legitimate leader whom they trusted to lead them to independence. However, the elections in general were contentious and bred more divisions and rebellions. One of the problems was that 'the party dictated that time spent in the movement was the key criteria for selection as an SPLM nominee' (LeRiche and Arnold, 2012: 217). Consequently, many individuals felt that they were unfairly excluded from the list of SPLM flag-bearers in the elections (225). The credibility of the exercise itself was also questioned. For example, the Carter Center reported widespread irregularities in vote tabulation (Carter Center 2010). Some losing candidates, included General George Athor and David Yau Yau in Jonglei, who were not selected to run as SPLM candidates and subsequently lost the elections in their constituencies, took up arms. Some of them died in the ensuing fight with the SPLA, while others were re-absorbed by the regime. The Pibor Peace Accord in 2014 was a deal between Yau Yau and the government, and created the Greater Pibor Administrative Area.

In January 2011, southern Sudanese voted peacefully in the referendum, leading to the formal declaration of independence on 9 July. On Independence Day, thousands of South Sudanese celebrated their new status as an independent and sovereign country. The SPLM/A could and did claim that South Sudan's independence was the culmination of its 'liberation struggle' against the government of Sudan.

With 50 percent of oil revenues flowing into the coffers of the government in Juba (while the rest went to Khartoum) and the goodwill of the international community in hand, Kiir and other leaders of the SPLM had the resources to implement the economic and social agenda that the party had championed since the beginning of the war. However, they were seemingly more interested in the stability of the increasingly wobbly 'big tent' than pursuing such

transformation. The approach of integrating former rebel groups into the SPLM and the SPLA (and paying them) was incredibly expensive to maintain.

Instead of fuelling development, billions of petrodollars – 98 percent of South Sudan's GDP – were lost through corruption. As early as the period 2005/06, an audit report presented by the Auditor General to the National Assembly (NA) revealed rampant misappropriation of state resources. Like other institutions of governance, the NA could not do much to address this problem. With the Anti-Corruption Commission and the judiciary unable or unwilling to fight corruption, funds continued to go into private pockets. No wonder, then, that South Sudan was ranked number 171 out of 175 countries on the corruption perceptions index released by Transparency International in 2014. Even the president reportedly wrote letters to 75 former and current politicians and senior officials to return billions of dollars that were illicitly appropriated (Smith 2012). The state was therefore unable to provide adequate basic services and security to its population. Respondents from Northern Jonglei and Pibor were particularly concerned about insecurity and what they perceived as an unfair distribution of resources at the central and the state level. Furthermore, the lowest levels of government, where security is actually delivered, hardly received any resources. State resources were mainly concentrated at the central level, with some reaching the state level but very little getting to the local level. The paltry state resources trickling down to the local level in Northern Jonglei were mainly used to pay the salaries of state employees (Maxwell et al. 2014). In terms of resource allocation, a large proportion went to security and only limited resources to service delivery. In 2012/13, for instance, 7 percent of the budget was spent on education, 7 percent on health, 9 percent on infrastructure, while 13 percent went to 'the rule of law' and 28 percent to security (Attipoe et al. 2014).

Ethnicity has continued to be used for political and military mobilisation to enhance individual leadership ambitions. As a result, violence has often been ethnically based. There has been no conscious effort to de-legitimise mobilisation along ethnic lines or to foster nationbuilding, notwithstanding the political rhetoric of the oneness of the South Sudanese. Jok Madut Jok notes that interviewees for the report he prepared for USIP in 2011 pointed out that southern Sudanese thought 'the government and its development partners heavily focused on statebuilding and less so on nationbuilding' (Jok 2011: 4). The institutions that emerged did not do what they were expected to, in part because the power

of ethnicity (and the patronage networks overlaying it) undermined their effectiveness. According to the Anti-Corruption Survey 2007, nepotism and favouritism, particularly with reference to employment, were among the most common forms of corruption (SSACC 2007). These problems, which were rampant during the war years and in the post-war period, were then compounded by challenges posed by the Transitional Constitution of South Sudan, which was adopted upon independence. This constitution was regarded by many a regression from the Interim Constitution of Southern Sudan because it boosted the powers of the executive (Deng 2013b). This negatively affected the balance of power at different levels of government.

## 4.2 Return to factionalism and war

After independence and the formal end of exploitation and repression by Khartoum, the rudimentary southern nationalism which had evolved in the context of opposition to the north quickly unravelled. Kiir's 'big tent' began to rupture very quickly, with his colleagues questioning his ability to run the country. Many within the SPLM complained that 'the party had lost direction since the independence referendum and had no real vision or programme for national development and national unity' (Johnson 2014: 6). In fact, the feeling that the SPLM had lost direction had begun to take hold before the referendum vote, but this was largely contained, such as in October 2010, when southern Sudanese political leaders met in Juba to bury their differences so as to deliver a successful referendum (Sudan Tribune 2010). Differences resurfaced after the referendum and the political situation deteriorated. Indeed, studies conducted by polling organisations, in particular the US-based National Democratic Institute of International Affairs and International Republican Institute, showed that the majority of South Sudanese felt that their country was not heading in the right direction (Traci and Moro 2012).

President Kiir, however, used his extensive powers to contain the rising opposition and challenges from senior colleagues in the SPLM. SPLM Secretary-General Pagan Amum, Garang's widow Rebecca Nyandeng, and Vice President Riek Machar had openly expressed their desire to challenge him for the chairmanship of the party, which was the surest way to the presidency. In July 2013, Kiir dismissed Machar from the Vice Presidency, along with the whole cabinet, and brought in new faces, including some from outside the SPLM – a step that many southerners expected in view of corruption accusations. Yet, some people – especially those who lost their

positions in the executive – felt that the change was not about addressing corruption but about ousting political opponents. The unfolding infighting and factionalism played out in the SPLM at the same time that founding documents were being redrafted. The faction of the SPLM opposed to Kiir, led by Machar, pulled out of the process when they thought it was being managed so as to extend the president's term of office. The wrangling partly followed old divides dating back to the SPLM/A split of 1991, as discussed elsewhere.

On 15 December 2013, clashes took place among SPLA soldiers based in Juba, quickly spreading to Jonglei, Upper Nile and Unity states. The following day, Kiir claimed that a coup, spearheaded by Machar, had been foiled, and arrested Pagan Amum, former Deputy Minister of Defence Majaak de'Agot, and other prominent SPLM figures. In total, 11 alleged coup plotters were taken from their homes. The SPLA had divided again along familiar lines, with one faction supporting Kiir and another loyal to Machar. In a spate of killings, Nuer civilians were targeted by soldiers in Juba and others were protected by the UN. Reportedly, while Dinka civilians were targeted in predominantly Nuer-inhabited areas in apparent retaliation. A list of human rights abuses was presented in the report of the African Union Commission of Inquiry on South Sudan (African Union Commission of Inquiry on South Sudan 2014).

Machar escaped capture in Juba and resurfaced as the leader of a new armed rebellion called the Sudan People's Liberation Movement/Army In Opposition (SPLM/A-IO). The White Army, or armed Nuer youth in Jonglei, marched on Bor, capturing it and killing many people. They were stopped from reaching Juba by the combined efforts of SPLA and Ugandan soldiers. Subsequently, millions of people were displaced internally or to neighbouring countries and remain dependent on international assistance. The hopes of peace and stability have been dashed, at least for now, as ceasefires and agreements have not led to a decisive end to violence, which instead spread to hitherto peaceful areas in the Equatoria and Bahr el Ghazal regions. Moreover, South Sudan is afflicted by a crippling economic crisis caused by the war and low oil revenues, plunging many more people into food insecurity.

In the wake of the upheaval, the international community largely abandoned supporting development activities and has been assisting the victims of the war (Maxwell et al. 2016). It has become very critical of the actions of the belligerents. Clearly, the hitherto close relationship

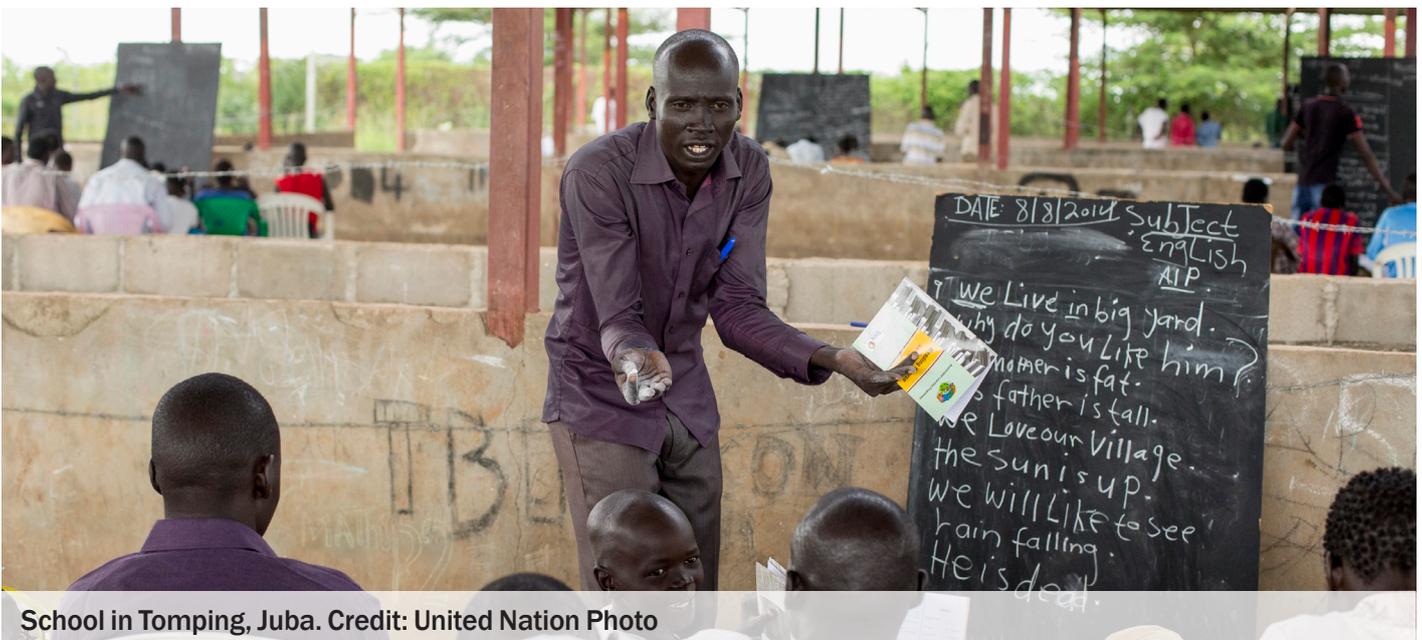
between the main global players, especially the US, and GoSS has broken down. Instead, the international community is avoiding the central state apparatus and focusing on local government or/and traditional leaders.<sup>7</sup> A South Sudanese official suggested that GoSS is not any longer viewed as a legitimate government by some international actors.<sup>8</sup> According to a religious leader, many South Sudanese are also questioning the legitimacy of their political leaders.<sup>9</sup>

SPLM/A leaders often claim that the country is young, and in time will get its act together. Some in the SPLM or government circles compare it with a small child: 'This is a brand new country – there's a lot of need, and it's a huge and tremendous challenge. ... It's going to take time to get to where we need to be. We are like a small child, learning how to crawl,' said an SPLM member in the diaspora, Jacob Mach (Basu and Karimi 2012). In May 2014, Benjamin Marial, the former Minister of Foreign Affairs and International Cooperation, told the audience at an Oslo donor conference (Voice of America 2014):

*This is a young country... two years old... breaking a few glasses? I'm sure some of you here are married and*

*have children, and especially the last born. When it runs around, knocking glasses around – you don't throw that wonderful last born through the window into the snow or into the sunshine. Equally, the mother will say, 'Next time, you won't break the glasses'. (Voice of America 2014)*

While it is true that the South Sudanese state was born only a few years ago, after years of violence and destruction, the institutions of the country were not established from scratch in 2005 or in 2011. As mentioned above, the SPLM formed institutions from the time of the 1994 Chukudum Convention, and the international community supported their development. The leaders of South Sudan have not had the political will nor the means to develop fully functioning and effective institutions that can address major challenges and also check the monopolisation of power by certain individuals and branches of government. The narrative of 'youngness' is a mask for something else, including the unwillingness of leaders to embrace change, which would take more than resources to correct. A religious leader lamented that: 'this child is crazy as it does not grow and is always on emergency.'<sup>10</sup>



School in Tomping, Juba. Credit: United Nation Photo

7 Interview with the head of INGO in Juba on 11 June 2014.

8 Interview with official of the Ministry of Foreign Affairs and International Cooperation in Juba on 10 June 2014.

9 Interview with a South Sudanese religious leader in Juba on 18 March 2016.

10 Interview with a South Sudanese religious leader in Juba on 18 March 2016.

## 5 Conclusion

In essence, the SPLM leaders relied on the liberation ‘capital’ or legacy to legitimise their actions and to ask for patience in the face of accusations of failing to deliver on their promises following the CPA and independence. Moreover, they have repeatedly reminded their own people and the international community that the country is young, using this narrative to cover a lack of political will to build effective institutions. Although it would not have solved all the country’s woes, political will would probably have gone a long way in addressing critical challenges, particularly corruption.

After independence, the SPLM descended into acrimonious internal squabbles which pushed the country into another round of armed fighting that followed old divides that date back to the past second civil war. Subsequently, development was abandoned and the focus shifted to humanitarianism. For many people, the liberation legacy has been fading in view of the spreading violence, deepening humanitarian woes and worsening economic challenges. It seems that the state’s legitimacy is increasingly impacted by its failure to provide security, which is the basic expectation of people.

The report examines the different sources of legitimacy in the newly born South Sudan. It argues that basic service delivery is important and shapes citizens’ views of the state and their leaders, yet it is far from the only source of legitimacy, nor is its relationship with state legitimacy straightforward. The report also contends that the donor notion of basic service delivery enhancing state legitimacy is largely ahistorical and apolitical in this context. In South Sudan, legitimacy is not only about basic service delivery but also about history of years of struggle against marginalisation, exploitation and repression by Khartoum-based regimes, engagement with regional and international actors, and ethnicity. Above all it is about politics.

Past practices, experiences, and views of the state from the colonial, post-colonial to the more recent civil war period (1983-2005) shape present-day statehood and legitimacy in South Sudan. The long history of marginalisation of southerners by regimes in the former Sudan, or what John Garang called ‘Old Sudan’, had a significant influence on legitimacy of the SPLM/A during and after the second war. SPLM/A leaders used the slogan of ‘New Sudan’ during the war to mobilise opposition to Khartoum. One of the key tenets of the ‘New Sudan’ was equitable service delivery, which regimes in the former Sudan failed to do. In fact, with the support of international actors, the SPLM/A did provide some

limited services during the war, and it promised to do more once the struggle was won. This promise has never been satisfactorily met since the SPLM/A came to power in Southern Sudan, or in South Sudan from July 2011, because of corruption and other factors. This brought disappointment, although many also accepted the notion that it was a young state with limited capacity. But many people, especially in conflict-affected Jonglei, nevertheless expected security to be guaranteed.

Southern Sudanese, however, did not lose faith in their leaders or the political system, mainly because the SPLM/A was credited with bringing about independence, which served as a major source of legitimacy. Considering the fact that generations of southern Sudanese fought for this goal, it was not surprising that many South Sudanese still appreciated and backed the SPLM/A and its leaders despite its failure to provide substantial services and security.

Since the second civil war period, the backing of external players has been crucial for the SPLM/A, its leaders,

and the institutions that it created. During the war, the SPLM/A received recognition and support from regional powers. The aid from outside proffered some external legitimacy to the rebellion, which proved beneficial to its confrontation with Khartoum-based regimes. However, the support was neither consistent nor continuous. For example, since the outbreak of violence in December 2013, external support has diminished as the relationship between donors and South Sudan's leaders has turned sour. The US government, among others, has openly questioned the legitimacy of the South Sudanese government.<sup>11</sup>

Another source of legitimacy was ethnicity, on the basis of which leaders mobilised military and political support. This was a particularly useful resource during competition for political office, particularly during elections and also during conflict. Ethnicity has been very important, as the sense of nationhood is fragile. The downside is that ethnicity is behind violence in the country as leaders often mobilise their groups along ethnic lines against others, as is evident in the ongoing armed conflict.



Women carrying water in South Sudan. Credit: Alun McDonald/Oxfam

11 Radio Tamazuj (2015) White House questions legitimacy of the South Sudan government. [www.radiotamazuj.org/en/article/white-house-questions-legitimacy-south-sudan-govt](http://www.radiotamazuj.org/en/article/white-house-questions-legitimacy-south-sudan-govt). (Accessed 20 March 2016).

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