

## The arming of rebels in Sudan and South Sudan: What is the evidence?

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News reporting in general, a great deal of analytic writing, and virtually all diplomatic pronouncements about military support for rebel groups—in South Sudan and Sudan—have had a peculiar “evenhandedness.” Indeed, this equanimity is finally bizarre, given the many indications that such military support is so completely one-sided. All available evidence makes clear that substantial military support—arms and ammunition in particular—flows directly from Khartoum’s security and intelligence services to various renegade rebel militias operating in South Sudan. At the same time, no party—not Khartoum, not the diplomatic community, not credible journalists—has provided persuasive evidence that Juba is providing anything remotely comparable to such support. Here we should bear in mind that Juba is well aware that any evidence of assistance to the northern rebels would be immensely costly in any diplomatic context; and given the difficulty of concealing major weapons transfers—especially since the South has no significant aerial means of doing so—Juba is highly unlikely to take the risk of providing the very evidence Khartoum is so desperate to claim it has. The rebel groups inside northern Sudan understand this well, if in some cases grudgingly.

Encouragingly, most of the Southern renegade militia groups (RMGs) armed by Khartoum have now been disbanded or accepted amnesty from Juba, with the key exception of the brutal David Yau Yau group in Jonglei State. And on each such occasion of surrender, weapons and ammunition used by the rebels have been examined in great detail by the [Small Arms Survey](#) (Geneva); as a result, SAS has provided unambiguous evidence of the armaments’ origin in Khartoum, typically manufactured in China, Iran, countries of the former Soviet Union, and Sudan itself. Weapons captured from rebel groups by the army of the South—the Sudan People’s Liberation Army (SPLA)—have also consistently originated with Khartoum’s Sudan Armed Forces (SAF).

By contrast, the Khartoum regime, including its SAF and intelligence services, has never publicly provided a shred of evidence that Juba is providing material military support to rebels operating in Sudan, either the Sudan People’s Liberation Army-North (SPLA-N) or the larger coalition known as the Sudan Revolutionary Front, which also comprises rebel groups from Darfur (primarily the Justice and Equality Movement [JEM] and to a lesser extent factions of the Sudan Liberation Army [SLA]). And what we may be sure of is that if Khartoum did have such evidence, these ruthless men would make it very public, trumpeting it in detail at every opportunity. Instead, what we have are mere heated assertions of Juba’s continuing, substantial support for rebels operating in the north—endlessly repeated and by virtue of repetition given credence by expedient diplomats and in turn by those reporting the statements of these diplomats.

Lately, as the SAF has continued to suffer military defeats in both South Kordofan and Darfur, there has been a marked increase in the frequency and stridency of claims to have evidence of Juba’s military support for the rebels. The claims now saturate the Sudan Media Center and its *Sudan Vision*, and many high-profile regime statements. Thus on [June 6, 2013](#) *Sudan Tribune* reported that the Khartoum regime’s “cabinet decided on Thursday [June 6] to carry out a ‘broader diplomatic campaign’ to brief the international community about the support that the neighbouring South Sudan provides to Sudanese rebel groups.” The evident conviction is that if a claim is made often and insistently enough, there is no need for real evidence.

But to the extent there has been any assistance to northern rebels by the South—logistical, medical, or in the form of cross-border sanctuary—it has been modest, occurred largely as the terms of the CPA security protocol were expiring in 2011, and has not necessarily been under Juba’s control. Movement across the highly unstable South Kordofan/Unity State border has been notable, but it is Khartoum that has done so much to prevent delineation, demarcation, and ultimately demilitarization of this highly volatile area (to which many tens of thousands of refugees from the Nuba Mountains have fled from [Khartoum’s relentless aerial attacks on civilians](#)). And because Juba knows that the regime has kept SAF forces in areas that were to have become de-militarized per the September 27, 2012 agreements between Khartoum and the Government of South Sudan, the SPLA has also remained in position in a number of ways (see the recent report from the Enough Project [\[June 14, 2013\]](#), providing satellite imagery of current deployments). This is extremely dangerous.

## What is the evidence of armaments going to rebel groups?

The **Small Arms Survey (Geneva)** has provided a comprehensive account of the extant evidence as well as its own ground-based research in an ongoing series of reports over several years. Of particular note is the lengthy and highly revealing account of the situation in South Kordofan, where the Sudan People's Liberation Army-**North** is strongest ("New War, Old Enemies: Conflict Dynamics in South Kordofan," by Claudio Gramizzi and Jérôme Tubiana, [March 2013](#)). The conclusion of the Executive Summary deserves particular attention, since no other organization or investigative body matches either the resourcefulness or comprehensiveness of the Small Arms Survey:

"Prior to and just after Southern independence, the Sudan People's Liberation Army (SPLA) sent thousands of ethnic Northern SPLA soldiers to South Kordofan fully armed with small arms, heavy weapons, and tanks, providing a significant source of fighters and weapons for the rebellion. ***In the post-independence period, however, the Small Arms Survey has found no evidence of weapons supplies from the Government of South Sudan to the SPLM-N, though some political and logistical support is evident.*** [all emphases in all quotations have been added—ER]

Here it should be noted that technically the CPA stipulated October 9, 2011 as the date for completed demobilization of the (nominally) Joint Integrated Units; this is detailed in the Security Protocol of the CPA, which stipulates three months after the end of the Interim Period (July 9, 2011) as the final date for demobilization. A fuller historical account of how Nuba fighters from the Sudan People's Liberation Army reconstituted themselves as the Sudan People's Liberation Army-**North** (SPLA-N) is provided by Gramizzi and Tubiana, and appears in condensed form as **Appendix One**.

In sharp contrast, the evidence that Khartoum is supporting renegade militia groups (RMGs) operating in the South comes in many forms, and extends back many years, including the regime's use of Joseph Kony and his maniacally brutal Lord's Resistance Army as a proxy force. Moreover, evidence from **Small Arms Survey** in a recent report makes clear that Khartoum continues its support, most conspicuously in the "disputed" Kafia Kingi enclave of Western Bahr el-Ghazal (in fact, Kafia Kingi is clearly part of what is presently Western Bahr el-Ghazal in all maps from 1956 and earlier, and not in South Darfur as Khartoum claims):

"Kony appears to have succeeded in reestablishing contact with the Sudan Armed Forces (SAF), old backers from the early 1990s and early 2000s. In their recent report titled '[Hidden In Plain Sight](#),' the non-governmental organization The Resolve documented cases of LRA presence in the so-called Kafia Kingi enclave in 2011, 2012, and early 2013. Kafia Kingi is a disputed area between the two Sudans. ***Independent interviews with former LRA combatants confirmed that an LRA group of about 25 people was based there, close to an SAF garrison, as late as March 2013.*** A Ugandan source, unverified, claimed that a Ugandan army commando unit crossed into Kafia Kingi at the end of March 2013 and found a recently abandoned LRA camp." ("Lord's Resistance Army Update, June 17," 2013)

Most compellingly, a number of flights by unregistered, non-UN aircraft have been seen flying supplies to David Yau Yau in Jonglei, including on one occasion by UN observers of the UN Mission to South Sudan (UNMISS). On this occasion, the plane was a white, fixed-wing aircraft (an Antonov) of which no UN organization or flight controllers had any knowledge. As reported by Small Arms Survey (SAS), there can be no ambiguity. Citing the testimony gathered from a defector from Yau Yau—James Kubrin—SAS reports (I cite at length because of the importance of this account):

"This report documents weapons and ammunition observed in February 2013 during a reporting trip to the town of Pibor in Jonglei state, South Sudan. The weapons were in possession of a group led by James Kubrin, who defected with his men from David Yau Yau's militia on 4 December 2012. Given that only three months have passed since their defection, it is likely that similar types, relative quantities, and sources of weapons and ammunition remain in the hands of the Yau Yau militia. Also of interest are specifics offered by the Kubrin group about alleged airdrops of weapons from Khartoum, described here for the first time.

“Following their defection, Kubrin’s forces, numbering more than 100, have resided in temporary housing in the town of Pibor, where they are being cared for while negotiations proceed on their integration into the Sudan People’s Liberation Army. During interviews conducted there in February, defecting militia members, including commanders, claimed the primary source of the group’s arms and ammunition were airdrops orchestrated by Sudan’s National Intelligence and Security Service, which they claim took place between August 2012 and December 2012 (with a further drop reported after the group’s defection in January 2013). They further claimed that a fixed-wing aircraft flew direct from Khartoum on the night of each drop. According to the commanders, the militia groups on the ground were in direct contact with the aircraft via satellite phone and marked each drop zone with a line of fires immediately prior to the drop.”

“Militiamen described the dropped materiel as packed in reinforced wooden boxes of uniform size and shape. Each box was said to be approximately 1.5 m in height and the width (about 2.4 m) of an ISO shipping container. The boxes were reportedly either painted green (containing weapons) or yellow (containing ammunition). Militiamen said all of the boxes were delivered by parachute, falling roughly in a line, the length of the drop zone. The Small Arms Survey did not view such boxes and could not independently confirm the airdrop claims.” (“Weapons in service of David Yau’s militia, Jonglei State, February 2012, Small Arms Survey)

Although SAS is, rightly, deliberately conservative in the conclusions it draws from the evidence collected, there can be little reason to doubt the account offered here. For one thing, the detailed report of the airdrops appears to take full account of all that would be necessary to conduct what is finally a quite difficult aviation exercise. But even more significantly, the UN Mission in South Sudan has also reported an airdrop of remarkable similarity, thus giving very considerable credibility to Kubrin’s claim of having witnessed several airdrops in 2012:

**“The United Nations confirmed its troops spotted a white plane dropping packages in an area where South Sudan said a Sudanese aircraft supplied weapons to rebels, a day before the countries’ presidents were to meet.** A Sudanese Antonov plane air-dropped weapons and ammunition to the militia led by David Yau Yau, which is fighting South Sudanese troops in Jonglei state, South Sudan said on September 22 [2012].”

**“There was a white fixed-wing aircraft that was observed by UMISS troops dropping packages,’ UN Mission in South Sudan spokesman Kouider Zerrouk said today by telephone from Juba, South Sudan’s capital.** ‘But UNMISS is not in a position to confirm what was in them and who dropped them.’” (Bloomberg, September 24, 2012)

Small Arms Survey has conducted a number of investigations of the weapons and ammunition used by renegade militia groups (RMG)—all are accompanied by detailed photographs of captured armaments, with incisive analysis of what they reveal: caliber and nature of weapons and ammunition; serial and lot numbers (and sometimes photographs of the deliberate effacing of serial numbers, an attempt to conceal their origins); serial number sequencing; ammunition stampings; countries of origin and manufacture dates for arms and ammunition; frequency of use in the various military theaters of greater Sudan; dates and locations where weapons and ammunition were seized; and many interviews of combatants and non-combatants alike, conducted by skilled and knowledgeable investigators. No other international organization provides remotely comparable analyses of the movement of weapons and ammunition in greater Sudan.

Collectively, the broadest conclusion is simply indisputable: using weapons and ammunition manufactured in China, Iran, Russia, Ukraine, Belarus, and northern Sudan, the Khartoum regime has used its Antonov cargo planes—typically painted white to obscure their military purpose—as a means of supplying the most destabilizing of the RMGs. (Painting military aircraft white, in an area where humanitarian aircraft are present and using white as an identifying color, is a violation of international humanitarian law; Khartoum has engaged in this activity throughout the Darfur conflict.) Some of the weapons systems in RMG arsenals examined by SAS are extremely potent. And while the title of “most destabilizing militia force” now clearly goes to Yau Yau’s militia forces in Jonglei, it has not always been so.

**Earlier groups, and Small Arms Survey investigations, include:**

- “Peter Gadet’s Rebellion” (SAS, [June 3, 2011](#));
- “Gabriel Tang Gatwich Chan (‘Tang-Ginye’)” (SAS, [June 2011](#));
- “Gatluak Gai’s Rebellion, Unity State” (SAS, [July 2011](#)).
- “Further arms and ammunition seized from Peter Gadet’s forces” (SAS, [January 13, 2012](#));
- George Athor (“Weapons seized from the forces of George Athor and John Duit” (SAS, [December 2012](#)) —a particularly full account;
- A [June 4, 2013 overview](#) of rebel actions, defections, leadership, and uncertainties renders a bewilderingly complex military situation in clear and authoritative form. From rebel defectors, including ranking members and a number of leaders, we have been able to gather a great deal, all distilled here with clarity and extensive background knowledge.

Given the language of the Security Protocol of the CPA concerning “Other Armed Groups,” Khartoum’s support for these renegade rebel groups marks yet another egregious violation of the CPA (see CPA, “[Section 11, Annexure 1](#): Permanent Ceasefire and Security Arrangements Implementation Modalities and Appendices. Signed at Naivasha, Kenya, December 21, 2004”). Those attempting to fashion new agreements with Khartoum would do well to keep in mind just how many elements of the CPA Protocols have been violated, traduced, or simply ignored. The African Union solution to the issues addressed in the CPA but ongoing because of Khartoum’s intransigence is to offer new possibilities for agreement—most recently, in what the *Sudan Tribune* describes as a “fresh initiative,” Khartoum has indicated “its acceptance of proposals made by the head of the African Union High-level Implementation Panel (AUHIP), Thabo Mbeki.”

But if these are different proposals from the ones agreed to last September 27, what is the point of any proposal that is agreed to? What precludes future demands for yet newer proposals? The African Union Peace and Security Council ratified the negotiators’ proposal concerning Abyei, but Khartoum yet has to accept this ratification. The AU in turn has done nothing in response, leaving Abyei an extremely dangerous flash-point for renewed war. All the other agreements between Juba and Khartoum have been “frozen,” according to very recent statements by senior NIF/NCP officials, including President al-Bashir. Most notably, this extends to oil transit arrangements. If the AU continues to capitulate before Khartoum’s intransigence and bad faith, it will soon reach a point where any agreement negotiated under its auspices will be meaningless to Juba—indeed, as the recent explosion at the Diffra oil production site in Abyei suggests, we may have already arrived at this point (see Part 2 below).

### **Why Khartoum’s support for rebel militia matters, and why international equivocation on the issue heightens the risk of war**

There are two different but closely related reasons to see the issue of ongoing military support to rebel militias operating in South Sudan as a threat to peace, particularly since the Khartoum regime has used claims of Juba’s military support for northern rebels as justification for the recent threat to shut down the transit of Southern crude oil to Port Sudan for export, even as *none* of the regime’s claims is supported by any evidence. Here again, we should recall the most fundamental conclusion of the most authoritative investigative efforts on this issue, that of the Small Arms Survey:

***“In the post-independence period, however, the Small Arms Survey has found no evidence of weapons supplies from the Government of South Sudan to the SPLM-N, though some political and logistical support is evident.”***

First, by arming David Yau Yau’s primarily Murle militia forces, Khartoum hopes to create civilian chaos and displacement, exacerbate ethnic tensions, and tie down a substantial number of SPLA forces well away from the North/South border. Khartoum also hopes to compromise the standing of Juba in any negotiations in which human rights are part of the equation. Judging by many accounts from the ground and increasingly numerous news reports, Yau Yau’s forces been remarkably effective.

For in fighting Yau Yau's group, SPLA forces have frequently performed poorly and engaged in serious human rights violations, including war crimes. The SPLA has also provided significant "arms and ammunition, both systematically and on an individual basis, to Jonglei communities" ("My neighbor, my enemy: Inter-tribal violence in Jonglei" ([SAS, October 2012](#))). Further, the SPLA's indiscriminate killing of civilians because they are vaguely associated with Yau Yau, or on the basis of their Murle ethnicity, is reprehensible and deserves the strongest condemnation. Those responsible must be held accountable all the way to the top of the chain of command.

In particular, immediate access must be granted to humanitarian organizations, such as Doctors Without Borders/Médecins Sans Frontières (MSF), which recently reported:

"An estimated 120,000 people have fled fighting in and around the main towns in Pibor County in South Sudan's Jonglei state and are now hiding in unsafe and malaria-infested swamps without access to safe drinking water, food, or medical care, the international medical humanitarian organization Doctors Without Borders/Médecins Sans Frontières (MSF) said today. The government of South Sudan must allow immediate humanitarian assistance to these areas to prevent the deaths of thousands of internally displaced persons.

"Over the past month, many of the displaced have fled for their lives into the bush amid intensified fighting between the South Sudan Army (SPLA) and the David Yau Yau armed militia group. The heightened fighting has coincided with the destruction of medical facilities throughout the county, including the systematic looting of the MSF hospital in Pibor town in late May, and the refusal of the SPLA to allow or facilitate the provision of humanitarian assistance to the displaced population.

"'Immediate action is required to avoid catastrophe,' said Dr. Bart Janssens, MSF director of operations. 'The area in Pibor County where the population is hiding will flood during the rainy season and this will not be a place where people can remain alive. At the moment we are not able to contact the people hiding in the bush, and we know from MSF's years of experience in Jonglei that without medical care, mortality rates will rise rapidly with people dying of malaria, diarrhea, pneumonia, and other respiratory diseases. Furthermore, the communities will begin to run out of food this month before the next harvest arrives.'"

"The displaced population has fled the main towns in Pibor County most likely out of fear of being confused with rebels groups or being caught in the crossfire. The real or perceived lack of distinction between civilians of the Murle community and combatants will only increase the risk of disease and death for a population living with violence, displacement, and fear, MSF said. Nearly the entire Murle community from Pibor County has been cut off from any assistance." (MSF, Juba, [June 14, 2013](#))

But serious abuses by the SPLA should not obscure the most basic fact about the cause of this growing crisis: these developments are deliberate on the part of Khartoum, which believes that the South can be made to squander the moral and political equities it brings to negotiations with the regime if Jonglei can be made into an apparently intractable conflict with the many different ethnicities of the region increasingly at odds: Lou Nuer, Murle, Bor Dinka, Toposa, Ananyak, and others. Khartoum hopes that the South will lose diplomatic standing amidst the quagmire of a necessary but extremely difficult disarmament of civilians and combatants in Jonglei. In turn, if Jonglei and other areas are seen as increasingly chaotic, there is a growing likelihood that the international community will push Juba even harder for "compromises," which are finally nothing more than the demand for further concessions by the South.

Secondly, so long as Jonglei state is as insecure as it is presently, the large oil concession block that lies south of the two northerly Block 5 concession areas (A and B) cannot be developed. The vast, irregularly shaped Block 5-Central extends from the Ethiopian border almost to Wau and as far south as Juba. There are good reasons to believe that this immense concession area holds very substantial oil reserves, but can't these cannot presently be monetized—which is exactly what Khartoum wishes. Certainly it is difficult to imagine how construction could begin on a pipeline leading southward under present security conditions. In early June of this year Juba signed a deal with Toyota of Japan for construction of a pipeline leading to Port Lamu on the Kenyan coast; but even with acceptable levels of security for expatriate workers, the pipeline is unlikely to be completed in less than four to five years once it begins in

earnest. (It is possible that Juba would be able to monetize on an urgent, but deeply discounted basis, reserves that prove particularly large and promising.)

### **Why are the Small Arms Survey findings not taken seriously?**

There is all too much indication that international comparisons of Juba and Khartoum on the issue of arms transfers to rebel movements in the north and South are essentially exercises in expediency, not reasoned judgments based on evidence. There has been an inexplicable refusal to acknowledge the decisive findings of the Small Arms Survey's many reports, and (again) its most important conclusion: ***"In the post-independence period, however, the Small Arms Survey has found no evidence of weapons supplies from the Government of South Sudan to the SPLM-N, though some political and logistical support is evident.***

Does the Obama administration believe this—or not? If not, why not? What counter-evidence does the administration possess? Does it have any basis for gainsaying the painstakingly gathered evidence and scrupulously detailed research of the SAS? And if the administration accepts the findings of the SAS, why does it continue to equivocate, suggesting in any number of official declarations that it believes that Juba is indeed militarily supplying rebel forces inside Sudan? In an all too representative example, on December 16, 2010 the White House issued a press release concerning the recent repeated attacks by Khartoum's Sudan Armed Forces (SAF) on the South Darfur village of Khor Abeche, and the forces of Sudan Liberation Army (SLA) faction leader Minni Minawi (formerly a partner in the regime). Deploing attacks that "left many injured, some dead, and thousands displaced," NSC spokesman Mike Hammer went on to say:

"This attack comes at a time that ***we are also seeing increased evidence of support to militant proxies from the Governments of Sudan and Southern Sudan.*** All Sudanese leaders have a responsibility to protect civilian populations—to do otherwise is unacceptable."

Again, in November 2012, the U.S. State Department repeated this claim in refrain-like manner: "The creation of the safe demilitarised border zone between the two countries is ***vital to ensure that both countries honor their commitments to cease support to proxies*** and, most importantly, prevent inter-state conflict" (Agence France-Presse [Khartoum], November 21, 2012). Two days later the SAF bombed civilian areas of the contested Samaha border region between South Darfur and Northern Bahr el-Ghazal; as has been true on literally hundreds of occasions, there was no condemnation of the attack. Only the most fully reported attacks are noted, and even then this terrible atrocity is inevitably linked to other issues and the condemnation is formulaic. Equating rebel support provided by Juba and Khartoum has been a major factor in emboldening Khartoum to continue its savage aerial campaign, since condemnations of bombings inevitably occur in the context of expressions of concern about support for rebel groups both in the north and South.

The bombings of civilians and humanitarians, a practice that I have documented in detail going back as far as 1999, are war crimes; in aggregate they are crimes against humanity (see "[They Bombed Everything That Moved](#)": Aerial Attacks on Civilians and Humanitarians in Sudan, 1999 – 2012, pages 19 – 20). Each instance of this barbarism—whether in South Sudan, the Nuba Mountains, Blue Nile, or Darfur—should be publicly and emphatically condemned. Such condemnation should not be part of a trade-off with other issues, or a "balancing" of criticism, or diplomatically calculated: it should be an unambiguous, direct, and sharply focused statement about the implications of such aerial attacks and the consequences of their continuation.

If any should doubt the reality of massive, continuing aerial destruction of the civilian populations of South Kordofan and Blue Nile, a recent from Amnesty International should incinerate any skepticism:

"[New satellite imagery](#) and eyewitness testimonies from rebel-held areas in Sudan's Blue Nile State show that Sudanese military forces have resorted to brutal scorched earth tactics to drive out the civilian population, Amnesty International said in a report published today. "***We had no time to bury them***": *War crimes in Sudan's Blue Nile State* documents how bombings and ground attacks by Sudanese military forces have destroyed entire villages, left many dead and injured, and forced tens of thousands to flee—with many now facing starvation, disease and exhaustion." ("Sudan: New evidence of scorched earth

tactics against civilians in Blue Nile,” June 11, 2013; <http://www.amnesty.org/en/news/sudan-new-evidence-scorched-earth-tactics-against-civilians-blue-nile-2013-06-10> )

From Darfur we have relentless reports of intensive bombing in all three Darfur states, but especially in the eastern Jebel Marra region in the center of Darfur. Most recently:

A 27-year-old woman and her two daughters of five and seven [years] were killed when a Sudanese Air Force Antonov bombed their home on the outskirts of a village in East Jebel Marra on Sunday. Witnesses told Radio Dabanga that Dar Naim Yahya (27), Hawa Saleh Abkar Savnier (7), and Miriyam Saleh Abkar Savnier (5) all died on Saturday when the aircraft dropped two bombs on their home as they were cooking in the courtyard. The bombing also reportedly killed seven cows and five sheep belonging to the family. Observers suspect that the bomber targeted the light of the cooking fire. Activists lamented the fact that since 2011, about 500 children in East and North Jebel Marra have lost their parents as a result of aerial bombardments.” (Radio Dabanga [East Jebel Marra], June 16, 2013)

This bombing attack, yet another atrocity crime, was in no way exceptional.

The attack on Khor Abeche in South Darfur noted by NSC spokesman Hammer was also, indisputably, an atrocity crime, one among many thousands committed over the past ten years; why, then, did the NSC spokesman offer no specific indication of what he meant by declaring that “we are also seeing **increased evidence** of support to militant proxies from the Government ... of Southern Sudan.” What is the evidence? Does such evidence, if it exists as something other than diplomatic expediency, justify in any way comparison with the atrocities at Khor Abeche, a town already savagely ravaged earlier in the Darfur conflict? There was none provided, and so this became yet another moment of disingenuous moral equivalence on the part of the Obama administration, which has repeatedly been joined by the UN, the African Union, and the EU.

Indeed, the EU seems in many ways even more given to moral equivalence. Following the fighting in the area of Tishwin (Unity State) and the contested Heglig-Panthou area to the northwest (March/April 2012), various international actors practically tripped over themselves to condemn Juba for “invading” Sudan, no actor more eagerly than the EU:

“The move by the South Sudanese armed forces to **occupy Heglig** is completely unacceptable. So is continued aerial bombardment of South Sudanese territory by the Sudan Armed Forces,” EU foreign policy chief Catherine Ashton said through a spokesman. **‘Both parties must also stop supporting armed groups in the territory of the other state’ and should ‘cease hostilities, withdraw forces immediately back within their own borders and respect each other’s territorial integrity,’** Ashton insisted.”

This was echoed by the UN Security Council:

“The UN Security Council is demanding demands ‘a complete, immediate, and unconditional: end to all fighting; *withdrawal of (South Sudan’s Army) from Heglig*; end to (Sudanese Armed Forces) aerial bombardments; end to repeated *incidents of cross-border violence between Sudan and South Sudan*; **and an end to support by both sides to proxies in the other country.**”

Yet again, despite the conspicuous lack of evidence that there is any substantial support being offered by Juba to rebel groups in the north, this is precisely what the EU and UN Security Council are implicitly claiming in such equivocating statements. Moreover, the condemnation of Juba and the SPLA on this occasion was hasty and inaccurate, ignoring the fact that the SPLA had been attacked twice by SAF forces at its barracks near Tishwin, and ignoring as well the geographic complexities of this embattled region. Contemporaneous reports from the ground made clear that the account offered by Juba was substantially correct, and that Khartoum’s account of what started the fighting was mendacious. (To be sure, inaccurate journalism at the time hardly helped matters.)

The declarations by these international actors also entailed a presumptive determination about where [Heglig actually lies](#), and this has resulted in a further loss of Southern confidence in the impartiality of the international community and its negotiators, at least in post-CPA negotiations. It certainly does not help

that the contrast could hardly have been greater than that between the immediate international outrage directed at Juba and the SPLA over fighting in the Tishwin/Heglig-Panthou area and the ineffectual responses to Khartoum's military build-up near Abyei in early 2011—and military seizure of the region on May 21, 2011. The SPLA *withdrew* from Heglig-Panthou; Abyei *remains under Khartoum's de facto military control*, as UNISFA and the UN Secretariat and Department of Peacekeeping Operations well know. The region is one of the most likely flashpoints for renewed war, and a signal example of the costs of diplomatic expediency and incompetence, embodied in AU negotiators such as Thabo Mbeki.

### **The logic and consequences of expediency**

In the past two years the diplomatic phrase of choice has inevitably become some version of the demand that “both parties end support to proxies in the other country.” It is an expedient way to avoid having to confront the implications of evidence actually in hand, and thus confront Khartoum directly over actions of which it alone is guilty. Such confrontation, diplomats and international actors sense, would work to undermine Khartoum's credibility and legitimacy as a partner in peace negotiations, and thus make a final agreement more difficult. The logic seems to be that success depends on keeping both parties equally responsible for violence and rebel activity. But sensing this logic at work, Khartoum only insists more vehemently that Juba is responsible for supporting the SPLA-N and the SRF more broadly—and the international community responds by equivocating. But negotiations cannot equivocate their way to a meaningful set of agreements that will diminish the risk of renewed war.

Khartoum's repeated declarations of Juba's support for rebel group operating in the north—based always on bald assertion, never on evidence actually presented—also help to explain away the punishing and embarrassing defeats being absorbed by the SAF, especially in the Nuba Mountains, but increasingly in Darfur and other parts of South Kordofan. And since the international community as represented by the UN, the AU, the EU, and the U.S. clearly wishes to have direct negotiations between the Khartoum regime and the SPLM/A-North, condemning non-existent Southern support for the northern rebels seems the price that must be paid. And again, given the humiliations of the SAF over the past two years on the battlefield, it is only by arguing that rebel movements have Juba's support that justification for so many headlong defeats can be explained.

Expedient calculations by diplomatic interlocutors have brought the Sudan crisis to its present fever pitch, with all-out war a clear and very real possibility. But this is no time for expediency: the international community should be guided by evidence, gathered on the ground in South Sudan and South Kordofan, rather than contrive an equivalence that is based merely on perceived negotiating requirements.

### **PART TWO:**

#### **The explosion of the oil facilities at Diffra (Abyei)—what caused it?**

Predictably, Khartoum has immediately blamed rebel groups, supported by Juba, for the explosion at the Diffra oil production site (north of Abyei town) on June 12, 2013. So far—more than five days later—there has been no credible investigation, no announcement of responsibility, not even a preliminary report, and the UN Interim Security Force for Abyei (UNISFA) has begun to look ever more incompetent in fulfilling its mandate. In the wake of Khartoum's military seizure of Abyei in late May 2011, UN Security Council Resolution 1990 (June 27, 2011) stipulated that UNISFA verify the de-militarization of the region, protect civilians and humanitarians, and facilitate relief efforts. It was also tasked with “providing security for the oil infrastructure in the Abyei area.” So far UNISFA has proved inadequate to the multiple tasks of its mandate, even as it is being asked to monitor an extended de-militarization of the North/South border; it is bound to fail without much greater resources and an agreement on de-militarization that will seriously penalize renege parties.

A thorough, technically competent investigation of the Diffra explosion is essential given the various accounts that have been suggested (Diffra is one of only three oil extraction areas in Abyei and produces very little). In the absence of a credible report, prepared by people with appropriate technical expertise, there are four possible explanations for the explosion:



[1] The explosion was an accident, expediently used by Khartoum to further its own claims that Juba is supporting the rebels who, it claims, blew up the facility. Khartoum also claimed that within three days the facility had been repaired, so the damage cannot have been great. But such limited damage would be a surprising result for what would have had to be a well-planned rebel attack, given the risk entailed in any putative military operation in an area controlled nominally by UNISFA, but in fact by Misseriya militias and nearby SAF forces.

[2] The explosion was the work of Misseriya militia forces, some of which have grown increasingly disenchanted with Khartoum. There is also a general mistrust of oil development among people for whom cattle raising is the primary occupation. *Sudan Tribune* (June 13) reports that “‘Abyei Now,’ a website managed by Ngok Dinka activists, said the attack had been carried out by a group of gunmen belonging to the Misseriya ethnic group to protest the lack of development in the region.”

[3] The explosion was the work of a rebel group. This seems unlikely, however, for a number of reasons, not least the presence of not only UNISFA troops but a company of SAF troops that Khartoum has refused to withdraw from Abyei per the terms of the June 2011 agreement. Moreover, Juba would certainly wish to warn off any element of the SRF from attacking within Abyei, thereby giving Khartoum a pretext for expelling UNISFA and seizing the region permanently. Such a seizure virtually guarantees the resumption of war, something some of the more militaristic members of the regime clearly wish to keep open as a way of making further claims on land and oil reserves.

It is not remarked sufficiently frequently that South Sudan has nothing to gain from renewed war, except its self-defense. Rather, it wishes to engage in good faith negotiations in settling outstanding border issues, and has signed with Khartoum an agreement on oil transit fees, part of a larger agreement that spoke to a number of other issues, including security issues (September 27, 2012). South Sudan certainly has strong interests in a range of border issues, but is equally committed to addressing these issues through negotiation. This is why Khartoum’s highly provocative military seizure of Abyei (May 2011) was so dangerous, and such an egregious violation of the Abyei Protocol of the CPA. Juba has been left to wonder whether any negotiated agreement will have sufficiently strong international guarantees **and guarantors** to justify compromising any further. But there is certainly no inclination in Juba for a unilateral move toward war with Khartoum.

In assessing what has emerged from negotiations subsequent to Southern independence (July 9, 2011), it is important to understand Juba’s perspective—both on outstanding issues that were to have been resolved before the end of the Interim Period (also July 9, 2011), and on the costs of renewed war. This perspective is shaped by a fundamental fact about the National Islamic Front/National Congress Party Regime: it has never abided by any agreement with any Sudanese party—not one, not ever. Indeed, almost on the eve of Southern independence the NIF/NCP reneged on the June 28, 2011 Framework Agreement with the SPLM/North, the last and best chance to avert the vast catastrophe that now engulfs South Kordofan and Blue Nile.

There are other key features defining Juba’s perspective on renewed war:

- It could obtain by military means nothing that the international community would not demand be conceded in eventual negotiations with Khartoum; in a new war, all the South would experience is loss, suffering, and destruction. There are no positive outcomes other than a defense of territorial integrity.
- All of South Sudan would be exposed to aerial bombardment in any renewed war, as it was for the entirety of the long civil war (again, see “They Bombed Everything in Sight,” [www.sudanbombing.org](http://www.sudanbombing.org)). The nightmare of Antonov “bombers” targeting civilian and humanitarian targets throughout South Sudan would again become a reality.
- Juba has not previously been identified with any such act of sabotage, leaving aside the question of how much responsibility the SPLA bears for damage at Heglig-Panthou, during a retaliatory attack against SAF forces that had previously twice attacked the SPLA in the Tishwin area of Unity State. Many reports from the region at the time—by both military and civilian officials, and at least one oil worker—make this abundantly clear; this did not, however, prevent the international community from immediately and vehemently—and inaccurately—blaming Juba. (An oil industry worker of unspecified nationality in the

Heglig-Panthou area reported to the BBC, April 11, 2012 on the second, catalyzing attack by the SAF on SPLA positions: “The [northern] Sudanese attacked first, but they didn’t have as many soldiers, so they were forced to flee”).

There was also at the time much talk about the July 2009 ruling on Abyei by the Permanent Court of Arbitration (PCA); but a great deal of this either misinterpreted the clear limitations of the ruling by the PCA or reflected an effort to be “balanced” in apportionment of blame. Thus Khartoum bombs and mounts ground incursions into South Sudan, repeatedly, following the Southern self-determination referendum (January 2011)—and faces only tepid and ineffectual condemnation. Indeed, the “tepid” guarantees the “ineffectual”: the U.S. and other international actors are signaling that they will do what is necessary to provide Khartoum and Juba with equal “negotiating equities” going forward. If the South has “too many” equities, then diplomats know that Khartoum will not make an agreement reflecting this reality. So there is a perpetual fiction of “commensurate equities at the negotiating table”—and until this is resisted by international interlocutors, Khartoum will continue to believe that with some work, some subterfuge, and some mendacity, it will be able to behave badly and yet still—after the dust again settles, if it does—enjoy equivalent standing in new negotiations with Juba.

**[4]** The explosion was deliberately orchestrated by Khartoum as a low-cost act of “sabotage” in order to justify further its shutdown of oil transport from South Sudan and possible “punitive” military action along the Abyei/Unity state border. The Diffra incident would, in short, become a *casus belli* for Khartoum, justifying their military seizure of Abyei and perhaps whatever they can hold of contested regions in Unity and Upper Nile states. Certainly we should recall that Khartoum has kept troops in Abyei, and near Diffra in particular, despite the withdrawal agreement of June 2011.

Alternatively, the contrived sabotage might be the military’s way of responding to defeats at the hands of the SRF. Khartoum assumes that if its claims are credited then it is more likely that occupied border lands will be conceded by excessively pliable African Union mediators. In short, Khartoum counts on “compromising” over whatever it seizes and holds until a new “peace treaty” is signed. This includes at the very least Abyei, Heglig-Panthou, parts of Upper Nile, the Kafia Kingi enclave in Western Bahr el-Ghazal, the fertile area in North Bahr el-Ghazal State north of the Bahr el-Arab River known as “Mile 14” —an important strip of land between Sudan and South Sudan that was to have been demilitarized per the September 27, 2012 agreements. In all these areas, in the event of all-out war, there are substantial SPLA forces and resources, ensuring that any military effort to seize Southern land will be fiercely resisted. Once loosed again, the demons of war will be exceedingly difficult to contain.

Khartoum may also be trying to “play the victim,” with the explosion meant to dramatize a “conspiracy of forces” north and south of the border. Key in answering this will be an independent investigation, and again we must wonder why have we heard nothing from UNISFA. In the absence of a fully credible report assigning responsibility, or at least cause, recent diplomatic behavior—especially that of the UN and African Union—suggests that the incident will either be ignored or skewed if possible to shift the blame to Juba, even though Diffra is in an area where there are very few Dinka and a great many, generally heavily armed Misseriya—the very men who murdered Dinka Ngok Paramount Chief Kuol Deng Kuol three weeks ago.

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#### **Appendix One: Small Arms Survey on reconstitution of Nuba fighting forces**

“The [cause of renewed fighting in South Kordofan] was the unresolved status of Nuba SPLA combatants. Under the CPA, all former rebel fighters were to withdraw to South Sudan, except for some 3,300 incorporated into the Joint Integrated Units (JIUs), which included an equal number of SAF. Between 2007 and 2008, a large contingent from the SPLA’s South Kordofan 9th Division— between 17,000 and 30,000 men, according to SPLM/A officials, or between 10,000 to slightly above 20,000, according to Western military observers—redeployed to Jaw, at the northern tip of Unity state, which borders South Kordofan.

*[It should be noted that technically the CPA stipulated October 9, 2011 (three months after the July 9, 2011 expiration of the CPA’s Interim Period) as the date for completed demobilization of Joint Integrated*

*Units (JIU), of which a number of Nuba forces were part. See Appendix 2: Calendar and Timetable of Major Ceasefire Activities: Security Protocol of the CPA, post-Interim Period Arrangements (A/2). Notably, the JIU were never joint, never integrated, and never functioned as the units envisioned by the CPA—ER]*

“But several thousand other (non-JIU) SPLA remained in South Kordofan, and members of the redeployed 9th Division started to return from Jaw beginning in January 2011, with their individual weapons. These movements increased during the election campaign in April. In January and February, the SPLM/A moved some heavy artillery northwards. Initial reports suggested this was to enable them to fight near the border, but these weapons were used later by the SPLM-N to hold territory in the Nuba Mountains. (page 15) [ ]

“In early June 2011, the fighters of the SPLA’s 9th Division were scattered between their main post-CPA base in Jaw and the Nuba Mountains. According to SPLM-N Deputy Chairman Abdel-Aziz al Hilu and Maj. Gen. Jagod Mukwar (SPLM-N’s commander for the Nuba Mountains), SPLM in South Kordofan then had 22,000 men—3,300 in the JIUs, and 1,500 in the joint integrated police, both in South Kordofan itself; 13,500 men around Jaw; and the remaining 3,500 in the Bentiu region. The size of the force redeployed to Jaw is disputed, with estimates for the whole Nuba forces put at 20,000–30,000 as early as June 2011. When the conflict resumed, however, the majority of those who had left the ranks rejoined. The Nuba fighters still in Jaw and Bentiu (including some 500 integrated into the SPLA-South 5th Division), or part of other SPLA divisions in South Sudan, upwards of 2,000 men (including 1,000 in Western Bahr al Ghazal and 500 in Upper Nile), were progressively repatriated. Since South Sudan’s independence, Northern members of the SPLA’s Southern divisions—including Nuba soldiers who never fought in South Kordofan during the civil war—have been moving constantly to the SPLM-N, with the encouragement of the SPLA leadership. Voluntary recruitment campaigns were also conducted, especially in the early stages of the conflict, and some newly enrolled fighters were trained as late as May 2012. By the end of June 2011, the force in South Kordofan was around 30,000 – 35,000 men.

“SPLM-N officers acknowledge that the force is largely composed of Nuba tribesmen, although other tribes are also represented. The most significant non-Nuba component is made of Missiriya recruits, numbering 1,000 men by mid- 2012, and deployed in four different battalions under the command of Brig. Gen. Yassin al Mullah and Lt. Col. Bokora Mohamed Fadel.” (pages 26 – 27)