

# **Content and Context**

## **Autonomy and conflict settlement in Sudan**

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### **Introduction**

Self-determination disputes are considered to be among the most intractable, violent, and destructive forms of conflict that societies, states, and the international community have had, and continue, to face. Apparently unending conflicts have plagued places as diverse as Kashmir, the Great Lakes Region of Africa, the Middle East, and the Caucasus, among others, have cost millions of lives, displaced multiple more people, wrecked entire national economies for decades, and they seem to be "solution-proof." Yet, not all self-determination conflicts are violent and destructive: Quebec and Belgium are two cases in point, but there was no serious violence in Crimea, Romania, Slovakia, and the Baltic states either despite the highly charged atmosphere between these countries' majority and minority populations, nor were the separations of Slovenia from socialist Yugoslavia, of Macedonia from the Federal Republic of Yugoslavia or of Montenegro from the State Union of Serbia and Montenegro characterised by a high degree of bloodshed. Not all self-determination conflicts evade solutions either: in Western Europe, Northern Ireland, the Swiss Jura and South Tyrol are clear examples for the possibility of sustainable peace after violent conflict. The region of the Western Balkans, despite many other shortcomings, has not returned to the violence it experienced throughout the 1990s and early 21<sup>st</sup> century. Constitutional arrangements in Aceh (Indonesia), Bougainville (Papua New Guinea), Mindanao (Philippines), and Gagauzia (Moldova), likewise, may not be perfect, but they have provided an institutional setting in which ethnic groups can pursue their self-determination claims by political, non-violent means.

Sudan represents a case that is a more difficult to classify. The country has been plagued by violent conflicts for several decades now all of which are framed in terms of a quest for greater self-determination by the rebel movements, and all of which continue to pose serious challenges to the stability of Sudan and its entire neighbourhood. While the conflict with the South is the one with the greatest potential for secession, those in the West (Darfur) and the East are predominantly about a more equitable distribution of power and wealth in the country. Yet in each of the three Agreements concluded with rebel movements since 2005, the basic recipe for conflict settlement is an institutional framework predicated upon autonomy and local and central wealth and power-sharing. Despite the conclusion of these three separate peace agreements, it is difficult to characterise any of the conflicts as resolved.

Proceeding from a conceptual exploration of the utility of autonomy and power sharing as conflict settlement mechanisms, our paper examines (1) to which extent the context of the different conflicts in Sudan lends itself to the application of these mechanisms and (2) whether the content of the actual settlements really addresses the grievances underlying the different rebel movements' demands. This will allow us to provide a theoretically informed and empirically illustrated answer to the question whether Sudan currently suffers from the wrong approach to conflict settlement (wrong 'content', i.e., flawed institutional design, of the settlements adopted) and/or whether there are other factors that account for the failure of any of the agreements to bring about sustainable peace (non-conducive context for autonomy and power sharing settlements).

We proceed in several steps. First we develop an analytical framework that will allow us to assess the suitability of the institutional designs adopted in each of the three peace

agreements and the degree to which the context in which they were to be implemented is conducive to their success. Second, we apply this framework to each conflict (and its settlement) sequentially. Based on the individual findings that these three case studies will generate, we will offer some conclusions about the relationship between content and context in the conflict settlement process in Sudan. In other words, we develop and apply an analytical framework for the understanding of success and failure of conflict settlement that links aspects of the conflict environment ('context') with those of the institutional bargain achieved in the settlement process ('content'). Context (in the sense of, for example, demography and demands made by conflict parties) determines content (in the sense of an outcome of negotiations), while content (in the sense of how responsive institutional designs are to these contextual factors) and context (in the sense, for example, of conflict parties' willingness and ability to stick to an agreed deal and the support they receive from outsiders in this) together determine how sustainable a peace settlement will be.

### **Institutional Design in Contemporary Conflict Resolution**

A striking feature of contemporary conflict resolution practice in cases of self-determination disputes is that a very significant number of actual and proposed settlements involve forms of territorial self-governance. This reflects the assumption, but not necessarily the reality, that such regimes can contribute to sub-state, state, regional and international stability. In ethnically, linguistically and/or religiously heterogeneous societies in which corresponding group identities have formed and become salient, the degree of self-governance enjoyed by the different segments of society is often seen as more or less directly proportional to the level of acceptance of an overall institutional framework within which these different segments come together. Self-governance regimes are thus also meant to provide institutional solutions that allow the different segments of diverse societies to realise their aspirations for self-determination while simultaneously preserving the overall social and territorial integrity of existing states. In doing so, self-governance regimes above all offer mechanisms for conflict parties to settle their disputes by peaceful means (cf. Weller and Wolff 2005).

There is a large number of such settlements that provide evidence for this trend in North America (Canada), Central and South America (Panama, Colombia, Mexico, Ecuador and Nicaragua), Africa (Sudan, Zanzibar),<sup>1</sup> Asia (Iraq, Indonesia, Papua New Guinea and Philippines),<sup>2</sup> and Europe (Belgium, Bosnia and Herzegovina, Italy, Spain, Macedonia, Moldova, Russia, Serbia and Montenegro,<sup>3</sup> Ukraine and United Kingdom).<sup>4</sup>

In addition, proposals for self-governance regimes also figure prominently in proposed peace agreements, including in the Annan Plan for Cyprus,<sup>5</sup> the Georgian president's peace initiative for South Ossetia,<sup>6</sup> and Sri Lanka.<sup>7</sup> Thus in virtually every conflict situation involving self-determination claims by territorially relatively concentrated

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<sup>1</sup> Proposals for decentralisation/federalisation also exist in Ethiopia, Nigeria and the Democratic Republic of Congo, but in all three cases lack serious implementation efforts. I am grateful to Sandra Joireman and the late Donald Rothchild for providing me with this information.

<sup>2</sup> In India, one could include the so-called Union Territories, such as Pondicherry (Puduchery).

<sup>3</sup> The 2003 constitution of the Union of Serbia & Montenegro provided for a bi-national federation between the two entities and included an option for Montenegrin independence after three years if at least 55% of people participating in a referendum would opt for it. The referendum was held on 21 May 2006, and Montenegro declared its independence on 3 June after the country's referendum commission confirmed as official the preliminary result which had already been recognised by all five permanent members of the UN Security Council on 23 May. For the text of the Constitutional Charter of the State Union of Serbia and Montenegro, see <http://www.legislationline.org/upload/legislations/41/97/29d53b4d7dabbfe0af7023a6454a.htm>.

<sup>4</sup> This is not meant to be a comprehensive list of cases. For an analysis of some examples and general trends in the spread of territorial self-governance regimes as part of conflict settlements, see contributions in Weller and Wolff (2005).

<sup>5</sup> For the full text of this document, see [http://www.hri.org/docs/annan/Annan\\_Plan\\_Text.html](http://www.hri.org/docs/annan/Annan_Plan_Text.html).

<sup>6</sup> For the full text of this document, see <http://www.president.gov.ge/?l=E&m=0&sm=5>.

<sup>7</sup> See documentation at <http://www.peaceinsrilanka.lk/>, a website run by the Secretariat for Co-ordinating the Peace Process set up by the government of Sri Lanka.

identity groups at least proposals for territorial self-governance have been made.<sup>8</sup> In many of them, these proposals have been implemented.

Yet, without exception, these cases also demonstrate that territorial self-governance on its own is insufficient to offer viable solutions to self-determination conflicts. Because of the complexity of such conflicts in terms of the parties directly or indirectly involved in them and their competing demands, further conflict resolution mechanisms are required to ensure that an overall stable and durable democratic settlement can be achieved. This has been increasingly understood by practitioners of conflict resolution and has led to an emerging practice of conflict settlement referred to as "complex power sharing".<sup>9</sup>

Complex power sharing, in the way it is understood here, refers to a practice of conflict settlement that has a form of self-governance regime at its heart, but whose overall institutional design includes a range of further mechanisms for the accommodation of ethnic diversity in divided societies, including those recommended by advocates of liberal consociationalism (e.g., McGarry and O'Leary 2004a and b, McGarry 2006, O'Leary 2005a), integration (e.g., Horowitz 1985[2000], 1990, 1991, 2002, 2004, 2006, Reilly 2001, Sisk 1996, Wimmer 2003) and power dividing (Roeder and Rothchild 2005). Complex power sharing, thus, is the result of the implementation of a self-governance regime whose success as an approach to conflict settlement requires a relatively complex institutional structure that cannot be reduced to autonomy/(ethno-)federalism, (traditional) models of power sharing or power dividing.

The complexity of conflict resolution practice and the centrality of territorial self-governance has been long neglected, or had its relevance and importance denied, in other theories of conflict resolution.<sup>10</sup> Advocates of integration and power dividing generally reject the idea of territorial self-governance for communities seeking self-determination as destabilising, and variably propose 'non-ethnic' federalism or at least splitting communities across several territorial entities.<sup>11</sup> Proponents of (liberal) consociational power sharing, only recently have pointed out the important connections between, and complementarity of, consociation and territorial forms of self-governance,<sup>12</sup> thus seeking to fill a significant gap in power sharing theory.<sup>13</sup>

Beyond links and complementarity, however, there are also a number of specific instances in which the provision for institutions of territorial self-governance is essential

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<sup>8</sup> In some cases (e.g., Georgia, Sri Lanka) the sincerity and/or acceptability of these proposals might be questioned. In others (e.g., Mindanao, Kirkuk, Kosovo) their implementation has been difficult at best, highlighting that such agreements often do not bring about the immediate cessation of conflict, but may be viewed as starting points for its eventual end. The fate of the 1998 Agreement on Northern Ireland illustrates this point.

<sup>9</sup> We adopt the term 'complex power-sharing' from a research project funded by the Carnegie Corporation of New York ("Resolving Self-determination Disputes Through Complex Power Sharing Arrangements"). In this project, complex power-sharing regimes are distinguished "in that they no longer depend solely on consociational theory, or solely upon integrative theory", involve international actors that "are often key in designing, or bringing experience to bear upon, the structure of the eventual agreement, or its implementation" and "consider a far broader range of issues ... and ... address structural issues as diverse as economic management, civil-military relations and human and minority rights, and ... do so at many different levels of government", thus recognising "that at different levels of government, different strategies may be more, or less, applicable, and consequently more, or less, successful, in engendering peace and stability" (Kettley, Sullivan, Fyfe 2001: 4-5). O'Leary (2005a: 34-5) uses the term 'complex consociation' in a similar manner.

<sup>10</sup> There have been some past attempts to conceptualise 'territorial solutions' for ethnic conflicts, especially the use of autonomy arrangements. These include especially Benedikter (2007), Coakley (2003), Dinstein (1981), Ghai (2000), Hannum (1996), Lapidoth (1997), Wehengama (2000), Weller and Wolff (2005).

<sup>11</sup> Cf., for example, Horowitz (1985[2000], 1990), Reilly (2001), Sisk (1996), and Wimmer (2003) on integration, and Roeder and Rothchild (2005) on power dividing.

<sup>12</sup> See in particular McGarry and O'Leary (2004), McGarry (2007), O'Leary (2005a and b). Weller and Wolff (2005) and Wolff and Weller (2005) draw similar conclusions about the compatibility of, and likely need to combine, autonomy, power sharing, and other mechanisms of conflict resolution to achieve sustainable settlements.

<sup>13</sup> For a review of recent writings on power sharing and power dividing, see Wolff (2007b).

for the successful negotiation, implementation and sustainable operation of conflict settlements, regardless of which other mechanisms of conflict resolution complete the final deal that the conflict parties agree. Institutions for territorial self-governance are generally needed in conflict situations involving territorially compact communities willing to accept self-governance in the region they inhabit as the way in which they express their right to self-determination (cf. Gurr 1993, Coakley 2003). This can take different forms. Self-governance regimes can be established in a single region of a state, such as in Crimea or Bougainville. It is also possible that multiple such regions are established, such as in the United Kingdom. The British example also illustrates that the level of powers and number of competences enjoyed by different regions need not be the same—Scotland and Northern Ireland enjoy far greater powers than Wales, for example.<sup>14</sup> Finally, it can take the form of a federation in which the boundaries of one or more, and potentially all, units are drawn to reflect specific regional ethnic demographics, such as in Canada, the former Yugoslavia, or the Russian Federation.

There are a number of recent borderline cases, too. Macedonia, under the terms of the 2001 Ohrid Agreement, provides for territorial self-governance extended to local communes in combination with a territorial redistricting exercise that rendered them ethnically more homogeneous. The constitution for Iraq of 2005, while recognizing the existence of the Kurdish region, equally offers other provinces (with the exception of Baghdad) a choice about whether they want to form a region (and thus enjoy significantly greater powers independently of the centre) at some future point. Both the Ahtisaari proposal for Kosovo's conditional independence and the constitution of Kosovo provide for an arrangement similar to that in Macedonia with local communes as the principle loci of self-government powers while additionally establishing the possibility of horizontal links between them, thus offering Serbs in the north of Kosovo the opportunity to create their own "region."<sup>15</sup>

Importantly, while territorial self-governance may be significant, in and of itself it cannot be expected to be sufficient for sustainable conflict settlements in principally two types of situations, which will additionally require power sharing mechanisms:<sup>16</sup> the degree of local, politically relevant heterogeneity in the self-governing territory and the significance of the self-governing territory relative to the rest of the state. If the self-governing territories are ethnically heterogeneous, arrangements have to be made to accommodate this local population diversity. It is important to note here that population diversity as such will only be politically relevant if minorities are sufficiently sizeable. For example, a 5% minority population in a given territorial entity is unlikely to warrant power sharing. In a case with 20% minority population, power sharing is more likely, provided this diversity is attributable to the presence of at least one large group rather than several relatively small ones. This can also be expressed in terms of electoral significance, especially in cases where the majority is split along different party lines and where even small minority parties can act as 'king-makers' in voluntary power sharing arrangements.

More generally, power sharing as a result of efforts to accommodate local population diversity in the self-governing territory takes the form of a regional consociation, such as

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<sup>14</sup> For a more extensive appraisal of asymmetrical federal systems, see McGarry (2007).

<sup>15</sup> The Comprehensive Proposal for the Kosovo Status Settlement, [www.unosek.org/unosek/en/statusproposal.html](http://www.unosek.org/unosek/en/statusproposal.html); The Constitution of the Republic of Kosovo, <http://www.kosovoconstitution.info/?cid=2,247>. Theoretically, it would also be possible for majority-Serb communes in central and southern Kosovo to join such a region as there is no stipulation about territorial contiguity.

<sup>16</sup> Power sharing is a form of governance whereby representatives of different groups make decisions jointly in one or more branches of government. Power sharing can occur as a result of guaranteed arrangements, e.g., particular parliamentary election (reserved seats, quotas) and/or government appointment procedures (d'Hondt mechanism, guaranteed posts for members of particular groups) in combination with specific decision making procedures in relevant branches of the government (qualified or concurrent majorities) or emerge as a result of the electoral process as part of coalition formation. I am primarily interested in the former, guaranteed type of power sharing, but will note voluntary power sharing coalitions where appropriate.

in Brussels, South Tyrol, and Northern Ireland, as well as more recently in the case of Kirkuk.<sup>17</sup> If the significance of the territory (or territories) in question relative to the rest of the state is high and necessitates power sharing at the centre, the institutional outcome is a sovereign consociation, such as in Belgium or Switzerland, or Iraq.<sup>18</sup> Regional and sovereign consociations are not mutually exclusive but can occur together, as envisaged, for example, in the Iraqi constitution of 2005 or the Dayton Accords for Bosnia and Herzegovina.<sup>19</sup>

'Significance' is one of the less straightforward, but nonetheless important, key concepts of this analysis and relates to several dimensions of what can be gained from control over, or possession of, a particular territory. For states, territory possesses certain value in and of itself, including natural resources, the goods and services produced there and the tax revenue generated from them, and military or strategic advantages in terms of natural boundaries, access to the open sea, and control over transport routes and waterways. Additionally, for identity groups, territory very often is also important in a different way – as a crucial component of their identity. Territory is then conceptualised more appropriately as place, bearing significance in relation to the group's history, collective memories, and 'character'. Yet, for identity groups, too, territory is, or can become, a valuable commodity as it provides resources and a potential power base, including in electoral terms in relation to the state overall if they are sizeable and party-politically united enough to make an electoral impact at the centre. In other words, significance can arise from the size of the local population (of the identity group concerned), the wealth locally generated (as expressed in GDP per capita), natural resource presence, strategic location, and cultural importance. If three or more of these indicators matter, we define significance as 'high', for two indicators as 'medium' and for one or none as 'low'. The relevance of a medium level of significance for institutional design outcomes is initially difficult to assess, whereas it is more intuitively logical to hypothesise a particular (non-)outcome in relation to high and low significance. In Figure 1 below, we therefore operate only with the latter two levels of significance.

On the basis of the foregoing discussion, three key characteristics, thus, emerge as crucial in determining institutional design for self-determination conflicts (see Figure 1): the compactness of groups' settlement patterns in a given state; the degree of ethnic heterogeneity in the territorial entities to which powers and competences of self-governance are to be assigned; and their significance relative to the rest of the state.<sup>20</sup>

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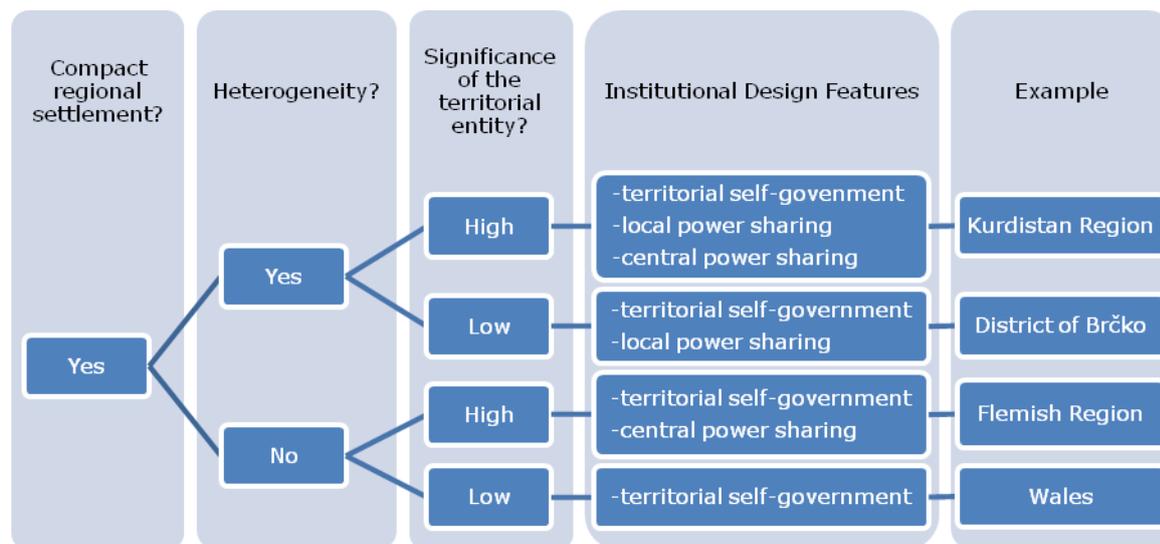
<sup>17</sup> For an extensive comparison of regional consociations, see Wolff (2004).

<sup>18</sup> Sovereign consociations are, of course, also possible without provisions for territorial self-governance. The key example here is Lebanon, yet Lebanon, too, underlines the importance of self-governance (or segmental/group autonomy), in this case taking the form of non-territorial, or cultural/personal autonomy extending to individuals as members of a group rather than to individuals living in a specific territory.

<sup>19</sup> The Constitution of Iraq, [http://portal.unesco.org/ci/en/files/20704/11332732681iraqi\\_constitution\\_en.pdf/iraqi\\_constitution\\_en.pdf](http://portal.unesco.org/ci/en/files/20704/11332732681iraqi_constitution_en.pdf/iraqi_constitution_en.pdf); General Framework Agreement for Peace in Bosnia and Herzegovina," [www.intstudies.cam.ac.uk/centre/cps/documents\\_bosnia\\_dayton.html](http://www.intstudies.cam.ac.uk/centre/cps/documents_bosnia_dayton.html).

<sup>20</sup> A fourth situational characteristic – transnational links – also shapes institutional design in a significant way. Such links are often determined by historical and/or ethnic relations between populations and territories divided by contemporary international boundaries. In a broader sense, transnational links need not be just with immediately neighbouring countries, but can, as a consequence of past intra-empire migration or emigration, connect population groups across greater distances, too (consider, for example, existing links between Germany and the descendents of ethnic German minorities in Central and Eastern Europe and the former Soviet Union, as far as Kazakhstan, or the relations between Hungary and ethnic Hungarian minorities in Central and Eastern Europe, the Balkans and parts of the former Soviet Union, as well as among those communities and the Hungarian diaspora in the US). In these instances, formal transnational institutions may be established and/or so-called para-diplomatic powers be granted to self-governing territorial entities, and/or minority rights regimes be enacted explicitly providing for the maintenance of such links. However, there is also another reason why self-governing territorial entities should be invested with para-diplomatic powers: the ability to engage in the international arena is increasingly important for them in order to discharge their 'other' powers effectively, for example in relation to economic development and cultural identity maintenance. Thus, the establishment of formal transnational institutions and/or the conferral of para-diplomatic powers to self-governing territorial entities need not happen only in cases in which historic, ethnic or other transnational links

Figure 1: Context and Institutional Design for Conflict Settlement



### How Context Matters: 'Success Conditions' for Conflict Settlements

Institutions designed to resolve self-determination conflicts in practice work as a package; that is, they “interact in complex ways” (Belmont et al. 2002:4). Thus, while it may be possible to make a theoretically valid argument about the utility of using the Single Transferable Vote (STV) as an electoral system to induce moderation among politicians, district magnitude and local ethnic demography can easily “conspire” against such an outcome (cf. Wolff 2005). What matters, therefore, is that different dimensions of institutional design fit each other and the context in which they are to be implemented to enable overall outcomes that are conducive to the success of conflict settlements.

The existing literature on conflict resolution offers some insights on what contextual conditions need to be in place to enable sustainable settlements. While these differ at times quite significantly between different schools of thought and different methodological approaches, there is some agreement on broad trends. As far as territorial self-governance is concerned, the consensus generally extends to the need for institutional arrangements to address the key conflict issues (including assignment of substantive powers to the self-governing entity, adequate financing for their discharge, clear delineation of competences held by the territorial entity and by the centre), to entrench the settlement achieved constitutionally, and to provide for effective dispute resolution mechanisms (Weller and Wolff 2005). Moreover, the establishment of appropriate power sharing arrangements, as argued in the previous section, has a direct bearing on the success of territorial self-governance: governance arrangements within the self-governing territory must contribute to the local workability of the settlement, and relations with the centre must be structured in such a way that they adequately reflect the significance of the self-governing entity relative to the rest of the state. Yet, power sharing institutions have their own ‘success conditions’, too. Lijphart (1977: 53-103) identified several of them, based on his study of sovereign consociations in the 1960s and 1970s: overarching, i.e. territorial, loyalties, a small number of political parties in each segment, about equal size of the different segments, and the existence of some cross-cutting cleavages with otherwise segmental isolation. The small size of the territory to which a consociational structure is applied and the direct and indirect internal and external consequences of this, as well as a tradition of compromise among political elites, are also emphasized by Lijphart as conditions enhancing the stability of the

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necessitate this, but can become a feature of institutional design regardless of the existence of such links. More generally on the potential contribution of para-diplomacy to conflict resolution, see Wolff (2007a).

consociational settlement (1977:53–103). McGarry and O’Leary (2004, 2009), in their further development of Lijphart’s original theory of consociationalism, argue that for consociationalism to work, three conditions need to be in place: integration or assimilation of the respective other group must not be on the agenda of either of the ethnic groups in conflict with each other in the short or medium term; successive elites must be motivated to work for the preservation of the consociational settlement; and elites must enjoy a sufficient degree of autonomy within their communities enabling them to make compromises and concessions without fear of outbidding and outflanking by ethno-centric radicals. What is important about McGarry and O’Leary’s analysis is that it draws on a broader understanding of consociationalism than Lijphart does, especially in the sense that they specifically acknowledge the importance of self-rule (i.e., self-governance) along-side shared rule (i.e., power sharing) (O’Leary 2005b). We will thus operationalise this dimension of conditions of success for any of the settlements considered below along their three factors.

In addition, the literature also acknowledges that favourable domestic factors are rarely enough to make a settlement work. At a minimum, a favourable, or at least non-hostile, external environment is required, i.e., external actors must not seek to undermine an existing settlement and, as necessary, support its implementation, for example financially and/or with security guarantees (Brown 1996, McGarry and O’Leary 2004, Weller and Wolff 2005, 2008, Wolff 2003). This consideration of the external context of settlement sustainability applies equally to territorial self-governance and power sharing designs.

The factors that account for the viability of each of the settlements—in terms of its implementation and operation—can thus be summarised as follows (cf. Table 1). As far as the impact of the content of any of the agreements goes, two dimensions matter, namely the degree to which the institutional bargain struck during negotiations reflects the structural conditions of each conflict situation (as illustrated by Figure 1, above) and the degree to which substantive assignment of competences to territorially self-governing entities (as well their clear division between entity and centre) addresses the concerns and demands of the conflict parties. In addition, appropriate dispute resolution mechanisms should be part of an agreement and translated into institutional mechanisms. The proper financing of self-governance and the constitutional entrenchment of the agreement’s provisions are two factors that are somewhat in a grey area between content and context. As they are quite frequently written into agreements, we consider them as part of the context factors for settlement stability, while acknowledging that they are also part of its broader context.

As far as ‘context proper’ is concerned, we focus, based on findings in the existing literature, on two aspects in particular: elite agendas and behaviour (McGarry and O’Leary 2004, 2009) and the external environment (esp. Brown 1996, McGarry and O’Leary 2004, Weller and Wolff 2005, 2008, Wolff 2003). Concerning elite agendas and behaviour, we will consider whether integration or assimilation of the respective other group are on the agenda of either of the conflict parties (i.e., whether they properly acknowledge each other’s right to be part of the common state with their distinct identity); whether elites are motivated to work for the preservation of the agreement (i.e., their efforts towards implementation, given the relatively recent conclusion of all three agreements); and whether elites have sufficient autonomy within their communities (i.e., the degree of political heterogeneity within each conflict party).

As indicated earlier, apart from these primarily domestic factors, it has been increasingly recognised that there is also an external dimension to the sustainability of any settlement. Here we will limit ourselves to two factors widely accepted in the existing literature: the absence of effective external spoilers and broad international support for the implementation (and operation) of agreements, including through donor funding and international/regional security guarantees.

Table 1: 'Success Conditions'

Content		Match of institutional bargain to structural conditions
		Match of institutional arrangements to conflict issues
		Appropriate dispute resolution mechanisms
		Constitutional entrenchment
		Proper financing
Context	Domestic	Parties' acknowledgement of each other's right to be part of the common state with their distinct identity
		Parties' efforts towards implementation
		Degree of political heterogeneity within each conflict party
	External	Absence of effective external spoilers
		International support for implementation

### **Sudan: Three Agreements, No Peace?**

In this section, we explore sequentially Sudan's three conflicts by giving a brief narrative of each conflict and an overview of the main conflict actors and their agendas, as well as the issues at stake. This will be followed by a comparative analysis of the three settlements.

#### **Civil War in the South, 1983-2005**

From 1963 until 1972, Sudan is embroiled in its first civil war between the Sudanese government and a Southern Sudanese rebel group, the Anyanya movement (Johnson 2003). The root causes of this conflict, however, are not thoroughly addressed after the conflict settlement and as a consequence the tensions between Khartoum and Southern Sudan continue to persist. After the regional Southern government is dissolved by Khartoum in 1983, the situation escalates and fighting breaks out between army forces and the Southern Sudanese rebel group Sudan People's Liberation Movement/Army (SPLM/A) (Johnson 2003: 59-73; UCDP 2008). Over the next twenty years, neither side is able to gain a significant military advantage as both sides suffer from internal divisions and limited military capabilities (Johnson 1998; Johnson 2003; IISS 2009; UCDP 2009). In 2000, the peace process initiated by the Inter-Governmental Authority on Development (IGAD) gains importance and several peace talks between the adversaries are taking place despite fighting on a large scale (UCDP 2008). The peace process eventually results in the signing of the Comprehensive Peace Agreement (CPA) in 2005. During the civil war, the following Southern Sudanese states have been affected by fighting: Western Bahr al Ghazal, Northern Bahr al Ghazal, Unity, Upper Nile, Warab, Jonglei, Lakes, Western Equatoria, Eastern Equatoria and Bahr al Jebel (CIA 2009; UCDP 2009). Government forces as well as rebel forces have frequently targeted the civilian population (e.g., HRW 1994; HRW 2003; HRW 2006b; HRW 2008; HRW 2009; UCDP 2009).

#### Conflict Actors

##### *National Congress Party (NCP)*

The NCP under President Umar Hassan Ahmad al-Bashir is the dominant political party in Sudan (CIA 2009). The NCP has formerly been known as the National Islamic Front (NIF) which is an Islamist movement originating from the Sudanese Muslim Brotherhood (Zahid and Medley 2006). It came to power in 1989 when NIF sympathisers within the army under the command of al-Bashir staged a successful military coup (Johnson 2003; Zahid and Medley 2006; UCDP 2008). Until today, the political regime in Khartoum has become significantly Islamist but it seems that the recourse to is primarily a political tool to legitimate the NCP's grip to power and the economic exploitation of Sudan's natural resources (ICG 2002; Zahid and Medley 2006).

The NCP draws its support from the Northern Arabs which comprise 40% of Sudan's population (Fearon 2003). The key support for the regime, however, comes from small but well-organised Islamist networks and the Sudanese army (ICG 2002; Zahid and Medley 2006). Since 1989, the regime has succeeded in the marginalisation of other political opposition groups and has systematically restricted democratic institutions and human rights (ICG 2002; Gibney, Cornett et al. 2008). Over the last few years, however, there have been significant internal divisions between President al-Bashir, Vice President Ali Osman Taha and the leading Islamist Hasan al-Turabi (ICG 2002; Zahid and Medley 2006).

Given its dominant political status, the NCP also exerts control over the Sudanese Armed Forces (SAF). The army branch of the SAF has 85,000 soldiers and 20,000 conscripts at their disposal, the air force 3,000 soldiers and the navy 1,300 (IISS 2009). Since 1999, revenues from oil production have been used to improve the military capabilities of the SAF (ICG 2002; HRW 2003). Furthermore, the NCP commands over the paramilitary Popular Defence Forces (PDF) with 17,500 fighters and 85,000 reservists (Salmon 2007; Carey and Mitchell 2009; IISS 2009).

#### *Sudan's People Liberation Movement/Army (SPLM/A)*

The SPLM/A was founded in 1983 under the command of John Garang de Mabior (Johnson 2003). Contrary to the *Anyanya* movement of the 1960s, the SPLM/A did not pursue the secession of Southern Sudan but instead formulated the objective to fight for a democratic, secular and united Sudan (ICG 2002; Johnson 2003; Ali, Elbadawi et al. 2005; Collins 2007). These objectives, however, were never part of a clearly formulated and coherent political ideology (Young 2003: 426ff). Furthermore, although the rebels joined the national opposition under the umbrella of the National Democratic Alliance (NDA), the SPLM/A did never really manage to extend the civil war to Northern Sudan and was ultimately considered to be a purely Southern Sudanese group (Young 2003: 424).

The SPLM/A draws its support from the ethnic groups of Southern Sudan (e.g., Equatorians, Dinkas, Nuers, Anuaks, Shilluks, Latukas, Taposas, Turkans, Moru, Madi, and Azande) which consists of Black Africans who are primarily animist or Christian (Minorities At Risk Project 2009). The Minorities At Risk Project (MAR) subsume these distinct ethnic groups under the term "Southerners".<sup>21</sup> According to the MAR data, Southerners have a total population size of 6.5 million (2006 estimate) which constitutes 17% of Sudan's total population (Minorities At Risk Project 2009). The large majority of Southerners (over 75%) is geographically concentrated in Southern Sudan and lives in rural areas (Minorities At Risk Project 2009). Over the course of the civil war, the SPLM/A has also made an alliance with the Nuba who live in Southern Kordofan (Minorities At Risk Project 2009).<sup>22</sup>

The SPLM/A never was a cohesive political and military actor as it always suffered from internal divisions. These were due to the internal structure of the group, its ethnic allegiances and the relationship to the civilian population. Firstly, John Garang established a highly personalised and autocratic rule over the SPLM/A leaving him the final decision in any relevant political or military matter (Young 2003; Collins 2007). This led to low levels of internal democratic rule and accountability (ICG 2002; Johnson 2003; Ali, Elbadawi et al. 2005). Secondly, the SPLM/A was never able to move beyond existing tribal divisions and construct a truly unified Southern identity as its most important political and military support were drawn from one particular ethnic group, the Dinka

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<sup>21</sup> Fearon's (2003) list of ethnic groups provides more detailed information on some of Southern Sudanese groups. According to this classification, the Dinka (10% of country population), Nuer (5%) and Shilluk (1%) are the most important ethnic groups in Southern Sudan.

<sup>22</sup> The Nuba have a total population of almost 990,000 and are geographically concentrated in the Nuba Mountains in Southern Kordofan (Minorities At Risk Project 2009). The Nuba population is mainly rural and predominantly lives in their home region (50-75%)/

(Young 2003: 424f). This led to the emergence of various ethnic splinter groups over the course of the conflict (ICG 2002; Young 2003; Branch and Mampilly 2004; Ali, Elbadawi et al. 2005; Collins 2007).<sup>23</sup> Finally, the SPLM/A did not establish an accountable civil administration until the end of the 1990s (Johnson 2003; Young 2003; Branch and Mampilly 2004; Ali, Elbadawi et al. 2005; ICG 2006b). Until then, it often resorted to predatory behaviour to secure the necessary civilian support (Ali, Elbadawi et al. 2005). After the signing of the CPA and the death of Garang, however, the SPLM/A seems to be a little bit more cohesive and accessible towards Southern opposition groups (Africa Research Bulletin 2005b; ICG 2005a; Young 2005).

In 2009, the SPLM/A controls 20,000 to 30,000 fighters (IISS 2009). Furthermore, their political and military capabilities have been reinforced by external support over the course of the conflict (e.g., Ethiopia, Uganda, USA) (ICG 2002; Ali, Elbadawi et al. 2005).

#### *Pro-Government Armed Groups*

The beginning of the 1990s witnessed the emergence of several small militias and rebel movements caused by existing ethnic and tribal divisions in Southern Sudan and within the SPLM/A (Johnson 1998; Jok and Hutchinson 1999; Johnson 2003; Young 2003). Most of these groups were rather short-lived, had only limited and local scope and did not have a significant impact on the conflict. Other groups were of more importance for the course of the war, but name, composition and allegiance changed quite often. Although these splinter groups explicitly claimed to act for Southern Sudanese interests, they have been militarily supported by Khartoum in order to put additional pressure on the SPLM/A (Young 2003; Carey and Mitchell 2009).<sup>24</sup>

After the signing of the CPA, the Southern Sudanese militias have been considered as potential threats to the long-term success of the peace accord (ICG 2003a; ICG 2003b; ICG 2005b). The majority of these groups, however, has been integrated into the SPLM/A but this does not mean that they will not re-emerge when the CPA should break down (Young 2006b; Carey and Mitchell 2009).

#### *External Actors*

Although regional and international actors are not militarily involved in the civil war, they constituted an important influence on the central government and the SPLM/A. In the following, the role of Ethiopia, Uganda, China and the USA are discussed.

Ethiopia (ICG 2002; Johnson 2003) has backed the SPLM/A since its foundation – with the exception of a short break after the fall of Mengistu. This policy can be traced back to Sudan's support for Ethiopian opposition groups. In recent years, however, Ethiopia's focus has shifted on Eritrea and it has limited its support for the SPLM/A. Furthermore, there are signs of less strained relations between Ethiopia and Sudan.

Uganda (ICG 2002: 59f) is one of the main supporters of the SPLM/A. Since 1986, it has provided political and material support and safe havens. It even seems to have been involved in military operations. Uganda's importance has increased after the decrease in

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<sup>23</sup> These divisions are often considered to be a civil war within the civil war. Starting in 1991, there was serious fighting between the Dinka-dominated SPLM/A under Garang and a Nuer SPLM/A splinter faction as well as smaller splinter factions of other ethnic groups (Johnson 2003; Collins 2007). Khartoum provided political and financial support for these factions in order to weaken Garang's SPLM/A.

<sup>24</sup> The PGAG project by Carey and Mitchell (2009) gives an overview of these militias. In detail, the following groups have been identified as pro-government Southern militias during the course of the conflict: Ambororo raiders, Anyanya II, Equatoria Defence Forces (EDF), EDF-2, South Sudan Defence Forces (SSDF), South Sudan Independence Movement/Army (SSIM/A), Sudan People's Liberation Movement/Army – Nasir Faction (SPLM/A-Nasir), Sudan People's Liberation Movement/Army – United (SPLM/A-United), South Sudan Unity Movement/Army (SSUM/A), South Sudan Liberation Movement/Army (SSLM/A), Sudan People's Liberation Army – Bahr el Ghazal Group (SPLA Bahr el Ghazal), Fertit Militiamen, Murle Forces, Mundari Commandos, Toposa Tribesmen, Sudan People's Liberation Movement/Army – United – Othow Faction (SPLM/A-U Othow), South Sudan Defence Forces – Tanginya Faction (SSDF Tanginya) and the Thourjikany Forces.

Ethiopian support. Uganda's behaviour is a result of Sudanese support for Ugandan rebel groups, the Lord's Resistance Army (LRA) and the Allied Democratic Forces (ADF). Although the relationships between Uganda and Sudan have improved, the government in Kampala is still providing support for the SPLM/A.

The USA and China (ICG 2002; Ali, Elbadawi et al. 2005) are not actively involved in the conflict. The USA, however, have heavily supported Ethiopia, Eritrea and Uganda and propagated the international isolation of Sudan due to human rights abuses and its support for terrorism (Africa Research Bulletin 2005a). China, on the other side, has recently become more important as foreign investor and recipient of Sudanese oil.

### Conflict Issues

The conflict between Northern Sudan and Southern Sudan has primarily been shaped by three issues: economic marginalisation, societal polarisation and religious divisions.

Firstly, the economic cleavages within the Sudanese society have fuelled the conflict between the North and the South. Sudan was one of the poorest countries in the world when it became independent in 1956 (Ali, Elbadawi et al. 2005). Since then, there has been an extremely uneven economic development. Whereas Khartoum and the North in general have experienced a considerable economic improvement, Southern Sudan has suffered from economic neglect (Johnson 2003; Ali, Elbadawi et al. 2005). This development ultimately resulted in a pronounced centre-periphery conflict (Johnson 2003; Ylonen 2005; Collins 2007). This is further aggravated by the fact that Sudan's natural resources (oil, water, arable land) are mostly located in Southern Sudan but are primarily exploited by the central government (ICG 2002; HRW 2003; Johnson 2003; CIA 2009).

Secondly, the Sudanese population is strongly polarised along ethnic, cultural and religious lines (ICG 2002; Johnson 2003; Ali, Elbadawi et al. 2005). There are eight major ethnic groups, three major religions and more than 134 languages (Ali, Elbadawi et al. 2005). However, the mere existence of these ethnic, cultural and religious cleavages is not sufficient to explain the strong polarisation of Sudanese society. This can only be understood when the aforementioned centre-periphery conflict is taken into account which deepened the existing societal cleavages (Johnson 2003; Ali, Elbadawi et al. 2005). Furthermore, the economic marginalisation of Southern Sudan was complemented by its political exclusion and discrimination. For decades, the political power in Sudan as well as influential social positions has been held almost exclusively by Northern elites (ICG 2002; Johnson 2003; Ali, Elbadawi et al. 2005; Ylonen 2005; Collins 2007).<sup>25</sup>

Thirdly, the impact of religion has to be explored in more detail. Since the late 19<sup>th</sup> century, militant Islam has shaped Sudanese politics (Johnson 2003). Over the last twenty years, the influence of Islam has even increased since most of the Sudanese governments are dominated – by differing degrees – by Islamist politicians (ICG 2002; Johnson 2003). Examples for the importance of Islamist ideology are the introduction of *Sharia* law, the Islamisation of the economic sector and the support of Islamist terrorism (ICG 2002). This development has led to an intensified exclusion of non-Muslim Sudanese from the political and economic life. Furthermore, the rise of Islamist terrorism in recent years and the Islamist orientation of the Sudanese governments have resulted in an increased political and economic isolation by Western states (ICG 2002).

### **Civil War in the West, 2003-present**

Darfur has a long history of inter-ethnic conflicts and opposition to central government. Against this background, the present conflict developed out of local disputes between the

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<sup>25</sup> It has to be mentioned, however, that this center-periphery conflict dates back to colonial times. See Johnson (2003) and Collins (2007) for an overview.

non-Arab and Arab ethnic groups over water and arable land and has been politicised by the NCP regime in Khartoum in order to maintain its grip over Northern Darfur state, Western Darfur state and Southern Darfur state (ICG 2004; Collins 2007; ICG 2007; Tanner and Tubiana 2007). In 2003, the Sudan Liberation Movement/Army (SLM/A) and the Justice and Equality Movement (JEM) start violent attacks against government forces and soon find themselves confronted with the government-backed Arab Janjaweed militia. Against the background of large-scale civilian victimisation, the Sudanese government and fractious rebel groups engage in peace negotiations which resulted in the Darfur Peace Agreement (DPA) in 2006 (Collins 2007). This agreement, however, only includes one of the various rebel splinter groups and, consequently, the civil war continues. Up to now, the conflict caused more than 300,000 deaths and more than 2.5 million refugees and IDPs (Collins 2007). Although the international community (USA, EU, AU, UN) presses for a stop of the violence and has limited forces on the ground, it has been unable to end the fighting. During the civil war, especially government forces frequently target the civilian population (e.g., HRW 2004c; HRW 2004b; HRW 2004a; HRW 2005a; HRW 2005b; HRW 2006a; UCDP 2009).

### Conflict Actors

#### *National Congress Party (NCP)*

The following paragraph focuses mostly on the interests of the NCP in Darfur. For general information on the NCP, please see the section "Civil War in the South, 1983-2005" which presents this actor in more detail.

The NCP regime in Khartoum deals with insurgency in Darfur in the same way as it has dealt with other conflicts in its periphery: It tries to strengthen existing ethnic divisions and to minimise the opponent's support base by civilian victimisation (ICG 2004; ICG 2005c; ICG 2007). In Darfur, the Sudanese government has used the Janjaweed as well as the DPA for this purpose. It has to be mentioned, however, that the scale of its atrocities has attracted an unwanted level of international attention. Consequently, the NCP tries to accommodate the international community without actually abandoning their counter-insurgency strategy (ICG 2005c).

#### *Sudan Liberation Movement/Army (SLM/A)*

The SLM/A was founded in early 2003 as a platform to political and militarily engage the NCP regime in Khartoum (Tanner and Tubiana 2007). Its political agenda has been influenced by the SPLM/A and, consequently, it criticises the political and economic marginalisation of the Darfur states and demands a clear separation of state and religion (ICG 2004; ICG 2005c). Its origins lie in local self defence communities of the Fur, Masalit and Zaghawa which were organised by political and military leaders into a more or less unified group (ICG 2004; Tanner and Tubiana 2007). In 2001, this group becomes more formalised under the name Darfur Liberation Movement/Front (DLM/F) until it is finally reorganised and called SLM/A under the political leadership of Abdel-Wahid Mohammad Ahmad Nur and the military command of Abdallah Abbakar Bashar (Tanner and Tubiana 2007). The early SLM/A receives political and material support by the traditional institutions of the Fur, Zaghawa and Masalit communities (Tanner and Tubiana 2007). Chad, the SPLM/A under Garang and Darfurian diasporas additionally supported the rebels (ICG 2004; Tanner and Tubiana 2007).

SLM/A fighters are recruited from the local ethnic groups of the Fur, Masalit and Zaghawa (Tanner and Tubiana 2007; Minorities At Risk Project 2009).<sup>26</sup> The Zaghawa are wealthy and well-organised traders based in Northern Darfur who have extensive networks in Sudan, Chad and Libya. The Fur and Masalit, on the other side, are sedentary farmers in Southern and Western Darfur.<sup>27</sup> In total, these three groups number 2.8 million and make up 50% of the population in the three Darfurian states

<sup>26</sup> Shortly after its foundation, however, the SLM/A also tried to reach out to the Arab population of the Darfur states but this only bore very limited success (Tanner and Tubiana 2007).

<sup>27</sup> For background information on ethnic groups in Darfur, please see de Waal (2005).

(7% of Sudan's total population) (Minorities At Risk Project 2009). Fur, Masalit and Zaghawa are Muslims and are geographically concentrated in Western Sudan (Minorities At Risk Project 2009). The remaining 50% of the population in Northern, Western and Southern Darfur are of Arab descent.

The Fur, Masalit and Zaghawa have an uneasy relationship to each other. There is a history of armed clashes between the Fur/Masalit and Zaghawa and these tensions grew stronger as the divisions between the political leader Abdel-Wahid (Fur) and Minni Minnawi (Zaghawa) – who replaced Abdallah Abbakar Bashir after his death – became greater (ICG 2004; Tanner and Tubiana 2007). Finally, there were two separate SLM/A wings under the command of Minni Minnawi and Abdel-Wahid (Tanner and Tubiana 2007).<sup>28</sup> The relationship between the SLM/A and the traditional authorities of the Fur, Zaghawa and Massalit constitute an additional source of disunity. The predominantly rather young rebels consider the older authorities as weak and too close to the regime in Khartoum (ICG 2004; Tanner and Tubiana 2007).<sup>29</sup>

After the SLM/A wing of Minni Minnawi signed the DPA, the internal divisions in the group became even stronger and the SLM/A splintered into several factions (ICG 2005c; ICG 2007; Tanner and Tubiana 2007). Minnawi's signature resulted in a severe loss of political and military power as his action was considered as treason by many Darfuris, large contingents of his fighters defected to other SLM/A factions and his group lost significant parts of its territory (ICG 2007; Tanner and Tubiana 2007). Now, the SLM/A Minnawi faction practically acts as pro-government militia as it has attacked civilians several times in joint operations with the Janjaweed, PDF and the Sudanese army (ICG 2007; Tanner and Tubiana 2007; Carey and Mitchell 2009).

The Group of 19 (G-19) is another SLM/A splinter group.<sup>30</sup> It was formed in March 2006 by 19 commanders from North Darfur who rejected Minnawi's signature of the DPA and Abdel-Wahid's weakness (Tanner and Tubiana 2007). They predominantly recruit from the Zaghawa and control part of Northern Darfur but lack a significant political structure and are plagued by internal divisions (Tanner and Tubiana 2007). Militarily, the G-19 control 5,000 fighters but the group seems to have problems to arm their soldiers (Tanner and Tubiana 2007).

There are several Fur factions of the SLM/A (e.g., Abdel-Wahid's faction). In total, these factions control up to 4,000 fighters but they do not constitute a cohesive force and are internally divided (Tanner and Tubiana 2007).

#### *Justice and Equality Movement (JEM)*

The JEM also emerged in 2003 but it is a much smaller group (Tanner and Tubiana 2007). Similar to the SLM/A, the JEM has formulated a political agenda which addresses the political and economic marginalisation of Darfur. In contrast to this group, however, the JEM also has a clear Islamist agenda (ICG 2004; ICG 2005c; Tanner and Tubiana 2007). Furthermore, its leaders have articulated a national programme which does not only address the problems in Darfur but in Sudan at a whole (Tanner and Tubiana 2007). Consequently, the leadership of the JEM always tried to attract the Arab and non-Arab groups in Darfur. Given, however, that the JEM draws its fighters primarily from the Kobe branch of the Zaghawa (which is located close to the Sudan-Chad border) its outreach to other ethnic groups is rather limited (Tanner and Tubiana 2007). Nevertheless, it managed to include fighters from several ethnic groups among its rank until 2007 (Tanner and Tubiana 2007).

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<sup>28</sup> This divide was also reinforced by the fact that the Fur bore the brunt of governmental violence due to their geographical proximity to Khartoum and their population size, they were more eager to compromise whereas the Zaghawa were more hawkish (Tanner and Tubiana 2007).

<sup>29</sup> This is also a sign of a generational conflict among the ethnic groups of the Fur, Masalit and Zaghawa (Tanner and Tubiana 2007).

<sup>30</sup> It is also called SLM/A-Unity or SLM/A-Mainstream (Tanner and Tubiana 2007).

It is often stated that the JEM leadership has ties to Hasan al-Turabi who has once been the leading Islamist behind the NCP regime in Khartoum but has now been sidelined by President Bashir (ICG 2004; ICG 2005c; Tanner and Tubiana 2007). However, the extent of these linkages and whether there is a considerable impact on the JEM are unclear. The JEM also has linkages to the Eastern Front but this relationship is only of minor importance (see below) (ICG 2005c; ICG 2006b; Young 2007b).

It is assumed that the JEM has 3,000 to 4,000 fighters under their command and holds territory mainly in Northern and Western Darfur (Tanner and Tubiana 2007). The relations between the SLM/A and its factions on the one side and the JEM on the other side are ambiguous. Both groups conducted joint operations against the Sudanese army but also fought against each other (ICG 2005c; Tanner and Tubiana 2007). Since the signature of the DPA, there have been attempts to unite the various rebel groups under one umbrella. For this, the National Redemption Front (NRF) has been founded in 2006 with the support of Chad, Libya and Eritrea (Tanner and Tubiana 2007). Although the JEM, G-19 and several SLM/A factions joined it, the NRF was ultimately unsuccessful due to internal divisions and is considered today to be JEM-dominated.

#### *Pro-Government Armed Groups*

The NCP regime in Khartoum uses several pro-government militias in its fight against the Darfurian rebels: PDF, Janjaweed and SLM/A splinter factions (ICG 2004; ICG 2005c; ICG 2007; Salmon 2007; Tanner and Tubiana 2007; Carey and Mitchell 2009). The following section focuses exclusively on local militias.

The Janjaweed are a loose collection of Arab fighters from Darfur, Chad and CAR armed by the Sudanese government (ICG 2004; Carey and Mitchell 2009). From 2003 onwards, the Janjaweed targeted civilians from the Fur, Masalit and Zaghawa groups and employed a scorched earth campaign in order to disrupt popular support for the rebels (De Waal 2004; ICG 2004). Khartoum used existing tensions between the Arab nomads and the African farmers of Darfur to mobilise the Janjaweed (ICG 2004; Carey and Mitchell 2009). The Janjaweed, however, are not a cohesive actor and, consequently, there are numerous reports that some of them joined rebel factions and that Khartoum is unable to fully control the Janjaweed (ICG 2004; Tanner and Tubiana 2007; Carey and Mitchell 2009)

After the signing of the DPA, the SLM/A under Minni Minnawi can also be considered to be a pro-government militia (see above). Furthermore, Khartoum tried to gain the support of other SLM/A or JEM factions and succeeded in getting the support of smaller groups as, for example, the SLA Free Will, JEM Peace Wing, SLA Peace Wing and SLA-Abdel-Gasim Imam (Tanner and Tubiana 2007). Although all of these groups have their own local agenda, they receive support from Khartoum and participate in SAF operations.

#### *External Actors*

The following actors have exercised a relevant external influence on the conflict in Darfur: Chad, Libya and Eritrea.

Chad is bordering the Darfur region and, consequently, the country is mostly affected by the fighting in Sudan's western states. Firstly, refugees and cross-border activities of SAF, Janjaweed, SLM/A and JEM influence the security and stability of the Chadian regime of Idriss Déby (ICG 2005c; ICG 2007; Kahn 2008).<sup>31</sup> Secondly and more importantly, the Zaghawa constitute the main domestic constituency for Idriss Déby and this group expects the Chadian regime to deliver substantial support to their ethnic brethren in Darfur (ICG 2005c; Boggero 2009). At the same time, however, the Chadian

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<sup>31</sup> The CAR is similarly affected by refugees and cross-border raids (ICG 2007; Kahn 2008). Furthermore, it functions as a staging ground for Chadian rebels and due to this CAR is increasingly drawn into the regional conflict network between Sudan and Chad (ICG 2007).

regime cannot risk to alienate Khartoum as this would lead to increased Sudanese support for Chadian rebel groups (ICG 2005c; ICG 2007). As a result, Déby tries to find a middle course to accommodate the demands of all conflict actors.

Libya's involvement in the region dates back to the 1970 and was initially guided by Khadafi's pan-Arabism (ICG 2005c). Today, however, Libya basically tries to maintain stability in its backyard without losing its Sudanese ally or alienating the international community (ICG 2005c; ICG 2007).

Eritrea has provided political and material support on a low level for the SLM/A and JEM but has taken a more constructive role since the signing of the Eastern Sudan Peace Agreement (ESPA) in 2006 (ICG 2005c; ICG 2007). This policy is partly due to Sudan's support for Eritrean opposition groups and the wider regional situation in the Horn of Africa. For a more detailed discussion, see the role of Eritrea in the conflict in Eastern Sudan.

The violence against the civilian population also forced the international community to become involved in this conflict. The USA and EU primarily tried to resolve the conflict by urging the African Union (AU) and the United Nations (UN) to intervene (Collins 2007). These efforts, however, are obstructed by China and the unwillingness of some African and Arab states. At the present time, there is an AU-UN peacekeeping force stationed in Darfur but its limited resource and lacking political will make it extremely ineffective (Collins 2007; ICG 2007).

#### Conflict Issues

As the other Sudanese conflicts, the civil war in Darfur is characterised by the constant political and economic marginalisation of the local population (Johnson 2003; Ali, Elbadawi et al. 2005; Collins 2007; Tanner and Tubiana 2007). Furthermore, the Sudanese government pursued an aggressive 'Arabisation' campaign of Darfur (Collins 2007). This policy of marginalisation and repression, however, is not only due to Khartoum's drive to politically control Darfur but also due to the regional importance of the three states in Western Sudan (Ylonen 2005; Collins 2007). Darfur has always been a central staging ground for rebellions in Sudan, Chad, Libya and CAR and, consequently, controlling Darfur is essential for the stability of the Sudanese NCP regime.

Initially, the present conflict was caused by local dynamics. There have always been disputes between the Arab and non-Arab population over water and arable land in Darfur (ICG 2004; Collins 2007). These conflicts became more severe after Darfur had to recover from the great drought of the 1980s. At this point, however, the local conflicts gained a national dimension as Khartoum has purposefully abolished traditional institutions and politicised and militarised the ethnic groups in Darfur in order to easily control the region (ICG 2004; Collins 2007; ICG 2007). As a result, the conflict between ethnic groups became more violent and finally culminated in open rebellion in 2003 when the SLM/A and JEM started their fight against SAF and the government-backed Janjaweed (ICG 2004; Collins 2007; Tanner and Tubiana 2007). Since then, however, the social fabric of the region has been so seriously disrupted that there are not only conflicts between non-Arabs and Arabs but also between Arabs themselves (ICG 2007; Tanner and Tubiana 2007).

Finally, it is important to know that the NCP regime in Khartoum uses the civil war in Darfur for their political struggle with the SPLM/A. The CPA stipulates national elections in the very near future. For Khartoum, it may be possible to postpone these elections by referring to the instable situation in Darfur (ICG 2007). This would be central for the NCP to keep their power nationwide.

## **Civil War in the East, 1995-2006**

Eastern Sudan is a region with high strategic importance for the regime in Khartoum. It is one of the richest regions in Sudan due to its agricultural land, minerals and the only port in the country (in Port Sudan) (ICG 2006b; Pantuliano 2006). At the same time, the population in the Eastern Sudanese states of Red Sea, Kassala and Gedaref are among the poorest in Sudan (Pantuliano 2006; Young 2007b). This contradiction had led to a strong opposition of several actors in the region. Since 1958, the Beja Congress is working for a considerable improvement of the political and economic situation of the Beja nation which is the dominant ethnic group in Eastern Sudan (ICG 2006b; Collins 2007; Young 2007b). For most of the time, this struggle was mostly non-violent. In 1995, however, the Beja Congress joined the NDA and started a military campaign against Khartoum (Collins 2007). For the next ten years, the conflict continued on a very low intensity level and even the merger of several Eastern Sudanese opposition groups (e.g., Beja Congress and Rashaida Free Lions) did not significantly change the situation. In October 2006, the conflict was settled with the signature of the Eastern Sudan Peace Agreement (ESPA) between the NCP-led government in Khartoum and the Eastern Front. During the conflict, government forces have sometimes targeted the civilian population (e.g., ICG 2006b; Pantuliano 2006; Young 2007b).

### Conflict Actors

#### *National Congress Party (NCP)*

The following paragraph focuses mostly on the interests of the NCP in Eastern Sudan. For general information on the NCP, please see the section "Civil War in the South, 1983-2005" which presents this actor in more detail.

Due to the strategic importance of Eastern Sudan and its relative proximity to Khartoum, the region is highly important for the political and economic survival of the NCP regime (ICG 2006b). Therefore, the NCP has consistently tried to hold a firm grip over Eastern Sudan without letting the conflict escalate to high intensity conflict (ICG 2006b). Their main tools to achieve this objective are a policy of 'Arabisation' and attempts to weaken the cohesion of the Beja society (ICG 2006b).

#### *Beja Congress*

The Beja nation constitute the largest ethnic group in Eastern Sudan with approximately 2.2 million (ICG 2006b; Young 2007b). The Beja nation is a confederation of non-Arab indigenous tribes and mostly follows a line of Sufi Islam (ICG 2006b; Young 2007b). The group has a long history and was able to maintain its distinct culture and language over the centuries. The Beja constitute the majority group in Red Sea state but have significantly lower population shares in Kassala and Gedaref state (Young 2007b). Among the various groups of the Beja nation, the Hadendowa, Bishariyyin, Amara and Beni Amar are the largest tribes (ICG 2006b; Young 2007b). It is contested, however, whether the Beni Amer are really a part of the Beja nation (Young 2007b). The former three groups share a common language (TuBedawiye, a Cushitic idiom) and a common segmentary structure based on lineages linked to the common ownership and use of land. The Beni Amar, on the other side, speak Tigre (a Semitic language related to Tigrinya and Amharic) and have a caste structure. Furthermore, the Beni Amar are more sympathetic to Islamist views (Young 2007b).

The Beja Congress is one of the oldest political actors in Sudan. It was founded in 1958 as a political party to protest against the discrimination and marginalisation of the Beja people (ICG 2006b; Young 2007b). One of their primary goals is the improvement of their political and economic situation (e.g., restitution of land rights) within a federal structured Sudan (ICG 2006b; Collins 2007; Young 2007b). Until the early 1990s, the Beja Congress uses exclusively political means to pursue its objectives. In 1993, however, the organisation joined the NDA which acted as a political and military umbrella organisation for various national opposition groups (ICG 2002; Johnson 2003; ICG 2006b; Young 2007b). The NDA started limited military operations in Eastern Sudan

in 1995 but the NDA soon disintegrated and became virtually meaningless after the SPLM/A signed the CPA in 2005 (ICG 2006b; Collins 2007; Young 2007b).

The Beja Congress is characterised by some significant internal tensions which have reduced its political and military effectiveness. There are, for example, political differences between its internal wing in Sudan and the external wing in the Eritrean capital Asmara (ICG 2006b; Young 2007b). Whereas the former prefers a political approach, the latter argues in favour of armed struggle and is significantly influenced by Eritrea. Furthermore, there is also a split between the civilian and the military leadership of the Beja Congress which is – again – mostly due to the Eritrean influence (Young 2007b). Another tension refers to the tribal heterogeneity of the group. Although the Beja Congress has always successfully managed to keep tribal tensions at a minimum, it was never able to completely include the Beni Amar in its organisation (Young 2007b). Finally, the Beja Congress has never formulated a coherent political ideology and, therefore, its agenda oscillates between leftist and Islamist objectives (Young 2007b).

The Beja Congress was never a significant fighting force – neither under the umbrella of the NDA nor as part of the Eastern Front (Young 2007b). It never had more than a few hundred fighters, mostly used small arms and was always heavily dependent on the Eritrean army (Young 2007b). Consequently, it mostly resorted to hit-and-run attacks which never constituted a serious threat to the Sudanese government (Young 2007b).

#### *Rashaida Free Lions*

The Rashaida are an Arab pastoralist tribe (ICG 2006b; Young 2007b). In the mid-19<sup>th</sup> century, they have migrated to Eastern Sudan from the Arabian Gulf (Young 2007b). They are relatively wealthy but suffer economic insecurity due to their lack of land rights (ICG 2006b; Young 2007b). The Rashaida are geographically concentrated in Kassala state and along the Eritrean border (ICG 2006b; Young 2007b).

The Rashaida Free Lions are almost exclusively controlled by their creator Mabrouk Salim and have a very small public support base in the broader Rashaida community (Young 2007b). Furthermore, they do not have a supportive network in other parts of Sudan (Young 2007b). Consequently, the Rashaida Free Lions are less of a political actor and mainly a military one (Young 2007b). The main concern of the Rashaida Free Lions is an end of their political discrimination and economic marginalisation. Specifically, they fight for an improvement of their political status and the grant of land rights (ICG 2006b; Young 2007b).

The Free Lions Movement is the armed wing of the Rashaida Free Lions and was founded in 1999 (ICG 2006b). They do not have more than a few hundred fighters and are supplied with small arms by the Eritrean army (Young 2007b). Their fighters, however, are highly suited for guerrilla activities as many of them have previously engaged in smuggling activities (Young 2007b). Together with Eritrean support, smuggling and trade also constitute their main source of financial means (ICG 2006b; Young 2007b). Their family connections to the Arabian Gulf states constitute an additional source of financial assistance (ICG 2006b).

#### *Eastern Front*

After the disintegration of the NDA and the signing of the CPA, the Beja Congress and the Rashaida Free Lions decided to join their forces and founded the Eastern Front in Asmara in February 2005 (ICG 2006b; Young 2007b). In line with the objectives of its members, the Eastern Front fights for a devolution of political and economic power within a federal structured Sudan (ICG 2006b). Furthermore, the Eastern Front also works together with the Darfurian JEM (ICG 2006b; Young 2007b).

Due to the weaknesses of the Beja Congress and the Rashaida Free Lions, it is not surprising that the Eastern Front suffers from the same problems: weak leadership,

internal divisions, lack of ideology, limited military capabilities and dependence on Eritrea (Young 2007b). Furthermore, the Eastern Front suffers from the problem that the Beja and Rashaida are highly different actors and, therefore, need to develop an overarching regional identity which fosters their struggle (Young 2007b). This is not only essential to increase the internal cohesion of the Eastern Front but also in order to include the other ethnic groups and migrant populations in Eastern Sudan (Young 2007b). So far, however, the internal cohesion of the Eastern Front is rather low and there basically is no noteworthy political or military integration of Beja and Rashaida forces (ICG 2006b).

#### *Pro-Government Armed Groups*

Although the NCP commonly employed the use of pro-government armed groups as a strategy of divide and rule in Southern Sudan and Darfur, it was never able to establish such groups in Eastern Sudan (ICG 2006b; Young 2007b). One potential explanation for this is that the Beja Congress always successfully tried to maintain a certain level of ethnic and tribal unity and this prohibited the successful application of the aforementioned divide and rule tactics by Khartoum (ICG 2006b; Young 2007b).

#### *External Actors*

The main external actor in this Sudanese conflict is Eritrea (Young 2006a; Young 2007b; Young 2007a). The reason for Eritrean involvement can be traced back to the regional competition between the states of the Horn of Africa and the support of these states for armed opposition groups in their respective neighbours (Young 2006a; Young 2007a). Especially, Khartoum's support of Islamist Eritrean opposition groups has encouraged Asmara to strengthen its support for the Beja Congress, the Rashaida Free Lions and the Eastern Front (ICG 2006b). Furthermore, Eritrea also has a large Beja community of its own and has long-established economic ties with the Eastern Sudanese region (ICG 2006b).

In Eastern Sudan, however, the Eritrean support is sometimes seen very critically as it is argued that Asmara has too much influence on the local actors (ICG 2006b). Especially after the signature of the CPA between Khartoum and the SPLM/A, the Beja Congress and the Rashaida Free Lions are almost completely dependent on Eritrean support (ICG 2006b; Young 2007b).

#### Conflict Issues

Similar to the other Sudanese conflicts, the civil war in Eastern Sudan is characterised by a significant centre-periphery difference (ICG 2002; Johnson 2003; Ali, Elbadawi et al. 2005; Pantuliano 2006). Consequently, the people of Eastern Sudan suffer from political discrimination, economic marginalisation and a lack of development (ICG 2006b; Pantuliano 2006; Collins 2007; Young 2007b). Khartoum uses this policy of continued marginalisation as a tool to keep control over the region as Eastern Sudan has a high strategic importance due to its agricultural land, minerals and the only port in the country (in Port Sudan) (ICG 2006b; Pantuliano 2006).

After the independence in 1956, the Khartoum elite appropriated large parts of the fertile areas of Eastern Sudan from the Beja (Pantuliano 2006; Young 2007b). In combination with the famines and floods of the last decades, the disappropriation resulted in the destruction of the traditional pastoralist economy of Eastern Sudan and a massive urban migration (ICG 2006b; Young 2007b). This did not only destroy the traditional way of living of the Beja but also led to an increased unemployment due to a lack of work in urban areas and further promoted the socio-economic marginalisation (Pantuliano 2006; Young 2007b). Furthermore, the Beja's moderate Sufi Islam is put under pressure by Khartoum's 'Arabisation' agenda and the centre's attempt to oppress Beja culture and language (Young 2007b).

The Rashaida also suffer from discrimination and marginalisation but they are able to deal with some of the ensuing problems due to their relative wealth (Young 2007b). They are, however, also a target from Khartoum's repression because of their opposition to Iraq during the First Gulf War in 1991 (ICG 2006b; Young 2007b).

The aforementioned conflict issues are complemented by an increased political and economic pressure on the Eastern Sudanese ethnic groups due to the influx of refugees and IDPs from regional and internal conflicts (e.g., West Africans, Ethiopians, Nubians, Darfurians, etc) (Young 2007b).

## **Sudan: A Comparative Assessment**

### Institutional Design Outcomes of the Settlement Processes

The conceptual exploration of the relationship between context and content so far has established that the details of the institutional accommodation of self-determination claims by territorially compact groups qua territorial self-government are contingent upon two further characteristics of the respective conflict environment: the significance of the territory relative to the rest of the state and this territory's degree of heterogeneity (ethnic or otherwise).<sup>32</sup> Following the ideal-typical abstraction of institutional design outcomes in Figure 1, the institutions emerging in relevant cases (of territorially compact groups with self-determination claims) should therefore display variably forms of local and central-level power sharing in addition to a form of territorial self-governance and thus regulate both relations within the self-governing territory and between it and the central government. In other words, while one can expect a certain degree of variation in the precise nature of the institutional design in each case, the general premises outlined in the previous section and summarised in Figure 1 (above) should generally hold if the overall assumption is correct that conflict settlements in cases of territorially compact groups with self-determination claims will involve a form of territorial self-governance (federation,<sup>33</sup> autonomy,<sup>34</sup> devolution,<sup>35</sup> and decentralisation<sup>36</sup>) plus local and/or central power sharing depending on the significance of the territory and its population relative to the rest of the state and the degree of the territory's heterogeneity.<sup>37</sup>

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<sup>32</sup> In the majority of cases, heterogeneity, where it is relevant, is ethnic in nature, but there are also cases where political rivalries within one ethnic group necessitate local power sharing deals, e.g., in Bougainville and in the Kurdistan region of Iraq. The latter, however, also is an example of elements of inter-ethnic power sharing (see below).

<sup>33</sup> Federation implies a constitutionally entrenched structure in which the entire territory of a given state is divided into separate political units, all of which enjoy certain exclusive executive, legislative and judicial powers independent of the central government. Note that there are common exceptions to this 'entire-territory' rule. Capital cities, unless they are federal entities of themselves, often have special status (Washington, D.C., vs. the German capital Berlin which is a *Bundesland*). Occasionally, there are also other special territories that are directly ruled by the federal government, even though they may enjoy some degree of self-governance (falling short, however, of full federal status), such as the India's Union Territories.

<sup>34</sup> Autonomy is the legally entrenched power of territorial entities to exercise public policy functions (legislative, executive and judicial) independently of other sources of authority in the state, but subject to the overall legal order of the state and any relevant international obligations. Autonomy normally enjoys similar constitutional protection as federalism, but is distinct in that it does not necessitate territorial sub-divisions across the entire state territory. Autonomy is normally a feature of otherwise unitary states. Cf. also Weller and Wolff (2005).

<sup>35</sup> Devolution is another form of achieving territorial self-governance. Like autonomy, it can be applied to selected territories in an otherwise unitary state. In contrast to autonomous territories, however, the degree of legal protection for entities with devolved powers is usually weaker (in the sense that it is easier to reverse) and often extends only to protection by 'regular' rather than constitutional laws.

<sup>36</sup> Decentralisation (guided by the principle of subsidiarity) means the delegation of executive and administrative powers to local levels of government. It is rarely constitutionally entrenched.

<sup>37</sup> As indicated above, transnational dynamics may additionally shape the institutional structure of conflict settlements. While the absence of concrete historical, ethnic or other links between the populations and/or territories for which conflict settlements were adopted does not preclude the establishment of formal institutions or the conferral of para-diplomatic powers on the authorities of self-governing territories, according to the conceptualisation of complex power sharing one would expect their presence in those cases where such links are present. For reasons of space, however, I do not investigate this claim further here.

The rest of this first section of our comparative assessment empirically tests these propositions in the case of Sudan and its three conflicts. Initially, we establish the basic situational characteristics of each case and then present data on three pertinent questions:

- (1) Does the conflict settlement involve forms of territorial self-governance?
- (2) What, if any, is the nature of local power sharing arrangements?
- (3) What, if any, is the nature of central power sharing arrangements?

Being, as it is, focused on Sudan, our three cases represent clear instances of conflicts (and their settlements) involving territorially compact groups who make self-determination claims vis-à-vis the state in which they live. By territorially compact groups we refer to communities of people who share a sense of identity that is distinct from other communities in the same state, who are neither dominant nor a numerical majority, and who live predominantly in their historic homeland or an otherwise delineated territory.<sup>38</sup> As far as the relationship of territory and demography as contextual factors for institutional design is concerned, three criteria are particularly important: the territorial compactness of groups making demands for self-determination, the heterogeneity of the territories in which they live, and the significance of these territories relative to the rest of the state. Table 2 maps each of the three cases along these dimensions.

Table 2: Groups and their corresponding territorial entities

Case	Group/s	Territorial Entity	Heterogeneity <sup>39</sup>	Significance <sup>40</sup>
South Sudan	Southerners <sup>41</sup>	South Sudan (ten states) <sup>42</sup>	Yes	High
East Sudan	Beja and Rashaida	Red Sea, Kassala and Gedaref states	Yes	High
West Sudan	Fur, Masalit and Zaghawa	Darfur (three states)	Yes	High

As far as institutional arrangements enshrined in the three agreements are concerned, we find that each of them offers a rather distinct institutional bargain in terms of territorial self-governance, but that they all incorporate provisions for power sharing at the local level and at the level of the central state (cf. Table 3).

<sup>38</sup> Apart from adding the characteristic of territorially compact settlement, I rely here primarily on the definition by Capotorti (1979) who defines a minority as "... a group numerically inferior to the rest of the population of a state, in a non-dominant position, whose members – being nationals of the state – possess ethnic, religious or linguistic characteristics differing from those of the rest of the population and show, if only implicitly, a sense of solidarity, directed towards preserving their culture, traditions, religion, or language."

<sup>39</sup> This is calculated as the ratio between the largest group and the total of all other groups. If local minorities make up more than 10% of the total, the share of the largest local minority group is indicated in parentheses.

<sup>40</sup> As noted earlier, significance can arise from size, population density, natural resource availability (including water and land), strategic location, and cultural importance. If more than three of these indicators matter, we define significance as 'high', for two indicators as 'medium' and for one or none as 'low'.

<sup>41</sup> The term 'Southerners' in Sudan is an umbrella term for various predominantly non-Arab tribes and communities, including Dinka and Nuer as the two largest groups. Divisions among them are linguistic (the two official languages are English and Juba Arabic, with a variety of officially recognised regional languages). The Sudanese People's Liberation Army/Movement (SPLA/M) has been the sole political (and military) representative of the South since its merger with the South Sudan Defence Force in January 2006.

<sup>42</sup> The states of Abyei, Nuba Mountains, and Blue Nile are currently disputed territories between north and south. They are to hold a referendum in 2011 on whether to join South Sudan, which will at the same time decide upon its independence or continued membership in Sudan.

Table 3: Institutional Arrangements

Conflict	Territorial Self-governance	Local Power Sharing	Central Power Sharing
South Sudan	Yes	Yes	Yes
Darfur	No (option for future referendum)	Yes	Yes
East Sudan	No	Yes	Yes

Potential Success as a Function of 'Content'

As we discussed in relation to Table 1 (above), the content of any peace agreement is one essential pre-condition for its success and can be assessed along five dimensions that we will now discuss in turn for each of the three agreements concluded in Sudan.

*Match of institutional bargain to structural conditions*

The structural conditions identified for each of our three cases (see Table 2) lead us to predict territorial self-governance, and local and central power sharing in each case. We find these assumptions confirmed for power sharing across all cases, but not for territorial self-governance. South Sudan is the only distinct regional entity that incorporates into one legal personality the ten states of southern Sudan and as such establishes a new level of government in Sudan between the state and national levels. Darfur has an option to determine its final status through a referendum within 12 months of an election (scheduled for 2010). In this referendum, participants can decide between the creation of a Darfur Region consisting of all three states or the retention of the status quo. In the period until then, the agreement provides for the establishment of the Transitional Darfur Regional Authority (TDRA). The TDRA has been assigned relatively few competences, primarily in relation to the implementation of the agreement and to coordination among the existing state governments and between them and the central government in Khartoum. While the peace agreement for the East also includes the establishment of a coordination and cooperation body, the Eastern Sudan States' Coordinating Council (ESSCC), no option exists for a future merger of the three states into a region. Having said that, there is, however, territorial self-government in each of the three states and the establishment of the ESSCC should in principle allow for the development of joint policies applied across the three states, bearing in mind also that they share decision making power in the ESSCC. Yet, in terms of constitutional weight, the three eastern states would nonetheless remain states rather than states joined into a region. This, in our model, could pose a problem for the long-term success of the Eastern Sudan Peace Agreement, but given the relatively short time span since its conclusion any prediction to this effect would be mostly speculation. The other two agreements 'comply' with our model, bearing in mind that Darfur's final status is to be determined in a future referendum.

*Match of institutional arrangements to conflict issues*

The bottom line in all three cases is a centre-periphery conflict, manifesting itself in the economic marginalisation and exploitation, and in the political exclusion of population groups in the South, the East and the West. In addition, there are some important further nuances. Darfur and the East have also been subject to aggressive Arabisation campaigns by the government in Khartoum (essentially an attempt to deny the existence of, and eradicate, non-Arabic cultural/religious identities). In the conflict in the South, too, there has been an important religious dimension, especially the rejection, by the South, of the imposition of Shari'a law.

Thus, in order to assess the degree to which provisions in each of the three agreements address these issues, we need to consider a number of factors:

1. the degree of real self-governance that each of the rebel movements gain in terms substantive powers that give them a greater degree of control, independent of the central government in areas of primary concern to them;
2. the amount of political influence they gain at the centre, i.e., the extent to which their political exclusion is effectively ended;

3. arrangements for equitable wealth sharing and development (we will deal with these separately in the section on financing).

#### *Self-governance*

As far as the powers of self-governance are concerned, the South clearly gains the most under the CPA, Darfur gains some under the DPA, and the East gains relatively little under the ESPA.

Specifically, the CPA establishes a wide range of exclusive competences for the GoSS in 22 areas, including adoption and amendment of the Constitution of South Sudan; police and prison services; security and military forces; health, education, and welfare services; taxation and revenue raising; reconstruction and economic development; information, publications, media and telecommunications utilities. In addition, there are 31 policy areas in which the GoS and GoSS exercise concurrent powers.

Under the DPA, the TDRA is mandated to exercise functions, rather than powers extending primarily to a coordination role, including 'primary responsibility for coordinating the Implementation' of the DPA, 'review and recommend legislative and executive measures that would promote coordination and cooperation among the states of Darfur'; and 'facilitate communication, cooperation and coordination among the governments of the states of Darfur'; 'facilitate liaison and interaction between the GoS and Darfur. Because of the fact that the TDRA does not have the same status as the GoSS, because Darfur is not a constitutionally recognised territory, the exercise of these functions is subject to not infringing 'the constitutional powers and functions of the three states of Darfur'. These, apart from the competences they have under NIC, gain a few select powers for revenue raising.

Under the ESPA, constraints on real self-governance are even more significant, especially in the sense that there are no specific competences detailed for the Eastern Sudan States' Coordinating Council other than 'to enhance coordination and cooperation' among the three Eastern states. Unlike in Darfur, these states do not gain any additional powers under the ESPA to those that they have under the INC.

All three peace agreements include provisions for security arrangements: a ceasefire agreement, provisions for the integration of rebel units into regular armed forces, and arrangements for DDR. By the same token, all three agreements also acknowledge the importance of respecting cultural, religious and linguistic diversity, but few concrete commitments follow from this. Each of the agreements contains fairly standard general language on basic human rights and non-discrimination. The CPA, additionally, mandates that 'the legislature of any sub-national level of government may adopt any other national language(s) as additional official working language(s) at its level' and limits the mandatory application of Shari'a law to Muslims outside the Southern States.

#### *Influence at the Centre*

This pattern of differentiation between South, West and East is repeated when it comes to central-level power sharing. The SPLM/A gains significant representation in the National Legislature and National Executive (28% of seats in each), in the civil service (20-30% of positions, including of middle and senior positions), 'equitable' representation in the National Security Service, in the Constitutional Court, the National Supreme Court and other national courts. Moreover, the SPLM/A gains the position of the First Vice President, which further increases its influence, including by way of a provision that requires the First Vice President's consensus for decisions about a declaration and termination of a state of emergency, a declaration of war, presidential appointments under the CPA, and the summoning, adjourning, or proroguing of the National Legislature. The SPLM/A gains significantly higher levels of representation at the GoSS level: 70% of seats in the legislature and executive, respectively (compared to 15% each for the NCP and other political forces in the South). At the State level, the

SPLM/A gains 70% of seats in the legislatures and executives in the Southern states, and 10% in the Northern states (the reverse for the NCP, who is also entitled to one governorship and one deputy governorship in the South).

The DPA provides far less for Darfur in respect of its influence at the centre. The Western Movements (SLM/A and JEM) gain the position of a Senior Assistant to the President, simultaneously the Chairperson of the TDRA, as the fourth ranking member in the Presidency. In addition, the SLM/A and JEM gain one post of Cabinet Minister and two posts of State Minister, as well as one Committee Chair in the National Assembly. Further, from among 'Darfurians' one Advisor to the President will be chosen, and three posts of Cabinet Minister and three posts of State Minister will continue to be filled by them. In the National Assembly, the SLM/A and JEM are entitled to no less than not less than 12 seats. According to the DPA, 'Darfurians shall be adequately represented in the Constitutional Court, the National Supreme Court and other National Courts, as well as in the National Judicial Service Commission'. Representation of Darfurians in the civil service is left to the National Civil Service Commission. There are also some provisions to allow for greater influence of the SLM/A and JEM in the local institutions in Darfur, including the posts of one governor and two deputy governor posts in total in the three states of Darfur, two ministerial positions and one senior advisor in each state, 21 seats in each state assembly, and the post of deputy speaker in each of these.

The ESPA provides for even less than the DPA. The Eastern Front gains two posts in the Presidency--one Assistant and one advisor to the President. The ESPA, similarly to the DPA emphasises that the two posts of Cabinet Minister and one post of State Minister already held by Eastern Sudanese will continue to be held by them; but the Eastern Front gains one additional post of State Minister. In the legislature, the Eastern Front is entitled to no less than eight seats. Again, in similarity to the DPA, the Eastern Front gains some formal institutional influence in the Eastern States: the post of Deputy-Governors for Kassala and Gadaref States, one Ministerial post in Red Sea State and one post of Advisor in each of the three states of Eastern Sudan, as well as ten seats in each of the three state legislatures and the chairmanship of one of the committees there. In contrast to the DPA, the ESPA also mandates Eastern Front representation at the local government level.

Power sharing generally is enhanced beyond mere representation at the centre by parliamentary voting procedures requiring 75% approval in both chambers for constitutional amendments, a 2/3 majority in the upper chamber for legislation affecting the rights of States, and a requirement that no legislation affecting any of the three peace agreements may be introduced without the consent of both signatory parties. Again, by way of its significantly larger representation, the SPLM/A (and thus the South) benefits disproportionately from this compared to Darfur and the East.

#### *Appropriate dispute resolution mechanisms*

Dispute resolution mechanisms are an important factor in the long-term success of any peace agreement. They can take a variety of different forms, including special committees can be set up to work out compromise solutions to be brought back to the legislature or executive or to make a binding decision; disputants can submit to arbitration, accepting to be bound by the arbitrator's decision; and judicial mechanisms can be utilised to determine the legality of a particular decision or procedure by which it was reached. In the case of the three peace agreement that we are investigating here, findings are that there is significant variance in terms of the nature and number of different dispute resolution mechanisms foreseen.

In the case of the Comprehensive Peace Agreement, a whole range of such bodies is mandated in different areas. Among them, the Constitutional Court takes a prominent position, being the ultimate arbiter in under the NIC, including 'constitutional disputes between organs and levels of government, with respect to areas of exclusive or concurrent competencies'. The Southern Sudan Supreme Court similarly has 'original

jurisdiction to decide on disputes that arise under the Constitution of Southern Sudan and the constitutions of Southern Sudan states'. Apart from these judicial dispute resolution mechanisms, arrange of other bodies are created or enabled to deal with disputes. These include specifically created (ad hoc) technical committees to deal with disputes over government asset allocation, the Presidency as ultimate dispute resolution forum for disputes over the implementation of the ceasefire agreement if efforts by the Area Joint Military Committees or Ceasefire Joint Military Committee fail to do so, and the JIUs command whose responsibilities include the 'resolution of disputes that may arise within the JIUs jurisdiction'. Moreover, because of the way in which competences between the GoS and the GoSS are allocated, both have different dispute resolution functions when it comes to water issues. The GoS Nile Water Commission is thus responsible for the resolution of 'any dispute between Northern and Southern states' over water management issues, while the GoSS performs the same function in relation to 'disputes arising from the management of interstate waters strictly within Southern Sudan'.

In the Darfur Peace Agreement, a similarly wide range of mechanisms is established or enabled. These include the Constitutional Court (disputes between levels or organs of government in respect of their areas of exclusive, concurrent, or residual competence), the State Land Commission (disputes over rights to land), the Property Claims Committees of the Darfur Rehabilitation and Resettlement Commission (disputes over property arising from the return process), the Joint Commission established under the Comprehensive Ceasefire Agreement and a specific international members board (disputes over the interpretation of the Comprehensive Ceasefire or any of the existing ceasefire agreements), and the AU Commission (disputes over the interpretation or implementation of the DPA).

The ESPA foresees only three dispute resolution mechanisms, none of them with any international involvement. Very specifically, the High Joint Military Committee is tasked with assisting 'in resolving any dispute that might arise during implementation of the Agreement' on the integration of military forces of the Eastern Front into the regular armed forces of Sudan. Similarly, any disputes regarding constitutional issues arising from the implementation or operation of ESPA are to be resolved by the Constitutional Court. A residual clause merely notes that disputes on 'other matters [be referred] to a tripartite committee composed of representatives of GoS, the Eastern Front and the GoSS'.

#### *Financing and Wealth Sharing*

No peace agreement has any prospect of success if its implementation and operation are not properly resourced. While peace may be seen as 'expensive' from an institutional perspective—after all, creating and running a set of new institutions is not cheap—from a human perspective it is without alternative. Specific commitments to proper financing of the implementation and operation of peace agreements, including especially of the institutions it establishes—are therefore commonly part of peace agreements. The level of detail and the nature of the financing mechanisms, moreover, serve as a good indication of the sincerity of the conflict parties. This is especially the case for government parties: if they specifically commit to revenue allocation formulas, allocation of revenue sources, etc., this has a reassuring effect on rebel parties at the negotiation stage. The proof of these commitments, however, is in their implementation.

As far as the Comprehensive Peace Agreement goes, it includes a range of different provisions for financing. Leaving aside a the special arrangements for the territory of Abyei and for the Southern Kordofan/Nuba Mountains and Blue Nile States, the GoSS, due to the special status of South Sudan under the INC, has several exclusive and concurrent competences in relation to financial matters, including local tax-raising powers, as well as its own exclusive sources of revenue. Moreover, to address one of the central conflict issues—the exploitation of South Sudan's natural wealth by the North—a

detailed wealth sharing agreement was the first to be concluded within the CPA process. This not only creates an important source of revenue for the GoSS (50% of net revenue from oil produced in the South is allocated to the GoSS) but also an income source for the oil-producing States who are to receive at least 2% of the revenue from oil produced in their territory. In addition, the CPA provides that the GoSS is entitled to 50% of all non-oil revenue collected in the South. The CPA also foresaw the establishment of a National Reconstruction and Development Fund and Southern Sudan Reconstruction and Development Fund, but without committing the GoS to any specific financial contribution.

The provisions in the DPA, in contrast to the CPA, are far more vague. In areas such as the financing of the TDRA, the Security Advisory Team, and of DDR efforts, the DPA merely commits the GoS to provide adequate financial support, and quite often and explicitly refer to the need for additional international funding. The DPA, however, does make reference to the Fiscal and Financial Allocation and Monitoring Commission (FFAMC), and notes that this commission is to establish 'a transparent, formula-based process whereby the transfers to states of Darfur ... shall be made in a predictable and timely manner, with the guarantee that the national government may not withhold the transfer of funds to Darfur states. Yet, the formula itself is not part of the DPA. However, there is a specific financial by the GoS to provide extra funds to the Darfur Reconstruction and Development Fund as follows: an amount equivalent to US \$ 300,000,000 in 2006, no less than US \$ 200,000,000 each in 2007 and 2008 (to be adjusted following the outcome of an international Joint Assessment Mission to assess the needs of Darfur); and, until 2015, the GoS share of the JAM commitments.

The ESPA incorporates references to widely accepted principles of fiscal federalism, but remains vague when it comes to the detail of their application in Sudan. In contrast to both the CPA and DPA, the ESPA not only mandates the establishment of the Eastern Sudan Reconstruction and Development Fund but also incorporates specific provisions for its funding, noting that, 'in addition to the share of the Eastern Sudan in the FFAMC transfers, the national government shall allocate an amount equivalent to USD 100 million as seed money for ESRDF in 2007; and an amount of not less than USD 125 million per annum for the years 2008, 2009, 2010, and 2011. When it comes to the financing of DDR measures, however, the provisions in the ESPA espouse the same vagueness as in the DPA, merely noting that the 'GoS shall provide financial and other resources necessary'.

Clearly, the constitutionally lower status of the Eastern states and Darfur (prior to a future referendum) inhibits the allocation of greater financial powers and the establishment of exclusive revenue sources. The establishment of the FFAMC potentially offers a good way to manage sustainable financing of the operation of the institutions created under the DPA and the ESPA, but its weakness is the absence of a concrete allocation formula enshrined in the actual agreements.

#### *Constitutional entrenchment*

Constitutional entrenchment of the provisions enshrined in a peace agreement, while of great significance to assure both sides of longer-term stability of the arrangements made, is perhaps the weakest point in relation to the three conflict resolution processes in Sudan. As we noted above, the CPA is an integral part of the framework of the Interim National Constitution of Sudan, affirmed also in both the Eastern Sudan Peace Agreement and the Darfur Peace Agreement. These latter two, however, have, at best, dubious constitutional status. They are separate agreements, and not formally part of a truly comprehensive peace agreement settling all of Sudan's conflicts. Their legally inferior position is also somewhat reflected in, and reflective of, their content: Darfur and the East gain less in terms of central power sharing, wealth sharing, territorial status (Darfur has a future option to become a region, not more at the moment), and assigned competences.

### Potential Success as Function of 'Context'

Based on a survey of existing literature conflict resolution, we earlier identified three domestic and two external context factors contributing to the potential success of peace agreements. The domestic factors are

1. the parties' acknowledgement of each other's right to be part of the common state with their distinct identity;
2. the parties' efforts towards implementation;
3. the degree of political heterogeneity within each conflict party.

The external factors are

1. the absence of effective external spoilers;
2. international support for implementation.

We shall treat these in turn now.

#### *Domestic Factors*

The conflict parties' acknowledgement of each other's right to be part of the common state with their distinct identity is relatively well-enshrined in each of the three agreements, by affirming the importance and recognition of such different identities and by allocating specific benefits to the rebel movements, albeit to different degrees in each agreement. The CPA, for example, aims at fundamental changes of government and governance in Sudan (Africa Research Bulletin 2005a; Nouwen 2007), reflected by its transformation into the Interim National Constitution (INC) which elevates the CPA on a constitutional and universal level (Nouwen 2007). This "constitutionalisation" of the CPA, however, also has its downside as it solely focuses on the conflict between Northern and Southern Sudan and excludes the conflicts in the West and East of the country (Nouwen 2007).

The extent to which such an acknowledgement is sincere, however, can also, and perhaps more effectively, be measured in terms of the parties' efforts towards implementation, and here, again, significant differences emerge. At the present, the CPA has been partly implemented. Whereas institutions have generally been established and are functioning, important processes, such as the census, elections, referendum have either not been properly enacted yet or await completion (Brosché 2007; Nouwen 2007). The census has been conducted but the results are not published yet, national elections were originally planned for February 2009, and the referendum on Southern self-determination is scheduled for 2011 (UNMIS 2009).<sup>43</sup>

In the case of Darfur, the GoS made far fewer concessions. In particular, it retained sole control over the disarming the Janjaweed (still incomplete) whereas other important tasks, especially in relation to humanitarian issues, are left to an ill-equipped and under-resourced international presence in Darfur (ICG 2006a). The DPA may address political exclusion and economic marginalisation to some extent, but provides far too few concrete arrangements on how to deal with key contested issues, such as the distribution of water and arable land among the ethnic groups (Nouwen 2007), issues that retain their significance in the continuing humanitarian crisis in Darfur.

The ESPA followed the format of the CPA and the DPA and, consequently, also focused primarily on issues of power sharing and wealth sharing, as well as security arrangements (Collins 2007; Nouwen 2007; Young 2007b). However, central demands of the Eastern Front have only partly been met or have even been completely ignored (Young 2007b), leaving the Eastern Front and the regional population widely dissatisfied with the ESPA.

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<sup>43</sup> Recent developments in the implementation of the CPA can be tracked with the CPA monitor of the United Nations Mission in Sudan (UNMIS) (<http://www.unmis.org/english/cpaMonitor.htm>) and the CrisisWatch Database of the International Crisis Group (<http://www.crisisgroup.org/home/index.cfm?id=1200&l=1>).

The different levels of implementation of each of the agreements, have their cause partly in the degree of political heterogeneity within each conflict party, and the power struggles within and between them. The ongoing struggle between the NCP and the SPLM/A over the political power in Sudan can be considered to be the main reason for this slow implementation. The NCP is trying to neutralise the SPLM/A as a national political player and intends to define it as regional actor (ICG 2008). The SPLM/A, on the other side, is internally divided with regard to their political objectives. Some of its leaders pursue a national strategy whereas other parts focus solely on the possibility of Southern secession (ICG 2008). This weakness empowers the NCP to assert itself as the sole national player and to delay implementation of the CPA in crucial areas.

As far as the DPA is concerned in this respect, not only has it failed to bring peace to Darfur, but has in fact worsened the situation as the fragmentation of SLM/A and JEM increased after its signature (ICG 2005c). The lack of unity on the rebel side, crucial for any peace agreement not just in Western Sudan, can safely be considered one of the main causes the DPA's almost instant failure (ICG 2007; Nouwen 2007), alongside, of course, the fact that the agreement itself only partly addressed the key issues of the conflict.

#### *External Factors*

While the CPA is far from perfect in its content and while its implementation is incomplete and its operation suffering from various problems, many of its achievements must be credited to positive external influences, including long-standing international engagement in the negotiations, sufficient funds being available for implementation and emergency humanitarian relief. External spoilers are almost completely absent, too. Notwithstanding other problems, the CPA thus exists in a relatively benign external environment, something that does not apply either to the DPA or the ESPA.

The DPA suffers from a number of inconsistencies (especially in terms of its constitutional status and its ability to offer redress for key demands by the SLM/A and JEM). These are only partly primarily due to the unwillingness of the NCP regime to reconcile and inability of the rebel groups to maintain their united front. Crucially, the inexperience of the AU negotiators and lacking US and EU influence on the negotiation of the DPA have a significant share of the blame to carry (Tanner and Tubiana 2007). The collapse of the DPA is also a result, in part, of the three western states remaining a strategically important staging ground for both Sudan and Chad in their efforts to undermine each other's regime and become major spoilers of the agreement. The agreement's collapse has also taken the pressure off the GoS to enforce disarmament of the Janjaweed, while AU, UN, and EU missions in Darfur, Chad, and CAR remain under-resourced and equipped with insufficient mandates, quite apart from the fact that the GoS managed to delay their deployment for long enough so that the DPA was truly beyond any rescue efforts. In addition, Chinese backing for the GoS in the UN Security Council was a major enabling factor that allowed the GoS to delay the deployment of international missions. Following the indictment by the ICC of President al-Bashir, Darfur is now additionally suffering from an almost-complete lack of ground presence by international humanitarian NGOs, exacerbating further an anyway dire situation.

The external context in relation to the ESPA is different yet again, but similar to the DPA not entirely supportive of settlement success. Eritrea was the sole mediator in the peace negotiations between the NCP regime in Khartoum and the Eastern Front and its mediators successfully managed to keep international interference to a minimum (Nouwen 2007; Young 2007b), while failing to facilitate a deal between the GoS and the Eastern Front that would have better reflected the issues at stake. Eritrea is now alone serving as guarantor of the peace agreement, and this results in the Eastern Front being heavily dependent on the goodwill of the Eritrean government after the SPLM/A and the NDA have withdrawn their support for the Eastern Front (Young 2007b). Against this background, the current state of affairs of ESPA has to be seen in the larger context of

Sudan-Eritrea relations, their history of support for armed opposition groups in each other's countries, and the overall volatile situation in the Horn of Africa (ICG 2006b; Young 2007b; Young 2007a). From this perspective, the ESPA served as an element to reduce tension between Sudan and Eritrea and improves the political and military situation of Eritrea. In combination with the political and military weakness of the Eastern Front, this regional context explains why the implementation of the ESPA is seriously lagging behind (Nouwen 2007), and why neither this nor the general dissatisfaction with the ESPA in the eastern states has led to a resumption of violence. Lacking implementation, too, is a consequence of the near-complete absence of any other international support for the implementation of the ESPA, much in contrast to the situation in the South, and to some extent in Darfur.

### Conclusion

This paper has sought to investigate the relationship between the context in which peace agreements are being negotiated, implemented and operated and their content. We contended that context factors (especially structural factors related to territory and demography) determine the principal institutional bargain achieved during negotiations, while domestic and external context factors and content co-determine the success of implementation and operation of the respective agreement. Using the three peace agreements concluded in Sudan since 2005 as case studies, we tested these propositions empirically. Our findings principally confirm our assumptions, but with important qualifications in each case.

#### Context Determines Content

The model we developed predicted that in each agreement we would find arrangements for territorial self-governance and local and central power sharing. This was confirmed but with a significant degree of variation across the three cases (see Table 4)

Table 4: Differences in key institutional arrangements in peace agreements

	<b>Territorial Self-governance</b>	<b>Local Power Sharing</b>	<b>Central Power Sharing</b>
<b>CPA</b>	Yes. Significant powers at GoS level.	Yes. Dominance of SLM/A in legislative and executive institutions at GoS and southern state levels.	Yes. Significant SLM/A representation in national legislative and executive institutions. Extra benefits from parliamentary voting procedures in key areas and from restrictions of presidential authority in favour of (SLM/A) First Vice President.
<b>DPA</b>	No (option for future referendum) In interim, some coordination powers for Darfur-wide body.	Yes. Some representation of SLM/A and JEM in legislative and executive institutions at state levels.	Yes. Only token representation in national legislative and executive institutions.
<b>ESPA</b>	No. Weak across-state coordination body, with no effective powers.	Yes. Limited representation of Eastern Front in legislative and executive institutions at state levels.	Yes. Only token representation in national legislative and executive institutions.

#### Content Determines Success

We identified five important content-related variables that have a bearing on the success of agreements. Their significance is again principally confirmed, as illustrated in Table 5.

Table 5: Content-related Success Factors

	<b>Match of institutional bargain to structural conditions</b>	<b>Match of institutional arrangements to conflict issues</b>	<b>Appropriate dispute resolution mechanisms</b>	<b>Constitutional entrenchment</b>	<b>Proper financing</b>
<b>CPA</b>	Yes.	Yes.	Yes.	Yes.	Yes.
<b>DPA</b>	Limited.	No.	Yes.	No.	Yes.
<b>ESPA</b>	Limited.	No.	Yes.	No.	Yes.

Context Determines Success

Here we identified three domestic and two external factors. Their significance is again principally confirmed, as illustrated in Table 6.

Table 6: Context-related Success Factors

	<b>Domestic Factors</b>			<b>External Factors</b>	
	Parties' acknowledgement of each other's right to be part of the common state with their distinct identity	Parties' efforts towards implementation	Degree of political heterogeneity within each conflict party	International support for implementation	Absence of effective external spoilers
<b>CPA</b>	Yes.	Limited.	GoS: Low SPLM/A: Medium.	High.	Yes.
<b>DPA</b>	Limited.	None.	GoS: Low SLM/A-JEM: High	Limited.	No.
<b>ESPA</b>	Limited.	Limited.	GoS: Low Eastern Front: Low	Low.	Yes.

The data presented in Tables 5 and 6 allow us to explain the degree of variation in terms of the success of each agreement. The CPA clearly scores highest with five favourable factors out of five in terms of content-related success factors, and three favourable and two partially favourable out of five context-related factors. The CPA also emerges as the one agreement with the best track record so far in terms of the success of implementation and operation, even though this is not even near-perfect, but can be accounted for by the limited efforts that both parties, but especially the GoS have made towards implementation and the increasing fragmentation of the SLM/A over issues of the movement's ultimate political objectives.

In terms of implementation, let alone operation, both the DPA and ESPA are almost complete failures, and their scores would not let us suspect much else. Both have two favourable and one partially favourable content-related factor on their side (i.e., half of the CPA). In terms of context-related factors, the DPA scores worse in three out of the five dimensions, and has only two partially favourable factors, while the ESPA has two fully and two partially factors on its side. Crucially, the absence of external spoilers and the relative (political) unity of the Eastern Front, both in clear contrast to the situation in Darfur, can help us understand why the failure of the ESPA has not led to a resurgence in violence, while the war in Darfur continues unabated.

In summary, context and content are both important dimensions if we want to understand the success of peace agreements. Our findings allow us to conclude tentatively, and more generally, that both of them are necessary conditions and neither itself sufficient. This does not bode well for Sudan, but affirms a now increasingly established proposition that international and regional efforts to manage conflicts successfully must devote equal attention and resources to negotiating a viable, context-sensitive agreement and to providing the conditions under which it can be successfully implemented and operated.

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