CONFEDERATION: A BETTER TOOL FOR GOOD NEIGHBORLINESS AND PROSPEROUS RELATIONSHIPS BETWEEN SUDAN AND SOUTH SUDAN

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Abstract:
This article aims to renew the debate on confederation as a promising tool for better management of the relationships between two Sudans following South Sudan's independence in July 2011. There has been a growing concern that unity-separation only model may not sufficiently address their complex relationships in a post-independence era. Drawing on original work by the author presented in November 2010 at St. Antony's College, Oxford, the article examines the current literature on the subject of confederation in Sudan and elsewhere, introduces Sudan Comprehensive Peace Agreement (CPA) and its implications for the future of Sudan, and traces the historical evolution of confederation as a concept in Sudan's political vocabulary - specially pertaining to North-South relations. It also examines its utility as a potential tool for building more enduring and prosperous relationships between the two Sudans, while highlighting the challenges that might face its adoption as well as evaluating existing success factors.

Keywords: Confederation, Federation, Sudan-South Sudan relationships, Comprehensive Peace Agreement, Self-Determination, Post-Referendum Issues, Economic Integration.

Resumen:
El presente artículo pretende renovar el debate sobre la confederación como una herramienta prometedora para una mejor gestión de las relaciones entre los dos Sudanes después de la independencia de Sudán del Sur en julio de 2011 ante la creciente preocupación sobre el modelo único unidad-separación, insuficiente a la hora de abordar las complejas relaciones en la era post-independencia. Basado en un trabajo original del autor presentado en noviembre de 2010 en el St Antony's College, Oxford, el artículo analiza la literatura actual sobre el tema de la confederación en Sudán y en otros lugares, examina el Acuerdo General de Paz (AGP) y sus implicaciones para el futuro de Sudán, y traza la evolución histórica de la confederación como concepto en el vocabulario político de Sudán -especialmente en lo que concierne a las relaciones Norte-Sur. El artículo examina además su utilidad como herramienta potencial para construir una relación más próspera y duradera entre los dos Sudanes, al mismo tiempo que subraya los desafíos en el caso de su adopción, y evalúa los factores de éxito existentes.

Keywords: *Confederación, federación, relaciones Sudan-Sudán del Sur, Acuerdo General de Paz, autodeterminación, cuestiones post-referéndum, integración económica.*

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"Two roads diverged in a wood,
I took the one less travelled by,
And that made all the difference"
Robert Frost (1920), The Road not Taken.

1. Introduction and Background

The Comprehensive Peace Agreement (CPA), was signed between the government of the Republic of the Sudan (GOS) and Sudan People's Liberation Movement/Army (SPLM/A) in the Kenyan town of Naivasha on 9th January 2005. The CPA was a materialisation of three years of sustained negotiations under the auspices of the Inter-Governmental Draught Authority (IGAD), supported by the African Union, the Arab League, the EU, the UN and the governments of Italy, Netherlands, Norway, United Kingdom, and United States. The signing of the CPA brought to an end Africa's longest civil conflict in living memory that had erupted in 1955, stopped for 13 years before resuming in 1983 and continued for 22 years until the CPA was signed in January 2005. The CPA is comprised of six protocols and three annexes and was recognised by the United Nation's Security Council Resolution 1574. A central provision of the CPA is that the people of Southern Sudan have a right to self-determination which they will exercise by voting in a referendum scheduled for January 9th 2011, that is, six (6) years after having signed the peace agreement to decide whether to confirm the *status quo* of united Sudan or secede to form their own independent state.[2] The Machokos Protocols also obliged the two parties to the agreement to strive to improve institutional arrangements in order to make unity an attractive option to the people in Southern Sudan.[3] Furthermore, the parties to the CPA (the National Congress Party (NCP), and SPLM) were required by the Referendum Act 2009 to agree on post-referendum issues such as citizenship (status of Northerners in the South and Southerners in the North), security, currency, distribution of oil revenues, national assets and foreign debts, and sharing of Nile water.

As the implementation of the CPA progressed, by the end of 2010 there was concern that the referendum planned for 9th January 2011 would be behind schedule because of a deadlock over boundary demarcation and continuing disagreements over voting eligibility of Messiryia in Abyei's referendum;[4] there was also a serious concern that no tangible agreement or coherent vision had been reached by the CPA partners on the nature of relationships between the North and the South in case of a vote favourable to secession.[5] Lack of vision regarding the form of future relationships between two parts of Sudan in post-2011 period did cast enormous shadows of uncertainty over the future of both the North and the South and made it hard to plan for 2011 and beyond, especially amongst the government bureaucrats who were expected to make vital decisions whose impacts could go beyond January 2011. That uncertainty was commonly expressed in such statements as: "We do not know what will happen in January 2011".[6]

It is quite certain that those making these statements knew that the referendum´s outcome would impact their plans and ongoing activities in many unpredictable ways, yet

[2] Sudan Comprehensive Peace Agreement (CPA): The Machakos Protocol, Articles 1.3 and 2.5
[3] *Ibid.*, Article 2.4
[4] Verjee, Aly (2010): *Race Against Time: The Count Down to Referenda in Southern Sudan and Abyei*, Rift Valley Institute, p. 14.
[5] Akec, John A.: "A Call for Renewable Confederation in Post-Referendum Sudan", *Sudan Tribune*, 8 June 2010, at http://sudantribune.com.
[6] *Ibid.*

were almost helpless to craft an effective response to it. There was no strategic thinking apart from being concerned with here and now. This was as if the world knew about Year 2000 problem, or the so-called Millennium Bug that was predicted to cause date-keeping system in computers to malfunction when year 2000 arrived, thus, raising the risk of data loss, yet were unable to stop it or to put in place measures to thwart its adverse impacts on business data and operation of vital and strategic utilities that are computer-controlled.[7] The truth is: the world knew the implications of Millennium Bug and acted by dedicating a huge amount of resources and expert skills to fix the problem, and when the day and the hour arrived (midnight of December 31, 1999), everything was under control and no major catastrophe or financial losses whatsoever were reported. The contrast could never be starker in the case of Sudan in regards to post-referendum arrangements .

The continuing uncertainty over the future relationship between the North and the South did not only make it hard to plan, but also made it difficult for parties involved in negotiating post-referendum arrangements to make compromises on issues such as citizenship, residence and so on; as each party exercised a 'maximum precaution' rule to guard its stakes.[8] The two parties talked of 'good neighbourliness and peaceful secessions' but no one knew what shape this good neighbourliness was going to take, or how smooth secession could be achieved.[9]

In fact, the lack of agreement on post-referendum arrangements, of which the North-South relationship was an important part, aggravated by inflammatory statements of Sudanese politicians across the divide, caused a mass-exodus of South Sudanese from the North.[10]

While the Naivasha agreement might have brought relative peace to the country after nearly a quarter of a century of strife and bloodshed, there was increasing realisation amongst significant Sudan watchers during the transition period following the CPA that the unity versus secession black or white dichotomy may not be the ideal solution for bringing about a lasting and sustainable political accommodation in Sudan.[11]

By mid 2010, there was an increasing interest in confederation as one of the potential options for closing the gap in the Comprehensive Peace Agreement without sacrificing the right of people in South Sudan to determine their own political future.[12]

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[7] "The Year 2000 problem (also known as the Y2K problem, the millennium bug, the Y2K bug, or simply Y2K) was a problem for both digital (computer-related) and non-digital documentation and data storage situations which resulted from the practice of abbreviating a four-digit year to two digits", *Year 2000 problem*, at http://en.wikipedia.org/wiki/Year_2000_problem

[8] Fick, Maggie: "Preparing for Two Sudans", *Enough Project*, (March 2010). "Both parties represent the ruling elites of North and South, and neither side wishes to give up their respectively precarious positions. An accommodation between elites in Khartoum and Juba could be in the offing, but both sides are understandably reluctant to accept potentially painful compromises on their overarching objectives: access to southern oil wealth for the NCP, and sustainable southern independence for the SPLM".

[9] Akec: "A Call for Renewable Confederation", *op. cit.*

[10] Heavens, Andrew: "South Sudanese Risks Citizenship Rights in Vote – Minister", *Reuters*, Khartoum, 25 September 2010.

[11] Mc Hugh, Gerard: "Envisioning the Future: Options for Political Accommodation between North and South Sudan Following Referendum", *Conflict Dynamic International report, Governance and Peace Building Series*, Briefing nº 3 (September 2010). Mc Hughs explains that by political accommodation is meant a "construct which can provide more opportunities to reconcile different and potentially competing political interests than a singular or disjointed focus on "power sharing", electoral system design, legislative decision making procedures, or other areas can achieve … The essence of political accommodation is mutual conciliation in situations where there is absence of comprehensive consensus but not a complete lack of consensus", p. 12.

[12] Mukhtar, Alweeya: "The CPA Partners Discuss Mbeki's Proposals on Structure of North South Relations", *Al-Sahafa*, (11 November 2010). The writer reported that the two partners had started discussing the shape of

The interest in confederation, however, was hardly new compared to previous attempts to resolve Sudan's North-South conflict. John Garang de Mabior, the SPLM chairman, proposed a system of confederation for Sudan during peace negotiations first in Abuja in Nigeria in 1992 and later during negotiation with the Sudanese government in Kenya between 2002 and 2005, which was turned down by National Congress Party (NCP).[13] The former deputy SPLM chairman and former governor of Blue Nile State, Malik Agar Eyre who later quitted the Sudanese government to lead SPLM-Sudan,[14] floated the idea in the Naivasha peace celebration on 9th January 2008 for the whole country. This time around, the NCP expressed readiness to discuss it with the SPLM.[15] A number of articles followed in sparse succession. For example, confederation was impressed upon the CPA partners in May 2009 in an informative article by Adullahi Osman El Tom, from the Justice and Equality Movement as one of potential options for post-referendum governance of Sudan in case of a South Sudanese vote for independence.[16] In January 2010, Hamid Ali El Tigani wrote in the Sudan Tribune about a confederal system for Sudan.[17]

Overall, these early calls to debate confederation seemed to have fallen on deaf ears and did not either take the headlines or got the attention the subject deserved. At that time, 2011 seemed to be far off, and any talk of confederation was seen as an attempt to subvert the exercise of right to self-determination by South Sudan. However, this author noted that the interest in confederation was rekindled once again after publishing an article on the subject in June 2010.[18] Ever since, there has been a growing interest in confederation as a 'third way' between total unity and complete independence of the South.[19] At the same time, many voices expressed reservation,[20] even outright rejection of confederation as a substitute for

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possible relations between the North and the South after referendum since Wednesday 10th November 2010. And that President Mbeki made 4 proposals in July, one of which was confederal union. "Egypt proposes confederation between north and south Sudan", *Al-Masry Al-Youm*, (3 November 2010). The paper reported that foreign Minister Ahmed Abul Gheit proposed the establishment of a confederation between North and South Sudan when he addressed Shura Council saying that North and South will still be independent states.

[13] Al-Hilo, Mohamed: "When they ask you?", *Akbar Al-Youm*, Khartoum, 11 November 2010. The author wrote in his column to tell how Southerners were promised confederation if they voted for Sudan separation from Egypt in Parliament in 1956, only for the promise to be broken. Then quoted the late Southern politician Stanslaus Wieu telling the Sudanese parliament: "There will come a day when you ill offer confederation on the street for free, and you will find no body willing to buy it…"

[14] Previously known as SPLM-North.

[15] Sulieman, Mahmoud A.: "Confederal System for Sudan", *Sudan Tribune*, 8 January 2008, at http://sudantribune.com.

[16] El Tom, A. Osman: "Towards Confederation between Independent South and North Sudan", *Sudan Tribune*, 28 May 2009, at http://www.sudantribune.com.

[17] Eltgani, Hamid Ali: "How to Govern Sudan – a Quest for Confederation", *Sudan Tribune*, 11 January 2010, at http://www.sudantribune.com.

[18] Akec, John A.: "Call for Renewable Confederation in post-referendum Sudan", *Sudan Tribune*, 8 June 2010. An Arabic translation was published by Ahmed Hassen Mohamed Salih appeared in *Rayaam* newspaper, 18 June 2010.

[19] Heavens, Andrew: "Sudan to Mull North-South Confederation", *Reuters Africa*, 10 July 2010, at http://www.af.reuters.net. Akec, John A.: "To Confederate or not to Confederate is a Matter of Strategy", *Sudan Tribune*, 14 September 2010, at http://www.sudantribune.com. Biar, Zakaria Manyok: "Confederation for Sudan, Is it a good idea?", *Sudan Tribune*, 5 July 2010, at http://www.sudantribune.com; Ashworth, John: *CPA Alert No. 2*, IKV Pax Christi report, (September 2010).

[20] Talley, Thomas: "Southern Sudan – The Four Theses", *Small Arms Journal*, 22 October 2010, at http://www.smallarmsjournal.org. Talley views the pursuit of confederation by the US policy makers as a tactic to delay North-South war breaking out too soon. "Demand the process renders a predetermined outcome of confederation (i.e., nominal unity, but greater autonomy for southern Sudan). This COA [course of action] promises to avoid war; but that is a false promise – it will simply delay war a little longer. War will come because there are important actors on both sides of the conflict who want, and need, a war", p. 3.

complete independence of South Sudan.[21] This reflects the old adage: information too early is not recognized, and information too late is useless.

In the midst of all the uncertainty and initial pessimism, the referendum vote for South Sudan took place peacefully on the 9th January 2011 and resulted in overwhelming vote in favor of secession. Six months later, and precisely on the 9th July 2011, South Sudan declared its independence and immediately enjoyed the recognition of the International Community; specifically the UN, the African Union, and the EU. But because of too many unresolved issues between South Sudan and Sudan that included oil sharing and assets distribution, the status of Abyei, as well as the situation in South Kordofan, Blue Nile, and Darfur, the relations between the two Sudans deteriorated very quickly. The relationships hit rock bottom when South Sudan was provoked to shut down oil production in January 2012, and in April 2012 war broke out between Sudan and South Sudan over the contested border town of Panthou.[22] In September 2012, the two countries with help of the AU High Level Implementation Panel under leadership of Thabo Mbeki, signed a cooperation agreement in Addis Ababa.[23] In March 2013, the governments of Sudan and South Sudan moved a step forward by signing an Implementation Matrix Agreement that would put the cooperation agreement into effect on the ground.

With all the problems that still beset relations between the two Sudans, it is the right time to revisit the utility of confederation or any of its closer cousins[24] as an ultimate healer of these relations as well as reopening the debate on this vital theme.

The paper will examine why this is an invaluable strategy for both the North and the South to adopt in short or medium term to smooth out transition to South Sudan independence, and in long term as a means for propelling the two parts of Sudan back into a path of voluntary unity or achieve some form of economic union.[25] It will also attempt to answer such questions as: What chance is there that such an idea will find acceptance from the South Sudanese? Who will be against it? Who is for it? What is there in it for each stakeholder (SPLM, NCP, Northern and Southern parties)? And what are the positions of the SPLM and the NCP in regards to confederations? And finally to look into what structure the North-South confederation might take as well as possible powers can be assigned to confederate authority. However, the paper will not necessarily follow the same order.

[21] Chol, Carlo James: "Mr. Malik Agar and Confederation", *Fashoda*, 17 January 2008, at http:// Fashoda.org. Awolich, Abraham A: "The Call for Confederation is Conspiracy", *Sudan Tribune*, (19 January 2008) at http://www.sudantribune.com. Okuk, James: "Confederation for South Sudan a Betrayal to Self-Determination", *Sudan Tribune*, 18 January 2008, at http://www.sudantribune.com.

[22] Also called Heglig by Sudan government.

[23] Akec, John A.: "Addis Ababa Agreement is Bony Fish worth Chewing", *Sudan Tribune*, 12 December 2012, at http://www.Sudantribune.com.

[24] Such as the forms of economic union that binds EU member states.

[25] This draws on previous work: Akec, John A.: "Why referendum in post-referendum Sudan is key to prosperous, stable, and good neighbourliness between two Sudans?", Paper presented at conference on *Post Election Governments of Sudan: How are they preparing for referendum on self-determination*, St. Antony College, Oxford, 13 November 2010.

2. The Justification for Adopting Confederation

In a symposium organized by the Future Trends Foundation and the UNIMISS in Khartoum on unity and self-determination in November 2009, Francis Mading Deng argued in a joint paper with Abdelwahab El-Affendi:[26]

"Unity should not be seen as an end in itself or as the only option in the pursuit of human fulfillment and dignity. A vote for Southern independence, therefore, confronts the nation with challenges that must be addressed constructively in the interest of both North and South. This should mean making the process of partition as harmonious as possible and laying the foundation for peaceful and cooperative coexistence and continued interaction. Practical measures should be taken to ensure continued sharing of such vital resources as oil and water, encouraging cross border trade, protecting freedom of movement, residence and employment across the borders, and leaving the door open for periodically revisiting the prospects of reunification."

This statement underlines the need to come up with concrete measures to address the challenges enlisted above. Here Deng attempts to persuade the unionists in Sudan to let the South decide freely, and that they should never have to lose hope in unity even if the referendum outcome is secession. Vital interests of the South will dictate her to seek cooperation of the North. He correctly put his finger on the pulse, and left us with the challenge of prescribing more concrete solutions in order to achieve the above goals.

Independently reflecting on the necessity of letting the South go as the necessary condition for paving a way for voluntary unity in the future, this author wrote in November 2009:[27]

> "The way forward would be to honour the CPA referendum protocol in its entirety, despite the predictable outcome. Namely, more than 90 percent of South Sudanese will vote in favour of self-determination. Yet paradoxically still, only after the South peacefully secedes will we have the hope to renegotiate a Sudanese union on new basis. We must let the sheep out of the fence, then persuade them later to re-enter the stable after having tasted the freedom of wandering the pastures alone with no one but good own self to guide through the treacherous valleys, tried the beauties as well as the pains of self-reliance, missed the advantages of a shared-house where all have something different and unique to offer…In other words, Southern session is a necessary prelude to voluntary reunion."

This author, perhaps, was then led subconsciously or (was it an Eureka moment?) to end at confederation gate when he argued:[28]

> "Once South is secure in self-determination, which in many ways will satisfy a deep-rooted psychological longing and restore a sense of dignity long lost, it will be possible for all to revisit the possibility of entering into economic union similar to EEC's with the North or reach confederate arrangements with the rest of the country with a view to eventually reintegrating back in a phased out fashion."

[26] Deng, Francis M.: "Prospects for Reconciling Self-Determination with Unity in Sudan", a statement at *Symposium on Unity and Self-Determination*, Future Studies Foundation, Khartoum, 2 November 2009, p. 7.
[27] Akec, John A.: "South Sudan Self-Determination is the Gateway for an Enduring and Stable United Sudan", *Sudan Tribune*, 16 November 2009.
[28] *Ibid*.

This might be too an optimistic a scenario and overstatement by this author, because it is possible for the two parts of Sudan to still drift apart even after a secession vote should relationships continue to be tense and hostile as they currently are, or the way they had been in the last eight years.[29] Yet, this fear of unknown should not scare the Sudanese from taking the bold step towards confederation after Southern successful secession vote.

The author, driven by the need for wider discussion, went on to publish an opinion article in June 2010 inviting the Sudanese to debate the adoption of the confederation as a means of regulating South-North relation after referendum should South secede as it was the most likely outcome of the vote:[30]

> "And in humble contribution to shaping of this vision [about possible relationships between North and South], the writer of this article would like to invite all the Sudanese to air their views on feasibility of adopting confederation to manage the North-South relationship when South votes for independence."

The article went further to propose the possible structure the confederation might take:[31]

> "According to this vision, both South and North will be free to organise their foreign policy, security, and economic planning as would happen for all sovereign states. The current council of states and national legislative assemblies will have their life extended (funded by Confederation to 4 years) and functions of certain national commissions will be modified to support confederal government. There will be a Northern Chamber, where Khartoum government can discuss issues concerning the North. The merits of a monetary union should be carefully studied and given a serious consideration in this debate. The management and sharing of common assets and regulating trade should be managed by the confederation whose presidency rotates every 6 months between the South and North. Citizens from both Northern and Southern states will be free to move freely and enjoy the full rights of the citizenship (education, medical treatment, right to buy and sell property) in two Sudans. Both Sudans should device tariffs that will not put any side at disadvantage and maximise the accrued benefits for all. Fighting crime and managing security across the borders is carried by confederal government in collaboration with the two sovereign states. This confederal arrangement will constantly be improved and renewed every 4 years (equivalent to life of legislative assemblies) and the renewal should be voluntary (each side can opt out at the end of 4 years should it feel there are good reasons to quit)."

A well presented and most comprehensive technical report published so far on the subject of potential options on the nature of future relationships between the Northern and the Southern states in the event of secession vote, has been authored by Gerard Mc Hugh from Conflict

[29] Al-Sharif, Yusif: "Separation the Second Choice …South between Revolution and big Dream", *Al-Sahafa*, Issue nº 6219, (6 November 2010). He writes: "I advised our government to accept all the recommendation by experts and South Sudanese without much ado…because this is not the time for war. The time for war will come. I repeat war has its time", p. 6. In other words, tactically the government can do all the right things and can break these agreements at a suitable time in the future when it is ready to fight and win the war! This indirectly gives credence to what Mc Hugh has written that confederation can delay war but will never stop it.

[30] Akec: "Call for Renewable Confederation", *op. cit.*

[31] *Ibid.*

Dynamics International. The report enlists four (4) possible options organized in order to foster an increasing political interactivity between Northern and Southern sovereignties with distinctly recognizable international identities. These are described in the proceeding paragraphs.[32]

The first option is described as *Mutual Isolation*. As its name suggests, this option entails a very limited scope of political interaction. This is a default option if no effort is made to agree on common institutions to deal with issues of common interests. It is a recipe for disaster and is ill-suited for case of Sudan and South Sudan where there are issues that need to be jointly addressed through much tighter interaction than can be garnered from this option.

The second option is *Reciprocity between Independent States*. It allows the two independent states to either interact on issues of common interest on ad hoc manner as they arise or set up single institutions within each state through which the interaction on economic and political matters can be channeled. Considering the high stakes between Sudan and South Sudan, one is bound to bypass this option in favor of searching for better institutional arrangements that are commensurate with the stakes involved.

And moving up higher, there is third option modeled as *Economic Community of Independent States*. The main objective of such interaction is economic and to a lesser extent political. The scope of economic parameters is agreed between two sovereign states with provisions of summit meetings of heads of the states and councils of ministers. Legislative bodies in the two states also interact and there is a legislature to regulate the interaction that is embodied in their respective constitutions. In this author's view, this is the minimum required for smoothing out relationships between South Sudan and Sudan.

And finally, there is *Structured Union of Independent States*. Here the two sovereign independent states agree to set up common institutions. The competencies of the inter-state bodies are formally agreed between the two states. Interactions include meeting-forums between heads of states and a council of ministers appointed by heads of the two independent states. The common institutions are manned by representatives of the two sovereign independent states whose task is to take decisions on issues of common interest that are identified from time to time jointly by the two sovereign states. Decision-making in inter-state bodies is based on parallel consent[33] while at the executive levels (summit of heads of states, and council of ministers), decisions are based on unanimity. This option is seen to provide the highest degree of political interaction between the North and South Sudan. One version of Union of Independent States is shown in Fig. 1.[34]

The choice of the model of interaction between Sudan and South Sudan sovereign states should put into consideration the following elements in regards to arrangements for political accommodation:[35]

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[32] Mc Hugh, *op. cit.*, p. 5.

[33] *Ibid*. "The term "parallel consent" is used … to encompass types of decision-making procedures that require concurrent simple or super-majorities within two or more communities in order for certain types of decisions to be adopted. This form of decision making has been used in the legislative assemblies of Northern Ireland and the State Union of Serbia and Montenegro (2003 – 2006), among other contexts", p. 8.

[34] Fig.: Schematic Illustration of Structured Union of Confederal Sates. Source: Gerard Mc Hugh: Envisioning Sudan: Options for Political Accommodation between North and South Sudan Following Referendum, Publication of Conflict Dynamic International, (September 2010). Note the proportional representation in inter-state body (30:20). Other versions propose equal representation.

[35] Mc Hugh, *op. cit.*, p. 24.

• Should not interfere with or compromise the political independence of South Sudan;

• Should strive as much as possible to implement the principle of right of self-determination of the people of South Sudan as embodied in the CPA, as well as observing the equal right to self-determination of other people in the Sudan;

• Should neither subordinate nor supersede executive-level authority in Sudan or South Sudan;

• The associated frameworks for political interactions should reflect all relevant provisions agreed in the CPA without necessarily being constrained by the CPA;

• Must be able to accommodate the needs of Southern Kordofan, Abyei, Blue Nile, and other areas;

• There must be equity of representation and effective checks and balances in place to ensure parity (for North and Sudan) in political decision making in the shared/common central institutions

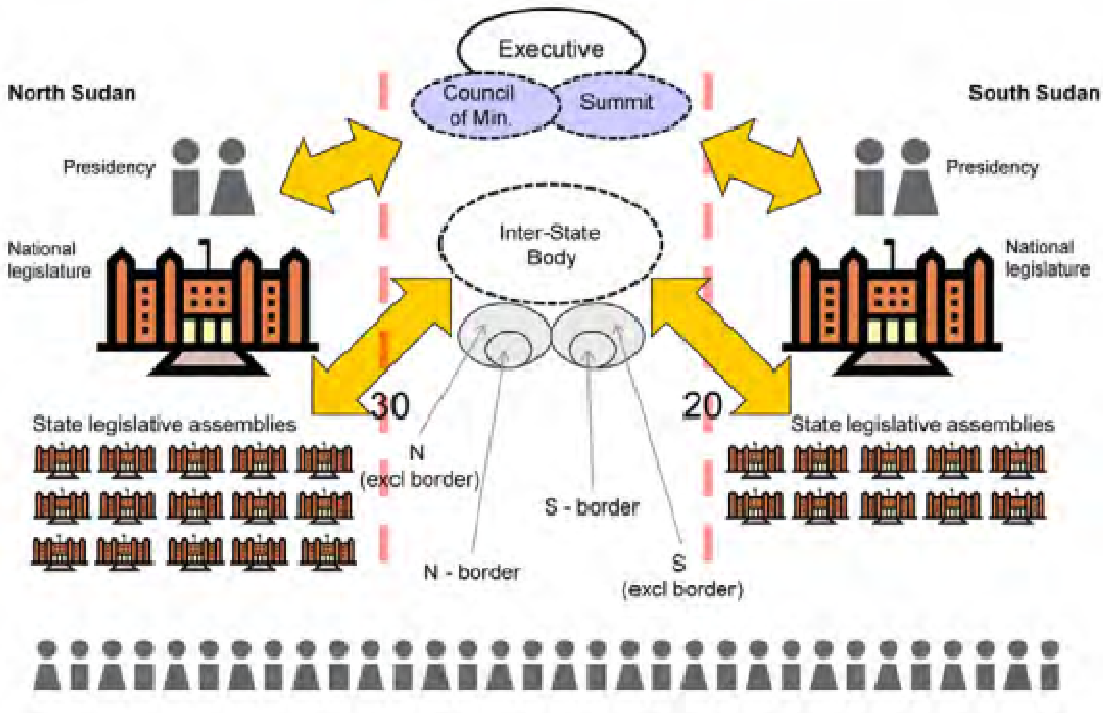

Fig. 1: Schematic Illustration of Structured Union of Confederal Sates. Source: Gerard Mc Hugh (2010).

From a personal point of view, a confederate arrangement scores highly when measured against the listed guidelines. And yet, a natural question that impresses itself upon this debate is: what is unique about confederation to make it an effective tool for prosperous and peaceful, management of relationship between South Sudan with Sudan following South Sudan vote for independence, to the exclusion of everything else?

One definition of confederation is given below which may go some way to explain why confederation is an attractive option:[36]

> "Confederation is a system of administration in which two independent countries enter into [union] while keeping their separate identities. The countries cede some of their powers to a central authority in areas where they share common economic, security, or broadly speaking, developmental concerns. The central authority in confederation is weak and subservient to the founding states. It cannot dominate and can only exercise powers that are ceded to it by the con-federal partners. While confederation is a perpetual arrangement, either of the partners can pull out of it if they so wish. Hence, confederation is like marriage; it takes two to create and maintain but only one partner to dismantle. Confederation comes in different forms depending on the contexts and interests of partners involved."

That being the case, it goes without saying that confederation, a term that describes a form of intergovernmental organization or union of independent states formed to achieve specific goals during specific period in history, is relatively rare;[37] and when confederations existed historically, they did so under various guises, names, and degrees of integration that were shaped or conditioned by the circumstances and needs of member states such as prevention of wars between member countries; fending off external aggression or putting up a unified struggle against imperial powers; international trade or foreign policy coordination; economic cooperation; custom or monetary union; and so on. This applies to varying degrees to Swiss Confederation (1291-1798, and 1815-1845), the United Provinces of the Netherland (1579-1795), the German Bund (1815-1866), the American Confederation (1781-1789), and United States of America (1861-1865).

Analysis of these historical confederations reveals that their formation did not follow homogenous patterns or similar trajectories. And generally, it can be said that the aforementioned historical confederations evolved over time into either federations or unitary states.[38] However, the federation of Czechoslovakia, for example, split into two independent states: Czech and Slovakia; while the Turkish and Greek Cypriots could not agree on either federation or confederation that might preserve a resemblance of either unity, sovereignty, or both for the currently divided island; despite the fact that both options had been placed in the past on the table.[39]

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[36] El Tom, *op. cit.*

[37] Kenzhehanovna, Nakisheva Makhabbat and Nurmaganbet Ermek Talantuly: "Confederation as a Form of Government Structure and its Features: Theoretical and Historical Analysis", *Middle-East Journal of Scientific Research*, vol. 12, nº 9 (2012), pp. 1268-1275.

[38] Ibid, *op. cit.*, p. 1271; Banning, Lance: "From Confederation to Constitution: The Revolutionary Context of the Great Convention", *Constitution: Bicentennial Chronicle*, Project 87', published by American Political Science Association and American Historical Association (Fall 1985).

[39] Dodd, Clement H.: "Confederation, Federation, and Sovereignty", *Perceptions: Journal of International Affairs*, vol. 4, nº 3 (September-November 199).

As Dod correctly observed, federations[40] that are imposed from top down are less likely to be stable than federations that grow from bottom-up, and that there are many missing ingredients or success factors in Greek-Turkish Cypriots' search for a lasting solution to the political dispute in Cyprus.[41] First, Dod still reflecting on the Greek and Turkish dispute in Cyprus, pointed out that there must be a common belief amongst members of the communities concerned that sees some good in pursuing federation as an end in itself, citing as an example the formation of the European Union that was inspired by the need to eliminate the chance of future wars breaking out in Europe. Second, there should be shared enthusiasm among populations concerned towards the federation [*or confederation*] project (my italic), that all communities are driven by some common unfulfilled need, and that the concerned parties can be confident that leaders of communities concerned are committed to creating a common space that can strengthen the resolve of member states to make compromises necessary for a successful power-sharing arrangement.

Furthermore, other confederation scholars believe that confederate parties should be willing to abandon any temptation to resolve differences through military means; and embrace instead the use of legal means to resolve them.

Having looked briefly at a few historical examples of successful and not so successful federations and confederations, it is worth revisiting the idea of confederation espoused in this paper with a view to identify the goals of such a project as well as evaluating the chances of its success.

For a start, despite the long and bloody war between North and South Sudan and inter-communal violence and hatred that ensued from it, there is no denying that the two nations share a common history, geography, interdependent economies and the longest border in Africa between any two neighbouring states,[42] thus making a sudden clean break between two Sudans a difficult task to achieve without incurring some high economic and social costs.[43] As noted by Jok a few months before the casting of referendum vote in South Sudan:[44] "there will be a plethora of complicated issues that will take years to work out between North and South and within the two states." These include nationality and citizenship, division of assets and international debts, border demarcation, management of trade and cross-border movement, and agreeing a fair North Sudan's share in oil revenue from the South Sudan oil fields as payment for the use of its oil processing facilities, among others. That means, like it or not, both Sudan and South Sudan are obliged to maintain a special relationship in the post-referendum period, even if the outcome is South Sudan´s secession, and confederation is one of the tools for creating such a special relationship in short, medium, and long-term.[45]

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[40] In some literature, some political scientists classify confederation as a form of federation although the reverse is not true. So, the use of federation in the above context implies confederation.

[41] Dod, *op. cit.*, p. 1.

[42] Gamei, Faiz Mohamed: "The Challenges Facing Sudanese Before the 2011 Referendum on Self-Determination of South Sudan", *Conference on Sudan Post-Referendum Issue*, St. Antony College, Oxford, 15 November 2010.

[43] The consequences of failure to reach agreement on oil sharing after July 2011 that resulted in oil shutdown in January 2012 and the Panthou/Heglig war in April 2012 between two Sudans are testimonies to the costs of failing to manage the relations successfully and are there for all to see. Calculation by Sudan Central bank puts the costs at USD 5.1 billion for Sudan and USD 15.1 billion for South Sudan in terms of missed income excluding unaccounted cost of Heglig war.

[44] Jok, J. Madut: "Independent South Sudan and How Two Sudans Become Stable Nations", *United State Institute of Peace* (11 January 2011).

[45] As the two nations gain experience with confederation and confidence working together, future possibilities are limitless.

This brings us to the second part of the question: what are the chances of its success; and whether the two communities share equal enthusiasm for a project of confederation to guarantee its faithful implementation. If Sudan's history is any guide, then one is more likely to expect an end with a pessimistic note.[46] Failure to implement important CPA protocols on southern Kordofan, Blue Nile, and Abyei does not make for an optimistic forecast of what might befall any internationally agreed pacts between the Sudanese and South Sudanese partners, now or in future.[47] Yet South Sudan and Sudan could choose to put that bitterness behind them and fashion new and better futures for their peoples by reading their common history through "the lenses of the future" as opposed to reading it through "the lenses of the past".[48]

Sections 3 and 4 will gauge in greater details the feelings of the communities in South Sudan and Sudan towards the debate on the possibility of considering confederation option irrespective of whether or not it is meant to be for short, medium, or long term.

3. The Chances of a Confederation Being Accepted by South Sudan

At official level, SPLM leaders have been dismissive of the idea. Publicly, they had maintained that there will be relationships with the North in case of secession and especially in regards to four (4) freedoms: movement, ownership, residence, and employment. This was confirmed by then First Vice President of Sudan, and currently President of Government of the Republic of South Sudan, Salva Kiir Mayardit, in one of a series of exclusive interviews with Rafayda Yassin of Al-Sudani newspaper that was published beginning on 27 October 2010 and continued for a number of days. According to President Salva Kiir Mayardit, as far as it depended on his government "the people [of North and South Sudan] will be free to work, live, and move and pay visits to friends and relatives in the North and the South, and that the presence of the borders will be meaningless".[49] Asked of what he thought about "a third way" between unity and separation, Kiir responded:

> "I do not know about any other *third way* between unity and separation other than confederation. And if that is what is meant by the third way, it does apply in the context of two sovereign independent states, as opposed to one and same country. Hence, let our focus be on making sure that referendum takes place on time on 9th January 2011 so that South Sudan can exercise the right to self-determination. If the choice of the South is secession, only then will it be possible for us to enter into negotiations with the North

[46] That is not to ignore populations in Darfur, south Kordofan, and Blue Nile as these are likely to welcome the return of South Sudan to what this author may call the "Sudanese sphere". At the moment the common feeling is that the above communities have lost an important ally through secession.

[47] Failure of Sudan government to honour Hague's ruling on Abyei is a case in point that further undermines confidence that Sudan will abandon military might as a means of settling political issues with South Sudan. See Deng, Luka Biong: "Will Abyei be a dagger in South Sudan – Sudan relations?", *Sudan Tribune*, 9 September 2013, at http://www.sudantribune.com.

[48] Idris, Amir (2013): *Identity, Citizenship, and Violence: Reimagining a Common Future*, New York, Palgrave McMillan, p. 123.

[49] Yasin, Rafaya: "Exclusive Interview with Salva Kiir Mayardit", *Sudani*, October 2010. The interview was published in Arabic. Akec, John A.: "South Sudan ...", *op. cit.* The use of the phrase of "meaningless borders" seems to echo the phrase "artificial borders" which appeared in this article written by the author in November 2009 and I quote: "In not too distant future….. Abyei Walls will eventually tumble as people pour across the divide to embrace each other and move freely across the artificial borders without hindrance or impediment from anyone". The phrase "Abyei Walls" which is analogous to the Berlin Walls was first used by an optimistic Al-Sahafa newspaper commentator whose name the author did not record.

about confederation, and if we both agree [on confederal arrangement], each country will [also] have its own constitution and own government".[50]

Responding to a proposal by Egypt to the government of Sudan to consider confederation as one of post-referendum arrangements regarding the relationships between the North and the South in case of secession of South Sudan, the SPLM Secretary General and then Minister for Peace and CPA Implementation in the government of South Sudan, Pagan Amum, rejected the call for confederation and instead appealed to "all to work towards a timely conduct of referendum and recognition of the outcome and that in case of Southern secession they will be ready to agree any form of relationships that will serve the interests of the North and the South and maintain peaceful coexistence".[51]

It is worth pointing out (as previously mentioned in the introduction of this paper) that a confederation was initially proposed by the SPLM far back in the Abuja negotiation in 1992, then in Machokos in 2002 and later by Malik Agar on the third anniversary of the death of the SPLM Chairman John Garang de Mabior in January 2008. These earlier proposals were rejected by the National Congress Party (NCP), but when raised again in 2008, the party expressed its interest to discuss the issue of confederation with the SPLM.[52] And since full independence is of 'higher value' than a confederation in which the South must concede some power to an inter-state authority, it was not surprising to see the SPLM was reluctant to warm up to a revival of the idea in the 11th hour. Intuitively it looked like taking two steps backwards.

And as far as public opinion was concerned in the South Sudan regarding confederation, it was either dismissive or received the proposal with great skepticism, while asserting the full exercise of right to self-determination by the South.[53] For many South Sudanese, the call for confederation was a distance thunder, until President Thabo Mbeki, the Chairman of African Union High-Level Implementation Panel shocked everyone with an unexpected announcement when he put confederation on the table as one of the four (4) post-referendum options the CPA partners must consider during launching of post-referendum negotiation in Khartoum in July 2010.[54] Here, Mbeki proposed the parties to consider negotiating around four (4) post-referendum options: unity, separate states requiring citizens of successor and

[50] Yasin, "Exclusive Interview with Salva Kiir Mayardit", *op. cit*., part 3.
[51] Dagash, Ahmed: "SPLM Rejects Confederation", *Sudani*, 5 November 2010, p 1.
[52] Chol, *op. cit.*
[53] Awolich, *op. cit*, notes about confederation that: "The whole thing about confederacy is a conspiracy to obliterate the CPA and to shift the focus onto something extraneous". Okuk, James: "Confederation for South Sudan a Betrayal to Self-Determination", *Sudan Tribune*, 18 January 2008. The author argues that SPLM has value only if it champions the right to self-determination: "The right of Self-determination is what has made the SPLM popular and strong in Southern Sudan and not the 'shadow-chasing' ideology of 'New Sudan' as it is claimed by the SPLM pro-unionists". Okuk, James: "Confederation for South Sudan a Betrayal to Self-Determination", *Sudan Tribune*, 18 January 2008. The author argues that SPLM has value only if it champions the right to self-determination: "The right of Self-determination is what has made the SPLM popular and strong in Southern Sudan and not the 'shadow-chasing' ideology of 'New Sudan' as it is claimed by the SPLM pro-unionists".
[54] Heavens, "Sudan to Mull", *op. cit*.

predecessor states to get visas, independent states with soft borders and thus no strict visa requirement, and two sovereign independent countries joined up by a confederate union.[55]

Some of the skepticism amongst South Sudanese to the proposal of confederation made by Malik Agar as well as the version that was being placed on the table by president Mbeki was due to the result of confusion that confederation was being put forward as a substitute for secession in the referendum options or a substitute for the whole exercise of self-determination.[56] Possibly if it was explained clearly that the referendum will go on as scheduled and its result will be recognized, then people in the South might be prepared to consider the idea. That does not mean there are no Southern nationalists who regard confederation as a new tactic by the unionists in Sudan supported by the NGOs and international community with vested interests.[57] And admittedly, some of writings were emotive, too Southern nationalistic, and devoid of reason, yet not surprising at all. Consider the excerpt from a poem published on internet condemning the unionists and proponents of confederation amongst South Sudanese:[58]

Unity is a mamba snake,
Unity is a thoroughfare to Golgotha
A trap door of a gallows
Does the South deserve the guillotine?
Beware of Jallaba [Northerners] mendacity
Confederation is a ticket to Armageddon
A camouflaged lure to uninterrupted misery

If anything, this is a reflection of the deep rooted mistrust which South Sudanese hold against their fellow countrymen in the North for historically well documented injustice. It was this kind of well founded cause for disappointment that prompted the veteran Sudanese statesman, Abel Alier, to write his well known book, *Southern Sudan: Too Many Agreements Dishonoured.*[59] To overcome this mistrust would require exceptional statesmanship in both North and South in order to steer the people of Sudan through these turbulent times to the shores of peace, stability, prosperity, mutual trust and understanding between the citizens of Sudan.

And despite the widespread reservation, there are bright spots of positive response to the call for confederation in post-referendum Sudan if the South secedes. For example, consider this quote:[60]

[55] About two weeks before launching negotiation of post referendum arrangements, NCP delegation headed by Vice-President Ali Taha was reported to have tossed off the idea to First Vice President Salva Kiir and his deputy Riek Machar in Juba in the launch of "Make Unity Attractive Projects".
[56] Okuk, *op. cit*. The writer said he did not mind considering confederation as one of post-referendum options in case South Sudan secedes: "Confederation might only be possible between the country of North Sudan and South Sudan if the people of Southern Sudan decided to establish legitimately an independent and sovereign State of South Sudan, first and foremost".
[57] Akol, Yoanis Yoar: "All Separatists Unite!", *The Citizen*, 2010. Mr. Akol is a respected lawyer and former SPLM parliamentarian who contested as independent candidate in April 2010 elections.
[58] Marsu, Peter Lokarlo: "On Deliverance Day", a poem that was posted on SPLM Diaspora discussion mailing list, 4 August 2010.
[59] Alier, Abel (1992): *Southern Sudan: Too Many Agreements Dishonoured*, Paul & Co Pub Consortium.
[60] Biar, Zechariah Manyok: "Confederation: Is it a good idea?", *Sudan Tribune*, 5 July 2010.

> "A confederation is not a bad idea because it answers some tough questions that we cannot answer under unity-separation-only model. But this confederation will only be an option if South Sudanese have chosen to be a different country in 2011. The confederate government will give both the North and the South a bigger market that we desperately need in the world of today".

As a follow up to an earlier contribution to the debate,[61] this author has argued elsewhere that confederation is a good strategy for South Sudan to tactically choose secession and then enter into a confederate arrangement with the North and be ready to give up some of its oil revenue to the North to improve its chances of building its new nation in peace and stability, and that the South should not see secession as an end itself, but rather as a means to attaining freedom.[62]

The deadlock that ensued after South Sudanese independence over the amount of transit fees South Sudan should pay Sudan in order to continue to transport its oil through Sudanese ports, and the subsequent shutdown of oil production in January 2012 is a testimony to the absence of a negotiated holistic strategy to manage post-secession Sudan and South Sudan relationships.

4. How does North Sudan Feel about Confederation? Is it a Better Form of Secession?

At official level, there was a clear readiness to discuss the issue of confederation as previously mentioned in the paper. For example NCP leaders were positive about proposals made by Egypt regarding confederation. The wisdom that loosing one limb is better than loosing two applies to the NCP-led Khartoum government which would rather not take all historical responsibility for splitting up of the country into a Northern and Southern independent states. There is no easy answer as to why the NCP rejected confederation when it was initially proposed in Abuja in 1992 and Machakos in 2002.

However, we may get some clues from when Egypt invited the SPLM and the NCP to discuss post-referendum arrangements in June 2010. The two parties then locked horns trying to trade secularism against Islamic Sharia constitutions.[63] As Idris observed, "some northern elements campaigned for separation of the South to ensure the formation of a purified Arab-Islamist state in the North".[64]

An NCP insider and former minister of finance and economic planning in the Sudan central government, Abdel Rahim Hamdi, made some bold if not blunt recommendations to the government regarding North-South relationships in the event of a secession vote in a

[61] Akec: "Call for Renewable Confederation", *op. cit.* Also refer to Arabic translation by Ahmed Hassen Mohamed Salih in *Rayaam* daily, 18 June 2010.
[62] Akec, "To Confederate or not to Confederate", *op. cit.* The author argued that unity, independence, and confederation are all strategies to achieving freedom; and that our concern should be to find what works best to achieve the goal, and not what it is called.
[63] "Egypt Invites Sudanese Partners for Talks on Post-Referendum Arrangements", *Sudan Tribune*, 28 June 2010. Here the parties agreed to disagree and ended up signing a vague MOU and a roadmap on issues of oil, security, demarcation of borders etc.
[64] Idris, *op. cit.*, p. 124

workshop organized in Khartoum by the Faisal Islamic Bank.[65] The former finance minister called for normalization of relations with the South in the event of secession, through opening up of North-South border, and provision of four (4) freedoms: movement, employment, ownership, and residence. He also advised the parties to the CPA not to tie borders´ demarcation with referendum, and called for the formation of an economic union between the North and South Sudan with inter-state institutions to manage the relationships between two independent states.

On the academic front, a number of researchers and political experts called for a constitution to regulate the relations between the predecessor and successor states; maintaining that since it was highly likely there was going to be a secession vote, there was no need for the government to conduct a referendum as it should declare South Sudan´s independence inside the National legislative Assembly instead.[66] They also called for open borders, and a summit of heads of states where there must to be an equal representation in inter-state bodies. They also proposed that decision-making in inter-state bodies be by unanimity.

At the level of political parties, both the Umma and DUP parties support confederation as an alternative to full secession.[67] The National Popular Party leader, Hassan Al-Turabi, however, dismissed the recent Egyptian proposal of confederation as "valueless and arcane" in an interview with Al-Sharq Al-Awsath.[68]

At a popular level, a new campaign organization named Movement for Assertion of Rights and Confirmation of Citizenship was formed in Khartoum. It called for dual nationality for Southerners in the South and Southerners in the North and four (4) freedoms for all the citizens in the North and the South.[69] This quick overview of North Sudanese feelings about confederation or other models of cooperation is not exhaustive by any stretch of imagination. However, it points to the possibility that with time, the majority of Northern Sudanese could welcome an initiative to confederate with South Sudan.

5. The Stance of the International Community in Respect to Confederation

As the date of conducting South Sudan´s self-determination approached, the international community was getting concerned about the lack of a road map that clearly addressed vital post-referendum arrangements that included the nature of North-South relationships capable of tackling the unresolved outstanding political issues such as the Abyei referendum, management of oil and water resources, demarcation of North-South border, and the citizenship rights of the soon to be independent neighbouring states, movement of people and ownership of property, among others.

[65] Zain Albdeen: "Faisal Bank Workshop on Implications of Referendum", *Al-Sahafa*, 17 October 2010, p. 7.
[66] Azreg, Khalid Al-Balula: "North-South Relationships: Experts Call for Declaration of South Independence and Formation of National Government", *Future Trends Foundation Workshop*, October 2010.
[67] Al-Bashir, Mona: "Post Referendum Sudan: Confederation a Safety Valve against Secession", *Sudan Vision Daily*, 18 July 2010. Mona reports that Sadig Al-Mahadi submitted the proposal to SPLM during Juba meeting. Also that the DUP leader, Osman Al Merghani lea welcomed confederation caution that it needs to be carefully studied first.
[68] "The interview of Dr. Turabi", with *Sharq Al-Awsath*, republished *in Akhbar Al-Youm Daily*, 11 November 2010, p. 7.
[69] Personal communication with organizers and reading their press release dated 25 October 2010.

Some analysts went as far as expressing deep doubts, though in good faith, about the practicality of South Sudan´s secession without making compromises in regards to sharing of oil revenue, and reaching a framework agreement on institutional cooperation with the North.[70]

This concern caused the head of AU High Level panel, President Thabo Mbeki to propose a confederation to the CPA partners as one of viable post-referendum options in the event of South Sudan´s secession by encouraging them to consider forming: "two independent countries which negotiate a framework of cooperation, which extends to the establishment of shared governance institutions in a confederal arrangement".

President Mbeki also reminded the NCP and the SPLM of the changing times, saying: "In the 21st century, the world has changed, and especially Africa has changed. No nation is an island sufficient unto itself. The African Union is itself an expression of the African continent's desire for integration and unity".

The US Secretary of State, Mrs. Hilary Clinton, warned the international community to do more in preparation for January 2011 and described the referendum process as a 'ticking time bomb', given that the outcome was more likely to be in favor of Southern secession. She prodded the South to agree some accommodation for the North to reduce the chances of a renewed conflict.[71]

President Barack Obama in his September 24 New York meeting of UN Security Council underlined his concern for Sudan's future when he said: "What happens in Sudan in the days ahead may decide whether a people who have endured too much war move towards peace or slip backwards into bloodshed. And what happens in Sudan matters to all of sub-Saharan Africa, and it matters to the world…".[72]

What's more, the Egyptian foreign minister made a proposal in November 2010 to two of the CPA partners (the SPLM and the NCP) to consider confederation in the event of Southern secession.[73]

The then UK Secretary for International Development, Mr. Andrew Mitchel, stressed in his visit to Sudan in November 2010 that he discussed with the government officials the importance of holding referendum on time and setting up "cooperative institutions after Southern secession".[74]

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[70] Vertin, Zak: "Look Beyond January for Sudan", *International Crisis Group*, 29 October 2010. Vertin sees NCP to be striving to win concessions and that it would be short-sightedness if South fails to agree a solid framework for a peaceful post-referendum era. Asworth, *op. cit*, p. 19. Asworth concluded his comments on confederation as one of viable post-referendum options by saying: "At the moment southerners do not want to hear talk of anything but secession. However the possibility that an independent South Sudan may one day in the future want to form a confederation on equal terms should not be ruled out". See also Mc Hugh, *op. cit*, p. 9.

[71] Clinton, Hillary: "South Sudan referendum is 'time bomb'", *BBC News Africa*, 9 September 2010, at http://www.bbc.co.uk.

[72] Kaufman, Stephen: "Obama Urges Sudanese Leaders to Embrace a Peaceful Future", *AllAfrica* , 24 September 2010, at http://www.AllAfric.com.

[73] "Egypt Proposes Confederation between North and South Sudan", *Almasryalyoum*, 3 November 2010, at http://Almasryalyoum.com.

[74] "UK To Assist in Demarcation of North-South Borders", *Sudan Tribune*, 9 November 2010, at http://www.sudantribune.com.

All this expressed concern demonstrates the importance the international community attached to post-referendum Sudan and how relationships could be managed in order to create two viable states.

6. The Economics of Secession and Implications for North and South Relations

Before South Sudan´s independence, seventy five percent of Sudan's 6 billion barrel proven oil reserves was found in the South. Transportation and sale of oil takes place through the North. Ninety eight percent of the revenue of the government of Southern Sudan came from oil revenue. When South Sudan seceded, the government of Sudan lost fifty percent of its oil revenue. There were 1.5 million Southerners with families living in the North. 6 million Northern nomads spent 8 months in a year in the South Sudan in search for pastures and water for their livestock. Unquantifiable number of South Sudanese travel to the North for medical treatment. There were a large number of Northern traders in the South. Northern Sudan needed South Sudanese labour in construction sector and other productive industries. At least fifty (50) percent of academic staff in Southern universities were Northern Sudanese.

What all this showed is that the economic interests between the North and the South were too intertwined to be sorted successfully by any system of political accommodation except through structured and institutional cooperation between the Northern and the Southern states.

7. General Discussion

This paper has tried to trace the evolution of confederation as a concept in Sudan- South Sudan political vocabulary with a view to renewing the debate on the topic. Most specifically, the paper has addressed itself to highlighting the reasons why confederation between Sudan and South Sudan has the potential of managing good relationships during the first few years of South Sudan´s transition to independence with a possibility to adopting it in the long-term. As Sudan and the international community prepared for referendum in January 2011, it became very apparent to all that agreeing on a number of post-referendum arrangements could speed up the process and could result in a more acceptable outcome for all, leading to recognition of the result if South Sudan independence vote.

The ruling party in the North (the NCP) was suspected to be playing delaying tactics in order to score as many concessions as possible from SPLM which is the ruling party in South Sudan and cosignatory to the CPA. Moreover, this author suspects that the NCP was reluctant to take full moral responsibility for splitting up of the country and thus is looking for a face-saving grace. On its part, instead of taking the lead in making the necessary compromises, SPLM was fearful of its political popularity and future in the South Sudan and hence decided to follow the public mood, wherever it might lead. That is, SPLM is did things right as oppose to doing the right things.

Moreover, confederation, as far as Southern opinion (SPLM included) was concerned, is akin to taking one step forward and two steps backward. This, in SPLM view, may unnecessarily be giving a moral victory to the NCP, which would likely jump up to the claim

of having won the 'battle for unity.' On the other hand, by dragging its feet in honoring the Hague ruling on Abyei's border and putting countless obstacles in the way of completing the referendum, the NCP succeeded in deepening mistrust and blowing away any chances for South Sudan to consider a confederate arrangement with the North. Given these seemingly insurmountable political obstacles, it appears at the surface as if the deadlock over Abyei will jeopardize future relation between the two countries.

Furthermore, the psychological scares for those who have been affected by South and North going their ways without proper institutional arrangements to resolve problems and address issues that are common in nature to the two Sudans, specially in transition zones, are too grave to calculate or quantify. For example, the Messyria tribe depends on the NCP to defend their interests. People of Nuba Mountains and Blue Nile states were thriving in the shadows of the SPLM protection. And when the SPLM uprooted and moved southwards, its protective shadows moved with it, thus jeopardizing the livelihood of those who depend on its presence in the union.

Yes, confederation gives some, albeit superficial moral victory to the NCP which it needs in order to save its face, but does not compromise the independence of South Sudan. On the NCP side, it should try to honor what it has agreed to without hesitation even if it has to take some hard decisions like what Ariel Sharon had to do with the Jewish settlers in the West Bank when he forcefully removed them to honor Israeli pledges to Palestinians. It would be instructive if this confederation is adopted initially for, say four years, after which its performance may be reviewed by the North and the South. It should be an internationally recognized pact and supported with guarantees. The cooperation agreement reached between South Sudan and Sudan in Addis Ababa on the 27th July 2012 if successfully implemented, could be a good starting point to push the relationship towards a confederate arrangement. And although the initial intention is to smooth the way to South Sudan independence, nothing will prevent the parties from developing it to any possibilities as they see it fit.

8. Conclusions and Recommendations

There is no slightest doubt that confederation is the missing link in Sudan's South Sudan post-referendum relations. It creates a win-win situation for all people of Sudan, with the South taking most out of it than it can do with separation-only paradigm. While allowing the South to satisfy long held yearning to determine its future, it does so without doing away with historical, economic, and cultural ties with the North. It also absorbs any adverse effects that would result from splitting Sudan after more than a century of coexistence with all its imperfections. An initial agreement or a guaranteed signal in that direction will go a long way in easing the rising tensions. The promised four freedoms the CPA parties have been touting and have been later included in Addis Ababa Agreement of September 2012, are better served under confederate arrangement. Thus, it rests on the international community to encourage Sudan and South Sudan to make a bold move towards striking a deal on future confederate arrangements.

If and when the parties move towards confederate arrangements, Sudan will be symbolically united; that is, united more by mutual interests as opposed to history, prestige, or birth rights. Practically, there will be two independent states cooperating and complementing each other's economies; each bringing into the union its comparable advantage.