

# GOVERNANCE CONDITIONS, ROLES AND CAPACITY-BUILDING NEEDS IN THE REBEL-HELD AREAS OF SOUTHERN SUDAN

PETER BLUNT<sup>\*,†</sup>

*Blunt & Associates Pty. Ltd., Macksville, Australia*

## SUMMARY

An assessment is made of the state of sustainable human development (SHD) and the institutions of governance that are in the process of being established in the rebel-held areas of Southern Sudan. The development roles of the main governance actors—government, civil society and the private sector—are examined and capacity-building needs are described. The importance of good leadership, institutionalised partnerships between government and national and international NGOs, and capacity building for transparency and accountability is stressed. Most pointedly, the risks of allowing governance practices, suited to the management of a liberation struggle, to spill over into the civil administration of a peaceful state are emphasised. The conditions necessary for the institutionalisation of sound governance practices are discussed. Of particular importance are a genuine desire on the part of the leadership to establish such conditions and a willingness on the part of external donors to address issues of accountability and transparency openly in collaboration with the leadership. The data are also suggestive of broad development strategies that address the bases of SHD and empowerment. These broad strategies are designed to improve the very low levels of health and education that exist in the Southern Sudan, and thereby empower people to engage in economic activity and in governance decision-making. Rehabilitation and maintenance of the physical infrastructure underlies all development activity. The findings highlight the governance difficulties faced by war-torn societies, the challenges facing post-crisis administrations and (confirming Caplan 2002) the need for such administrations to possess sufficient executive authority to be able to perform effectively in situations of ‘pre-state, post-imperial chaos’. Most critical of all, however, is the genuine interest of the major powers in doing more than—when it suits them—extinguishing the flames of conflict or establishing acquiescent political regimes following the military pacification of ‘rogue’ or anarchic states. Effective post-crisis administration and development calls for much greater commitment of resources from the major powers than has been forthcoming to date, reflecting a belief among them that equitable and sustainable global development is the preferred route to the prevention of such crises. Copyright © 2003 John Wiley & Sons, Ltd.

## INTRODUCTION

Almost 50 years of continuous civil warfare in the Southern Sudan has badly eroded social and economic development and destroyed most of the physical and the entire institutional infrastructure, placing it among the most underdeveloped regions of a continent that contains the 10 poorest countries on earth.

This article presents a profile of the governance systems and circumstances that prevail in the rebel-held areas of Southern Sudan and a snapshot of the state of human development. It also examines the roles of the main governance actors in the development and the needs for capacity building. The logic of this approach, which is explained more fully below, requires that in order to optimise governance reform or improvement, such reform must be situated within the governance context as a whole. This logic treats governance as an open system that is interdependent with the environment in which it operates. Knowing as much as possible about how the system as a whole operates and interacts with its environment is regarded as a necessary condition for the optimal targeting of reform and making the best use of available resources. This approach is more feasible in crisis or post-crisis states because

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\*Correspondence to: P. Blunt, P.O. Box 364, Macksville, NSW 2447, Australia. E-mail: peterblunt@yahoo.com

†Peter Blunt is a freelance consultant in development management and governance and Adjunct Professor of Management at the Northern Territory University, Australia. He has held tenured full professorships at universities in Australia, Britain and Norway. Professor Alfred Lebit Lukadji, Catherine Gitau, Anai Mangong Anai and Enok Manyon Malok provided assistance with data collection.

governance systems in such circumstances are in the early stages of development or reconstruction, or do not exist at all. The approach is necessary because such knowledge and understanding is not readily available.

The more usual approach to governance or civil service reform, involving the analysis of single institutions, clearly makes sense where a governance system is reasonably well established and more is known about the operation, strengths and weaknesses of the system as a whole—although even in these circumstances there is considerable benefit to be had from better and more thorough, contextualisation.

The liberated areas of Southern Sudan<sup>1</sup> comprise all of that part of Sudan that was classified as Southern Sudan during the British colonial period, plus the Nuba Mountains and the region known as Funz. At present, Southern Sudan is divided into three administrative regions: Upper Nile, Bahr el Ghazal and Equatoria—see Figure 1. Sudan as a whole is the largest country in Africa with a total area of about 2.5 million square kilometres, of which the rebel-held areas constitute about one half.

In the year 2000, UNICEF estimated the total population of the rebel-controlled areas of the southern part of Sudan to be about 5 million (UNICEF, 2000). The inclusion of Nuba Mountains and Funz in the rebel-held areas will increase this figure significantly. The most populous region is Bahr el Ghazal (more than 56% of the total), followed by Equatoria (about 32%) and the Upper Nile. One of the consequences of the protracted liberation struggle is that there are twice as many women as men in the adult population. Approximately 58% of the population is below the age of 17. The population is growing rapidly, with a crude birth rate estimated by UNICEF at almost 50/1000.

### *Background*

For almost half a century, the people of Southern Sudan have been engaged in a bitter liberation struggle with successive Governments of Sudan based in Khartoum. It is a war that has resulted in the deaths of at least two million southern Sudanese and the displacement from their homes of many millions more. There have been horrifying human rights violations on a grand scale. With the exception of large parts of western Equatoria where war damage is relatively limited and has resulted mainly from sporadic bombings, there has been widespread destruction of, or serious damage to, physical infrastructure. The institutional infrastructure of government has been completely destroyed. Until recently, it was also a war that had not impinged greatly on the economic or strategic self-interests of the major world powers and had therefore failed to attract their serious attention or that of the international media. Accordingly, it is a war that for the most part has been conducted in the shadows of history—a war that has resulted in more death, destruction and suffering than many conflicts whose causes and casualties for other reasons have been widely publicised by the world's media.

However, the discovery of oil and gas in commercial quantities in the south and the recent spate of terrorist attacks on targets in the USA and in other countries around the world have aroused international interest in the conflict in Southern Sudan.<sup>2</sup> At the same time, in this new global climate, outspoken regional support for the Government of Sudan has lessened. These developments are likely to have a significant bearing on the prospects for a peace agreement arising out of the mediated discussions taking place between the two sides that are set to resume in Kenya in early 2003.<sup>3</sup>

A critical feature of the discussions that have taken place is the likely length of the 'interim' or transition period between the date of final agreement and the attainment of full independence by the south, or some other agreed form of autonomy. It is probable that the transition will last for about 6 years. During this period, the south will have a limited form of autonomy, which may include a freeze on the commercial exploitation of some or all of its major oil and gas reserves that constitute its major potential source of revenue. If this turns out to be the case, then the south will have to continue—as it does now—to rely heavily on development support provided by a wide range of international NGOs and bilateral and multilateral developmental assistance agencies, and on community

<sup>1</sup>The towns of Malakal, Wau, Bentiu, Bor, Mongalla, Juba and Torit are still held by the Government of Sudan. All of these towns are surrounded by rebel-held territory. The area classified as Southern Sudan is in dispute. The definition given here is the one preferred by the rebel movement.

<sup>2</sup>Concerns about the Nile have meant that Egypt has always been interested in the course of the conflict and opposed to secession. Arab solidarity in the region has also played a part.

<sup>3</sup>Recent outbreaks of pockets of fighting may have put in jeopardy the resumption of peace negotiations.

self-help initiatives. This reality will severely constrain governance and development possibilities during the interim period.

### *Purpose and structure*

The purpose of this study is to begin the process of compiling a comprehensive governance profile<sup>4</sup> for Southern Sudan, that is, to begin to lay the foundations for the construction of an improved system of governance in those parts of Sudan that are controlled by the Sudanese Peoples Liberation Movement (SPLM).<sup>5</sup> The simple philosophy underlying this purpose is that any system of governance<sup>6</sup> should be designed to satisfy the most pressing human and other development needs of the communities that it serves, in a sustainable manner, and this should be done in ways that take close account of local circumstances and resource availability—in particular, the profiles of human, environmental, financial and non-renewable resources that exist in the ‘state’ to be governed.

Clearly, governance policy should also be based largely on as good an empirical picture of human and other development needs as can be obtained at the time with the resources available. The character and limitations of existing forms of governance are also crucial to policy calculations.<sup>7</sup>

In summary, this study sets out for Southern Sudan a preliminary account of both sides of the governance equation, that is: on one side, the condition and character of the (preferred) aims of governance as they exist today or the state of economic and social development and, on the other, the character and condition of the existing institutional apparatus and partnerships designed to address these objectives. As indicated earlier, an assessment of capacity-building needs and priorities demands as complete a governance picture as it is possible to create in the circumstances.

The current condition of development in the country is described, first in terms of health, education and income, which are major components of sustainable human development (SHD); and second in terms of physical infrastructure. This is followed by a description of the current condition and character of the major elements of governance that exist in the three regions of Southern Sudan. The latter is rendered in terms of administrative, legal, law enforcement, financial, economic management, parliamentary and electoral institutions.<sup>8</sup> Reference is also made to the significant role of civil society and to the (understandably) much more limited part currently played by the private sector. To reiterate, SHD can be seen as the ends or aims of governance in Southern Sudan, while the government apparatus, civil society and the private sector can be seen as the means. An assessment of their condition should inform the construction of an improved system of governance and the nature and aims of any capacity building associated with it.

Despite the extreme operational difficulties and resource constraints facing the leadership of the SPLM in the Southern Sudan, it has begun to take some steps towards the establishment of a civil administration there. These steps are commendable under the circumstances and demonstrate the leadership’s<sup>9</sup> commitment to the expeditious re-establishment of a normally functioning state once peace is restored. Nevertheless, the extent of the devastation of physical and institutional infrastructure, mentioned earlier and elaborated below, means that the governance picture is necessarily bleak. In view of the length and ferocity of the liberation struggle, the extremely difficult nature of the governance setting and severe resource limitations, this picture is to be expected.

<sup>4</sup>As used here, the term ‘governance profile’ is broader than might be considered usual in that it includes what should be the (sustainable) human development aims of government and other governance partners. However, emphasis is on the government apparatus, particularly civil administration.

<sup>5</sup>The only other document that has attempted to construct an overview of development in the south is ‘Peace Through Development: Perspectives and Prospects in the Sudan’, published by the SPLM in 2000. The study described here up-dates information presented in the earlier report and expands the areas covered, particularly in relation to the condition of SHD and the character of the evolving system of administration and other institutions of governance.

<sup>6</sup>The view of governance presented here is the conventional one (see, e.g. UNDP, 1995, 1997)—among other things, that it comprises a partnership between government *per se*, civil society and the private sector. Accordingly, in this view, the attainment of SHD is a joint responsibility. The strength of this partnership and the influence of each partner vary greatly between national governance settings.

<sup>7</sup>The leadership of SPLM recognises the urgent need for governance institution building and the development of policy to guide it—hence their participation in the workshop that formed the basis of this article.

<sup>8</sup>This is largely unexplored terrain in the Southern Sudan.

<sup>9</sup>The civilian leadership of the Southern Sudan is essentially the one that led the liberation army.

The article concludes with a discussion of the implications for governance reform and capacity building of its findings.

#### *Data gathering process, sources and limitations*

As there are few recent economic or social surveys of Southern Sudan, valid and comprehensive secondary data are either not available or in short supply.

The bases of this study are interview data gathered from a workshop involving more than 85 senior administrators and community and NGO representatives from all of the main regions of Southern Sudan. The workshop, which was conducted over a period of 10 days, was also attended for part of that time by several members of the senior leadership of Southern Sudan, including the Commissioner for Finance, the Commissioner for Law and Order, the Chief Justice, the Deputy Governor of Bahr el Ghazal and the Commissioner of Rumbek. The workshop was held in the town of Rumbek in the rebel-held part of Southern Sudan in November–December 2002.

The data gathering process entailed guided group discussions designed to provide primary data on critical aspects of governance and SHD in the Southern Sudan. On day 1, a rationale for governance improvement was presented to the plenary—described in Section 2 below. Five discussion groups were then established that represented the main geographical regions of Southern Sudan. Each day, the discussion groups would address a different topic or topics—health, education, infrastructure, civil administration, law enforcement and so on—with a view to constructing a valid picture of each aspect of governance as it applied in their own region. At the end of each day, groups presented their findings to the plenary, and common problems and issues and capacity-building needs were highlighted and discussed. The discussions were frank, open and sometimes heated. In this way, the picture of governance and SHD presented in this article was built up.

This process also served an important capacity-building function for the participants by improving their understanding of the different elements of governance and their interdependencies, as they applied in Southern Sudan and to their own working lives. It also provided crucial feedback to the leadership of the SPLM about the perceptions of their own officials and members of the public concerning the institutions of governance in the process of being established by them.

### GOOD GOVERNANCE

For any system of governance to have any prospect of working well, it must have its ‘feet’ planted firmly in the reality of the circumstances in which it is expected to function.<sup>10</sup> Critical aspects of such reality include the stage of development and the existence, strength and character of governance institutions, as well as historical and cultural factors. Systems of governance that are exported wholesale from the west and installed in developing countries without due consideration being given to local conditions invariably fail—sooner rather than later. Establishing a good fit usually requires that indigenous decision makers are sufficiently well informed to make judgements about the appropriateness of the outside help that is on offer, and not to move too far too fast (the contrast between, for example, the Commonwealth of Independent States and the Peoples Republic of China is instructive here).<sup>11</sup> While good governance must begin by establishing as good a fit as is possible between its character and that of local circumstance, culture and practice, it is also widely held that it should be guided by a number of general principles. There is also an increasing agreement about the desired aims of good governance and about the constituent parts or institutions of good governance. These matters are discussed briefly below.

#### *The aims of good governance: sustainable human development*

The conventional wisdom of development now gives due emphasis to the roles of government, civil society and the private sector as governance partners who should work together towards the attainment of social and economic

<sup>10</sup>The same can be said for management and civil service systems (see, e.g. Blunt, 1995, 2002; Blunt and Jones, 1992).

<sup>11</sup>This assumes that ‘outside’ assistance has a genuine interest in making things better, an assumption which with hindsight appears unsafe in the case of the former Soviet Republics (among others, see Collins, 2000).

goals, or SHD. In crisis and post-crisis states, to begin with, this will usually entail some kind of partnership between elements of civil society (international and national NGOs and church organisations) and the new government or government in waiting. Robert Cooper (cited in Caplan, 2002A) describes circumstances such as those that exist in Southern Sudan as 'pre-state, post-imperial chaos'.

The exigencies of war-torn states of this type require the presence of international relief agencies. International and national NGOs and church organisations are usually in the vanguard of development assistance.<sup>12</sup> Government must collaborate with these agencies in order to make the best use of their local and comparative, knowledge and experience. Such collaboration should include the type of governance assessment presented in this article, so that institution and capacity building can be contextualised and prioritised.<sup>13</sup>

SHD recognises that there should be more to development than economic growth and income. Most critically, it proposes that in order for people to satisfy economic and social needs and wants, they should be healthy and educated, and thereby empowered. This implies development of the people, meaning the enhancement of human capabilities and health so that people can participate fully in life; development for the people, meaning that all people should have the opportunity to receive or acquire a fair share of the benefits that flow from economic growth; and development by the people, meaning that all members of society should have the opportunity to participate in its development. SHD also proposes that the exploitation of natural environments and resources should be measured in order to ensure that future generations are not deprived of development opportunities and benefits available to people now. This is the idea of sustainability.<sup>14</sup>

### *Principles of good governance*<sup>15</sup>

It is increasingly widely recognised that good governance<sup>16</sup> in any setting is characterised by a relatively small number of general principles, including:

- Political legitimacy that rests on political pluralism, and periodic free and fair democratic elections—that is, a form of popular representation that allows people to have a say in decisions that affect their lives.
- Economic and social policies that are equitable and responsive to people's needs and wants and aim at eradicating poverty and expanding people's choices.
- Protection of people's human rights (e.g. the right to a reasonable livelihood and gender equality) and fundamental freedoms (e.g. speech and association).
- Freedom from all forms of discrimination—thereby allowing people to live with dignity.
- Clear, established, impartial and comprehensive legal frameworks, and law enforcement.
- Bureaucratic transparency and accountability, particularly in relation to the management of public funds.
- Freely available, valid and up-to-date information, including national accounts, cost-of-living data, employment statistics and so on. Freedom of the press and other media are crucial here.
- Effective (responsive), efficient and honest public sector management.
- Cooperation between government, civil society and the private sector in the interests of SHD.

These principles are employed in the following description and assessment of the current state of governance in Southern Sudan and in the discussion of capacity-building needs.

<sup>12</sup>Baskin (2002) notes that these situations attract the 'lightest form of intervention'—'or apparent non-intervention'—from the UN system. According to Baskin, assistance is 'driven by informal "groups of friends" and Special Diplomatic Envoys from the UN Secretary General, regional organisations and individual governments' (p.166).

<sup>13</sup>The politics of such partnerships begin with the structure of the new government itself and, in particular, the balance in its membership between leaders of the armed struggle (fighters) and the persons in exile who are frequently perceived to have lived comfortable lives abroad. Such issues may be at least partly responsible for the tensions now evident in East Timor.

<sup>14</sup>Following UNDP (1995).

<sup>15</sup>Recent discussion of the notion of 'good' governance has suggested terms such as 'humane' and 'democratic' governance (e.g. Fukuda-Parr and Ponzio, 2002; UNDP, 2002). In this discussion, we use the term 'good' governance, but incorporate some of the latest thinking on 'humane' and 'democratic' governance.

<sup>16</sup>The empirical bases (desired outcomes) of good governance are not well established. Conventional wisdom is informed primarily by ideology.

## SHD IN SOUTHERN SUDAN

The discussion that follows presents an overall picture of SHD in Southern Sudan, which reveals some of the major needs and constraints and illustrates the links (or lack of them)<sup>17</sup> between SHD and the institutions or apparatus of government and the roles played by governance partners.

### Education

There is little education beyond primary school<sup>18</sup> available in Southern Sudan. For example, in the counties of Yirol and Aweril in Bahr el Ghazal, there are about 27 primary schools but no secondary schools. In other parts of Bahr el Ghazal and Equatoria, a few secondary schools exist, but these are able to cater to only a small percentage of the places needed.

There is considerable variation in terms of access to primary schools in different parts of the three regions. For example, in Pacong *payam*, there are approximately 36 villages that have no access to education of any kind. Where access does exist, in many cases children have to walk long distances to school (up to 20 kilometres).

Education is funded almost entirely by some combination of international NGOs and church organisations and by self-help initiatives.

Needs for capacity building and change are most pronounced in the following areas:

- *Teacher training*: There is a serious shortage of trained teachers at all levels. There are very few female teachers. Many teachers are volunteers who have had no relevant training whatsoever.
- *Remuneration of teachers*: Most teachers are volunteers who are remunerated in kind (e.g. food and shelter, and access to land for cultivation) through self-help initiatives. Some schools have now started to collect fees and to pay teachers small amounts of cash. Such initiatives vary greatly between counties and regions.
- *Physical infrastructure*: Much schooling takes place under trees; where they exist, school buildings tend to be of mud brick (or grass mat) and pole frame construction, built by the local community.
- *Equipment and supplies*: There are serious shortages of books, supplies and equipment.
- *Equity and access*: As reflected in low attendance rates, especially for girls<sup>19</sup> and children of pastoral ethnic groups.
- *Curriculum development*: School curricula vary between regions. Primary schools that are near to Uganda or Kenya tend to use Ugandan or Kenyan curricula so that children, who are able to, can continue in secondary schools in these countries.
- *Vocational and distance education*: There is a small number of vocational and distance education projects run by church groups and national and international NGOs. More are needed.

It is evident from the above that responsibility for education in Southern Sudan is distributed unequally among the three governance partners identified earlier—the state, the private sector and the civil society. In particular, it is clear that the ‘state’ and the private sector currently contribute little to education in Southern Sudan. At present, responsibility for education is assumed almost entirely by civil society. This is the norm in crisis and post-crisis states. The situation highlights the need for governments to establish close working relationships with international and national NGOs and church organisations and communities, as soon as possible, after (and before) the cessation of hostilities. This is essential to the positioning of government *vis-à-vis* the delivery of basic services in the short term, so that scarce resources are put to the best use and any phasing out of such external assistance does not leave

<sup>17</sup>The absence of such links reflects either a lack of willingness on the part of government or a lack of understanding or both.

<sup>18</sup>There are estimated to be about 2000 primary schools in the liberated areas. Many of these primary schools are only able to provide education up to fourth standard, or in some cases even less. Some schools exist in name only because they have no teachers.

<sup>19</sup>Overall attendance rates are estimated to be about 37% for the children between the ages of 6–17 years. School attendance rates among girls in the Nuba Mountains are much higher than in other regions—up to 50%. There are also many more female teachers in this region. Largely cultural reasons are adduced to explain this.

gaps that government is unable to fill. It is also crucial to the transfer of skills that needs to take place between foreign workers and their indigenous counterparts.<sup>20</sup>

### *Health*

As with education, responsibility for health care in the Southern Sudan is shouldered almost entirely by civil society.<sup>21</sup> NGOs and church groups finance all aspects of health care—staff remuneration, equipment and supplies, medicines, infrastructure and maintenance and so on. Again, as for education, geographical coverage varies greatly between regions. For example, in Yirol and Awerial (population about 180,000) there is no hospital and no trained doctor. Rumbek *payam* in Bahr el Ghazal has no qualified medical personnel whatsoever.

Other significant health capacity-building issues include:

- *Water and sanitation:* About 75% of the households do not have access to clean water and a majority are unaware of its importance. Almost all households do not use sanitary latrines.
- *Health awareness and education:* Levels of health education and awareness are low and are combined with strong beliefs in traditional medicine men and women. For example, apart from eastern Equatoria, a majority of adults have never heard of HIV or AIDS (more than 75% in Bahr el Ghazal and Upper Nile).
- *Preventable diseases:* There are high mortality and morbidity rates from a wide range of preventable diseases—malaria, sleeping sickness, river blindness, TB, measles, guinea worm, typhoid and so on.
- *Health infrastructure:* There are insufficient numbers of equipped and adequately staffed hospitals and clinics and training facilities in all regions. As for education, many health facilities exist in name only. Many *payams* have no health facilities.
- *Human resources:* There are severe shortages of qualified and experienced health personnel at all levels.
- *Medicines and supplies.*

The snapshots of health and education provided above suggest that human development in Southern Sudan is similar to, and possibly worse than, other post-crisis states such as East Timor.<sup>22</sup>

### *Income and livelihoods*

For most people, income and livelihoods are based on subsistence agricultural, pastoral and fishing activities. In general terms, pastoralism dominates in Bahr el Ghazal, Upper Nile and in eastern Equatoria, while agriculture dominates in central and western Equatoria. Fishing is widespread along the Nile and its tributaries and in the 'lakes' region.

In agricultural areas, cash crops include coffee, tea, cotton, palm oil, sesame seed, tobacco and a wide range of fruits, vegetables and grains. Although depleted by war and disease, cattle herds are large and cattle trading, mainly in Uganda, is a significant economic activity.

The poor condition of roads and infrastructure severely limits commercial trading and retail activity. The devastation of infrastructure in general also severely restricts opportunities for the exploitation of natural resources such as timber, gold, iron ore, and the establishment of down-stream manufacturing and/or value-adding, particularly for timber, oil products, food (vegetables and fruit), meat (mainly beef), sugar, medicinal plants and herbs, and fish processing. Infrastructure-dependent opportunities also exist for a wide variety of tourism activities,<sup>23</sup> big game hunting and fishing, all retail sectors and road and river transport. Significant opportunities exist for the generation of hydro-electricity.

<sup>20</sup>This is easier said than done and in most cases post-crisis UN administrations have not been very good at it (see Blunt, 2001—on East Timor). Baskin (2003) observes that 'it is also the case that international officials (in such administrations) lack appropriate technical and cultural expertise' (p. 170) (brackets added).

<sup>21</sup>A small number of private health clinics have been established and many areas have private pharmacies.

<sup>22</sup>See Blunt (2001).

<sup>23</sup>For example, the Sudd swamps may have one of the largest concentrations of birds in the world.

Apart from infrastructure and transport, other limits to the development of economic activity and livelihoods, which are suggestive of capacity-building needs, include:

- The legal environment of business, including problems surrounding property rights, particularly in relation to rights to subterranean mineral deposits,<sup>24</sup> water and pasture; and contracts.
- The unreliability and partiality of the judicial system and law enforcement (see p. 10).
- Limited access to, and availability of, credit and low levels of domestic investment.
- The underdeveloped nature and relatively small size of the domestic market.
- Lack of experience and skills in business and entrepreneurship.<sup>25</sup>
- Generally low levels of education and health.
- Tsetse fly.
- Cattle rustling and banditry in the north and in the eastern Equatoria.

### *Physical infrastructure*

All of the major components of the physical infrastructure of Southern Sudan are either completely destroyed or in a serious state of disrepair.

- *Roads, railways and waterways:* In South of Juba, there is a network of (what were all-weather) roads connecting Equatoria with Kenya, Uganda, Zaire and the Central African Republic. North of Juba, the Nile, which is navigable to Khartoum and beyond, is the major arterial connection. The waterway from Wau to Malakal is choked with water hyacinth and not navigable by steamer. There is a railway running north from Wau to Kosti. Most roads are impassable during the rainy season. Many bridges have collapsed or are in a bad state of repair.
- *Power stations:* There are no operable power stations in the rebel-held areas of Southern Sudan. There are defunct hydroelectricity plants at Damazin and Nimule.
- *Communication:* This is entirely by relatively high cost radio or satellite telephone. There is no postal service.
- *Buildings:* Most government buildings have either been destroyed or are in a bad state of repair. Likewise, there has been widespread destruction of commercial buildings and private dwellings throughout the Southern Sudan.
- *Reticulated water supply:* Few urban areas have reticulated water supplies.
- *Other:* Land mines are a serious problem and will impede the rehabilitation of road networks.

The bad condition of the infrastructure is a serious impediment to the development of domestic economic activity and investment, and to FDI, and to the delivery of basic services.

### *Implications for development strategy and capacity building*

The outline of the condition of SHD and physical infrastructure in the Southern Sudan presented above illustrates something of the magnitude of development needs and the severity of development problems. Much more detailed study than has been possible here is necessary to inform policymaking and development strategy. During the interim period, the Southern Sudan will also be heavily dependent on development assistance and therefore the development interests (policies) of donors.

However, it is clear from the above that the rehabilitation of basic infrastructure is fundamental and constitutes both a necessary and a sufficient condition for the improvement of living standards, health and education. It is also clear that it will be necessary to promote development across a broad front. In particular, development and capacity-building strategies should include:

<sup>24</sup>Here possibilities should be considered for allowing landowners to charge access fees to companies that have valid claims to minerals that lie beneath their land.

<sup>25</sup>In the past, Arabs from the north controlled most retail and trading activity.



- The construction of all weather roads and bridges linking Juba and other major towns to its south and Wau to Kenya, Uganda, Zaire and the CAR. The clearing of landmines will have to be done first.
- The revitalisation of the main Nile waterway linking Juba to the north and the reopening to river steamers of the waterway between Wau and Malakal.
- The revitalisation of the railway running north from Wau.
- The establishment of basic and accessible communication systems.
- The development of a power grid and hydroelectric power generation.
- The eradication of preventable diseases and the establishment of a comprehensive primary health care system.
- The establishment of a comprehensive system of primary education.
- Teacher training for primary, secondary and, in particular, vocational training.
- The establishment of a network of vocational training institutes, focusing on basic trades, agriculture, animal husbandry and small business.

The SPLM will need to start lobbying now to generate the assistance necessary to do these things. A possible starting point would be a conference of interested donors and civil society organisations already active in the Southern Sudan.

### INSTITUTIONS OF GOVERNANCE IN SOUTHERN SUDAN

It is clear from our discussion up to this point that governance circumstances—in terms of SHD and physical infrastructure—in the Southern Sudan are among the most difficult to imagine.<sup>26</sup> Until very recently, the rebel-held areas were subject solely to the military rule of the freedom-fighting army. However, in the last few years, as prospects for a lasting peace have started to emerge, the SPLM leadership has begun to construct the framework of a civil administration, and legal, judicial and law enforcement systems outside of the army.

#### *Civil administration*

Our discussion of civil administration focuses on four crucial aspects: appointment and deployment procedures; revenue collection and financial control; formalisation of rules and procedures; and certain aspects of organisational structure.

The formal structure of the civil administration is outlined in the vision statement of the SPLM published in the year 2000 (SPLM, 2000). Beneath the national level, there are four administrative strata: regional, county, *payam* and *boma*.

Important keys to understanding the operation of the system are the following. First, civil administrators are not appointed on merit at any level. The vast majority of senior administrators are ex-army officers appointed by the SPLM leadership. There are no open merit-based recruitment and selection procedures. Administrative capacity and capability among existing civil administrators is therefore extremely limited. Skilled and experienced administrators exist outside of the system, but are not utilised because of the appointment procedures employed.

Second, civil administrators are not paid but are authorised to collect a wide variety of taxes. These taxes include: a liberation tax, a social services tax, personal income tax, customs and excise duty, vehicle registration, airstrip landing permits, road tolls, business and retail licenses, market fees, regional taxes, cattle auction tax, cattle trading tax, fishing and game hunting licences, cattle sales tax, and imposts in kind levied for the army (food and cattle). Notional percentages of each tax are allocated to different types of expenditure and for remittance to the centre. There is wide variability between counties and regions with respect to tax collection.

Third, there are no systems of financial management or control at any level. There are no 'national' accounts kept. Beneath the national level, no accounts are kept of income from the collection of taxes or of expenditure. There is therefore little or no budgeting. There are no systems of financial or performance audit.

<sup>26</sup>There are interesting parallels to be drawn here between development conditions such as those outlined in this article and the conditions created by natural disasters or complex emergencies of other kinds (see Christopolos, 2000).

Fourth, there is little or no formalisation of rules and procedures of any kind. The management of the civil administration is therefore highly personalised, and extremely hierarchical and militaristic.

The system of civil administration that has been instituted in many respects operates along similar lines to the liberation army and, as we have seen, is controlled by the same people.

An unsurprising, and well-founded, consequence of all of this is that ordinary people feel that the primary purpose of the civil administration is to provide opportunities for the personal enrichment of its senior officers and their sponsors. The absence of financial controls and evidence of 'publicly funded' development activity makes it difficult to prove otherwise. The political risks, and development costs, of allowing such a system to persist are clear.

In the aftermath of hostilities, these risks are heightened because financial flows of different kinds increase in magnitude and variety, and the people who are benefiting most from the *laissez faire* management of funds by government have a vested interest in the maintenance of instability. Post-conflict administrations have experience of such developments. Baskin (2003) notes that 'if the international administrators choose early on to emphasise a set of "attractive" investments in economic production and civil society, this assistance is likely to end up in the pockets of individual leaders of transnational groups—both inside and outside government—that maintain a stake in continued instability' (p. 169).

### *Legal and judicial systems*

The legal system incorporates, at its foundations, important elements of traditional or customary law and practice, along with common law and statutory law. Parliament has not met since late 1999, so there is a significant backlog of legislation awaiting enactment. There are therefore significant gaps in the legal system.

The judicial system comprises six tiers: executive chief, *boma*, *payam* and county courts, high court and court of appeal.

There are severe shortages of trained legal personnel at all levels.

Many of the problems that are present in the civil administration are also evident in the judicial system. In particular, there is no system of financial control governing the management of funds derived from fines and court fees. That is, there is no financial transparency or accountability. The appointment of judges is perceived not to be based on merit, and judges are perceived to be open to influence. Moreover, judges are perceived to prefer civil disputes to criminal cases because of the better opportunities for (personal) income generation associated with the former. The judicial system is therefore perceived to be partial and self-serving.

As for the civil administration, the political risks, and development costs, of allowing such a system (and perceptions of it) to persist are clear. Baskin (2003) reinforces this point: 'Security and justice systems must be addressed early on to ensure the further success of the (post-conflict administration)' (p. 169).

### *Law enforcement and prisons*

As with the civil administration, the vast majority of police and prison personnel comprise ex-army non-commissioned officers (NCOs) and enlisted men. Many of these men were demobilised and transferred to the police and prisons because they were approaching retirement age or were disabled physically. Very few of them have had any experience of police or prison work or any training for it. Most police officers formerly held the rank of NCO in the army.<sup>27</sup>

Neither the police force nor the prisons are funded centrally. Personnel are not paid. There is no official central funding made available for equipment, supplies, transport or infrastructure (buildings). Like the civil service, the police force is therefore 'self-financing'. Various forms of public harassment are used to generate income—from roadblocks for vehicle 'fines' to false arrest.

As with other governance institutions, there is no financial transparency or accountability.

<sup>27</sup>It was clear from our discussions that service in the police force or prisons was considered to be much less desirable than service in the civil administration, no doubt because of the more limited opportunities for income generation available there.

There is no funding to feed or house the prisoners or to care for their health needs. Families must provide for prisoners' needs or they are not provided for at all. The prison service has fewer opportunities for 'self-financing', and is therefore less sought after as a transfer or deployment destination.

One of the police force's primary roles is to provide 'protection' to civil tax collectors and the judiciary and to assist with the enforcement of court rulings—particularly where the collection of court fines and fees are concerned.

Law enforcement is complicated by the wide distribution of small arms in the community, and the almost half century of war and semi-anarchy, which is said to have made the population at large less law-abiding.

#### *Financial and economic institutions*

As might be expected, none of the essential components of the financial institutions of governance exists. A Commission of Finance, headed by a Commissioner, has been established but the means are not yet in place for it to do its work. There is no central payments authority or central bank, and no commercial banks or other commercial financial institutions. As we have seen from earlier sections of this report, there are no effective financial control mechanisms in place within the government (such as financial reporting and financial audit).

Economic transactions are conducted in a variety of currencies—mainly Kenyan and Ugandan shillings, US dollars and Sudanese pounds.

None of the components of the institutional apparatus, necessary for the exercise of macroeconomic management, currently exist at all or, if they do exist, do so in a less than satisfactory form. For example, the absence of financial controls makes impossible the exercise of effective fiscal management, control of imports and exports, and so on.

#### *Electoral and parliamentary systems*

The first and only election held in Southern Sudan was conducted in 1994. Parliament has 204 members elected from the membership of lower-level elected bodies (liberation councils) comprising the SPLM national congress. Liberation councils at each level are elected by SPLM congresses. As indicated earlier, parliament has not met since late 1999, largely, it is said, because of the significant costs involved. Regional congresses are still in the process of being established.

At present, the electoral system does not allow for competing political parties. Neither is it clear what the life of parliament is, nor the tenure of members of parliament. A defined constituency of voters does not elect members of liberation councils.

The SPLM's vision statement contains a reasonably detailed account of the proposed structure and roles of elected bodies at the *boma*, *payam*, county and regional levels. This structure has not been established.

#### *Implications for development strategy and capacity building*

The most striking, and politically fraught, aspects of the nascent institutions of governance in the Southern Sudan are the absence of transparency and accountability, particularly in relation to finance, and the absence of merit-based appointment procedures. These characteristics of the systems seriously undermine public confidence in the institutions of governance.

Among other things, capacity building will need to address:

- The development and implementation of merit-based appointment procedures. Incumbents should be required to apply for their positions, which should allow for some form of what is perceived by the public to be relatively open and merit-based competition.
- The calculation of salary scales, and the payment of salaries to all civil servants (including teachers, health and agricultural workers), legal and law enforcement personnel.
- The establishment of transparent systems of financial control for all levels of the civil administration, the judiciary and courts, and police and prisons. These will include management accounting systems and systems of financial and performance audit.

- Training for senior administrators, particularly in financial management and development planning.
- A functional review of the electoral and parliamentary systems, which have been dormant for about 10 years.

The major elements of the financial institutions of governance need to be established as a matter of urgency, as do mechanisms for macroeconomic management. This will require separate detailed study.

## CONCLUSION

Almost all development activity in the Southern Sudan is undertaken by civil society, primarily international development assistance agencies and NGOs and church organisations, and by the communities themselves. There is little evidence of tax revenues being used for development purposes.

Until very recently, the energies of the SPLM have been devoted entirely to waging the liberation struggle and all available human and financial resources have been directed to this end. Financial resources have been, and are, in short supply, and are likely to remain so in the short to medium terms. The Southern Sudan will remain heavily dependent on international development assistance for many years to come, at least until revenues from major mineral reserves (mainly oil) can be realised following independence or some other agreed form of autonomy.

Encouraged by the commencement of the latest rounds of peace negotiations, which are set to continue in early 2003, attempts have been made by the SPLM leadership to establish the foundations of a normally functioning state—a civil administration, legal, judicial and law enforcement systems, and electoral and parliamentary institutions.

It is to be expected that under the extremely difficult conditions that prevail, a number of the central institutions of governance have yet to be established. Of those that have been established, most do not function as they should, while others exist in name only.

The establishment of good governance in a peaceful Southern Sudan will depend greatly on the continuing confidence of the citizenry in its elected leadership. Public trust and confidence are usually hard won, easily lost, and—if lost—exceedingly difficult to regain. The maintenance of public confidence in governance is a function of many factors. Among the most important of these is the extent to which citizens perceive that the behaviour of public officials is determined more by the interests of the community than it is by self-interest or by (particularistic) allegiances of other kinds, such as those based on kinship or ethnicity. Public officials must be seen to be acting impartially in the general public's interests and to be held accountable if they do not. Transparency and accountability, particularly in relation to the management of public funds, are therefore crucial to good governance because the maintenance of public confidence and trust in the system of governance depends largely upon them. Without them, political legitimacy can be seriously undermined.

The corruption of public officials is clearly more likely, perhaps inevitable, if they are unpaid—as in the Southern Sudan—or paid irregularly.

The ways in which public officials are appointed also impinges directly on public perceptions of government probity. Public confidence and trust is usually greater if officials are appointed on the basis of merit.

At present, these essential elements of good governance do not exist in the Southern Sudan.<sup>28</sup>

Of most concern are the following issues,<sup>29</sup> which deserve to be given priority for capacity building:

- The fact that public officials are not paid.
- The absence of financial controls at all the levels and in all the arms of the civilian administration, the judiciary, the police and prison services.
- The absence of merit-based appointment procedures.

<sup>28</sup>It is of course arguable whether these are universal imperatives of good governance, but the evidence suggests that SHD is more likely where they exist.

<sup>29</sup>Feedback obtained from workshop participants about what they would most like to see happen next ranked such actions highly.

- The weaknesses of legislation and written rules and procedures governing the behaviour of public officials.
- The absence of financial institutions and mechanisms for macroeconomic management.

One of the most important implications of these findings concerns the unsuitability of (liberation) army administration and revenue raising (and accountability) practices to civil administration. When money is being raised and people are being conscripted to fight a war, citizens may accept a variety of irregular practices and be forgiving about the absence of transparency and accountability. On the other hand, as suggested above, in peacetime people will want to see reasonable levels of taxation being put to good use by civil servants who have been appointed on merit and are held accountable for their actions. As Baskin (2003) notes, the trouble is that the 'the absence of order at the end of wars provides fertile soil for the flourishing of organised crime and for the arbitrary intimidation of political and ethnic minorities' (p.168).<sup>30</sup> Baskin (2003) reinforces the conclusions reached here by stressing the necessity 'to assist the police, judiciary and correctional system to improve their management and administration' (p. 168).

The findings also stress the fundamental—and clear—importance to all aspects of sustainable development of the rehabilitation of basic physical infrastructure. Attention also needs to be given to primary, secondary and vocational education, and primary health care. Capacity building in these areas is crucial to the empowerment of citizens and their ability to participate in governance decision-making and to make the most of the opportunities afforded to them.

The better management of public finances by government should be based partly on discussions (which should be institutionalised) with civil society concerning their understanding of development issues in Southern Sudan and their development capacities and intentions. International development assistance agencies will have a major part to play, and a responsibility to target their support at the most critical needs and to produce results. This will require further study of the issues raised in this article and timely action.

The resources and time required to address this limited range of development issues will be considerable, and much explanation will need to be given to a public whose expectations of what autonomy can deliver and how quickly, are invariably disappointed by the slow pace of progress. This is clearly an area for fruitful collaboration between government and civil society organisations. It also suggests the importance of establishing as quickly as possible public broadcasting media in the Southern Sudan—particularly radio—that can be used for a wide range of educational purposes.

Most important of all, however, will be the extent to which the new government wants and is able quickly with outside help, to establish a civil administration that is meritocratic, equitable, impartial, transparent and accountable. This will be a function of the quality of leadership—in particular, its commitment, and its integrity and authenticity, that is, the extent to which its actions are seen to be in accordance with its rhetoric. It will also be a function of the ability of the post-crisis administration to develop as quickly as possible local capacity, so that Southern Sudan is not 'plagued' by severe deficiencies of skills and experience observed among indigenous government officials in other post-crisis states, such as East Timor (Baskin, 2003).

It is clear that the quality and character of post-conflict administration—and the pace, equity and sustainability of development—will depend greatly on the way the issues raised in this article are addressed. The extent to which they are not addressed increases the validity of a conclusion by Caplan (2002) concerning the necessity for transitional administrations to possess 'full executive, as opposed to supervisory, authority' (from Baskin, 2003, p. 163). If, as seems likely in post-conflict Southern Sudan, there is no formal international administration, then the findings presented in this article and the manner of their resolution become vital to the 'establishment of strategic priorities, the division of authority among domestic and international officials (and agencies) and capacity building' (Baskin,

<sup>30</sup>These conditions are also conducive to the development of what Duffield (2000) refers to as 'criminalized networks of trans-border trade', which are used by 'competing warlords' (or, as may be more applicable in Southern Sudan, political movements) to 'support their political aims'. Duffield also draws attention to the emergence of a new security community composed of NGO's, private security agencies, multinational companies and governments, which he attributes to the privatisation of international security, market deregulation and trans-border penetration—or what he refers to as 'emerging political complexes' in the south.

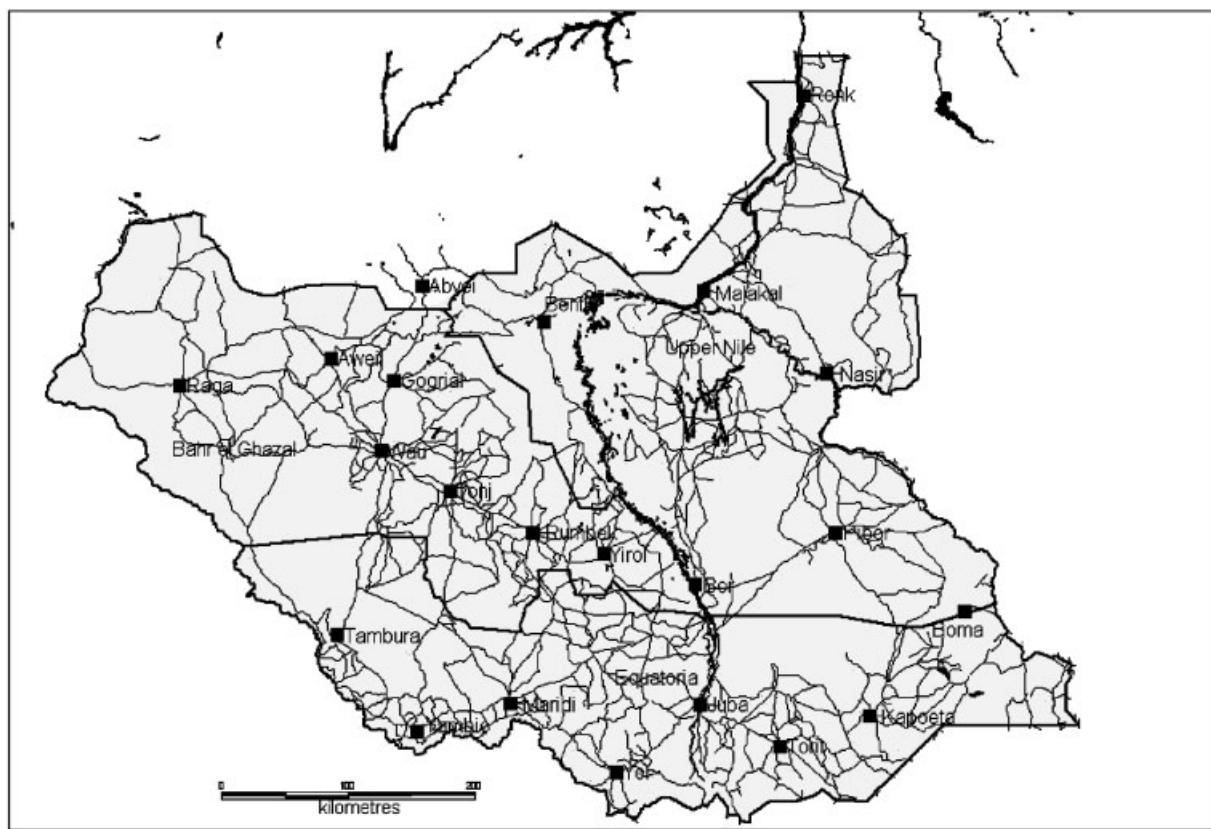


Figure 1. Map of Southern Sudan

2003, p. 167). It also seems more than likely that whatever form of post-crisis administration emerges in Southern Sudan, it will need to be able to cope with the wide range of day-to-day grievances brought to its doorstep by citizens (see Baskin, 2003, p. 161), as well as the rapid 'development of an effective administration and political system' (Baskin, 2003, p. 161). Baskin's review of UN post-crisis administrations in Kosovo and elsewhere concludes that they have been possessed of neither sufficient strategic direction (from the UN) to 'provide a detailed map through these thickets of governance and administration' nor sufficient capacity or capability to deal with them. The UN administration in Kosovo is said by Baskin to have been 'overwhelmed with the enormity of the many tasks' (p. 162) with which it was confronted. As Baskin points out, weak post-crisis administrations leave voids that are readily filled by opportunist groups of different kinds—in the case of Kosovo, by 'hardliners' of the former Kosovo Liberation Army. Precisely the same risks are becoming apparent in East Timor,<sup>31</sup> and possibly Afghanistan, and will attend a post-crisis Southern Sudan.

However, important though they are, better post-crisis administration is not just a matter of the institutional technicalities—clarity of mandate, strategic flexibility, willingness to delegate to the field, planning, coordination, operating procedures and so on, which Baskin (2003) and Caplan (2002A) agree have been missing from such administrations in the past. More critical is the genuine interest of the major powers in doing more than—where it suits them—extinguishing the flames of conflict or establishing acquiescent political regimes following the

<sup>31</sup>It is worth noting here that in 2002, the Security Council of the UN approved funds from its peacekeeping budget for technical assistance to the government of East Timor following independence, thereby acknowledging the importance of the maintenance of peace of a functioning administration capable of delivering basic services (the argument and evidence for this is contained in Blunt, 2001). This had never been done before. The disturbances in East Timor since independence may well have been worse had it not been for this assistance.

military pacification of 'rogue' or anarchic states. As much as anything, half-baked post-crisis administration is a reflection of a lack of sufficient political interest and will among the international community. Effective post-crisis administration and development calls for much greater commitment of resources from the major powers than has been forthcoming to date, reflecting a belief among them that equitable and sustainable global development is the preferred route to the prevention of such crises. The fact that there is, as Caplan (2002A) suggests, a 'deep reluctance in the international community to become involved in the business of administering the territories of other states and peoples' (from Baskin, 2003, p. 165) bodes ill for significant change in the short term. Moreover, this newly-found squeamishness on the part of recently colonial powers would be heartening were it not for its coexistence with an apparent willingness to take much sterner and more intrusive 'non-administrative' measures on grounds of transparent self-interest. This duality on the part of the international community seriously undermines the credibility of all post-crisis administrations and makes their already difficult jobs more difficult.

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