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# SUDAN LOCAL GOVERNANCE ASSESSMENT

## SOUTH SUDAN AND IN THE THREE AREAS

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This publication was produced for review by the United States Agency for International Development. It was prepared by Peter Feiden, MSI Team Leader, Dr. Mom Arou, MSI, and Jaime Arteaga, USAID, Management Systems International.

# Sudan Local Governance Assessment

## SOUTH SUDAN AND IN THE THREE AREAS



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## EXECUTIVE SUMMARY

The main parties to Sudan's North-South conflict signed the Comprehensive Peace Agreement (CPA) in early 2005. However, public support for the CPA will in part depend on legitimate, democratic governance that can deliver so-called "peace dividends" to Sudanese citizens. The absence to date of visible development in many parts of Southern Sudan and the Three Areas (Abyei and contested areas in the states of Southern Kordofan and Blue Nile) has dampened enthusiasm for the CPA, opened governments at all levels to criticism and hindered resolution of local conflicts.

The purpose of this assessment is to inform the development of an integrated, multi-sectoral program to support the CPA by delivering tangible peace dividends. This will be done through building capacity of state and county governments to effectively engage with their constituents and address their needs. The assessment team conducted interviews with key informants at all levels of government (Government of Southern Sudan, states and counties) and with NGOs. The team reviewed pertinent documents, and visited three states and several county-level government entities. The key findings and recommendations to USAID are summarized below.

## COMMON FACTORS

Delivering public services is a critical milestone to the success of the CPA; local governments must play a leading role in this area. However, it is evident that the devolution of powers to the local governments in Southern Sudan and the Three Areas is very limited. Although the government structures and regulatory frameworks are different for the South and the Three Areas, the Local Governance Assessment Team (LGAT) found common factors for both as follows:

- In both Southern Sudan and the Three Areas, sub-state levels of government have little autonomy; decentralization has been limited to the state level. In general, the team found the following: 1) The regulatory framework does not provide effective political, financial or administrative autonomy to local governments; 2) Confusing regulations and a lack of technical capacity complicate the understanding and implementation of the regulatory framework; and 3) The system is highly politicized and states are not likely to release their authority on civil service and budgeting to local governments (called counties in the South, and localities in the Three Areas).
- Structural reforms to configure counties as effective units of government will take time. States, however, can play a fundamental role in implementing strategies to enhance public service delivery.
- The institutional capacity of states and counties is extremely low, hindering their ability to perform even basic functions such as tax collection and accounting. In addition, there is a lack of minimal information systems, an absence of accountability practices and low citizen oversight.
- There is a serious problem of overstaffing. Government employment is seen as a kind of welfare mechanism to absorb former SPLA combatants. In absence of comprehensive Disarming Demobilization and Reintegration (DDR) programs, the incorporation of former combatants in the government's payroll may help stability, but hinders allocation of already limited budgets for public service delivery. Political implications limit the ability of the states and local governments to embark in any in civil service restructuring.
- Security remains a very serious obstacle for local governments to perform their functions. Because of insecurity, public officers do not have access to certain areas and thus cannot provide services or collect taxes in those areas. Robbery is common and detrimental to many local economies. Traditional ethnic and tribal conflicts, high rates of unemployment and absence of a comprehensive

Disarming, Demobilization and Reinsertion program contribute to this issue. Tensions between North and South are also seen as a source of insecurity (i.e. there is a generalized perception that the North is providing logistical and political support to the Miseria, as a way to de-stabilize the South).

- Upcoming elections do not seem to be a priority for current local leaders.
- NGOs play a central role in providing public services. However, governmental officers at all levels complained about the lack of coordination between NGOs and public entities. NGO representatives explained their hesitance in implementing programs through the government, given the lack of initiative, inefficiency and corruption. While some donors such as UNDP are contributing to building the capacity of the local governments, that assistance is insufficient.



Security is a serious concern: governmental forces are not capable to enforce the law. They lack of training and discipline and it is common that soldiers and policemen are involved in crime.

In both Southern Sudan and the Three Areas, structural, legal and institutional reforms should be carried out to advance decentralization. Some of these reforms are taking place, i.e. the Local Governance Act, enacted in March of 2009. However, it will take a long time before local governments are fully operational and able to assume their responsibility in delivering public services. The challenge for international donors will be to build institutional capacity and provide immediate assistance to deliver peace dividends at the local level, without creating a “parallel NGO state.”

## **SOUTHERN SUDAN STATES**

In general, the Local Governance Assessment Team found that living conditions have improved since the signature of the CPA. People interviewed expressed a common desire to move beyond the decades of conflict. However, they also expressed that the implementation of the CPA requires a better provision of services to communities. Some other findings are summarized as follows:

- While all the legislation indicates that the Government of Southern Sudan (GOSS) wishes to have a decentralized system of governance, in practice only states enjoy a large degree of autonomy from the GOSS (political, administrative and fiscal). Counties are largely the responsibility of and dependent on state governments.
- GOSS commitment to the principle of key services provided by sub-state government entities was confirmed with the adoption of the Local Government Act enacted in March, 2009. The Act, however, calls for a confusing and possibly contradictory array of structures and systems, which might undermine its decentralizing intent.
- The content of the Local Government Act also exceeds its scope (i.e. an extended portion is devoted to regulate customary criminal law), while it provides very little elaboration on critical local government matters such as taxation, public administration and provision of public services. On the other hand, the Local Government Act requires commissioners or mayors to report on financial plans and expenditures to the County Councils, opening a window of opportunity for fiscal accountability.

- While capacity appears limited at all levels of government in Southern Sudan, county-level governments are especially challenged, due among other factors, to a lack of resources, their remoteness and the lack of infrastructure.
- Given the lack of political autonomy, the longer term sustainability of sub-state governments as viable entities for service delivery is unclear.
- Sub-state governments do have limited de facto coordinative authority in the delivery of services. However, with the apparent ad hoc exercise of this authority, the absence of performance standards and the lack of resources to carry out this work, this authority is unlikely to improve service delivery.
- UNDP programs to build the capacity of local and state governments are an important vehicle for building management and planning skills. These activities should be extended and expanded in order to have a substantial impact.

## **SOUTHERN KORDOFAN AND BLUE NILE STATES**

In these areas, the LGAT perceived a common discontent with the CPA. In part this can be explained by the fact that while the CPA protocols for Southern Kordofan and Blue Nile did not specify changes in local governments, existing legal framework entered into a “limbo” given the impact of the power sharing provisions and the re-delimitation of boundaries within states. The following are some of the most relevant findings:

- There is a basic legal structure for governmental decentralization in Southern Kordofan; it provides for decentralization roughly comparable to that envisioned for Southern Sudan.
- The decentralization process is greatly affected by political factors.
- In Southern Kordofan, there is virtually no provision of services by sub-state governments in former SPLM controlled areas.
- The government’s capacity to deliver public services in these areas depends on the states’ ability to allocate the necessary resources at the local level.
- In Southern Kordofan, NGOs continue to play a major role in service delivery; however, without recognized sub-state governments in former controlled SPLM areas, coordination with public officials is minimal.
- There is a common perception that the complexity of procedures imposed by the GNU over the operations of international assistance delays the implementation of critical assistance provided by the international community.

## **RECOMMENDATIONS**

- In order to obtain results in the short-term, prioritize coordination and support through the states. Cascade systems might be used to build capacity and co-responsibility at the local level.
- Prioritize intensive capacity building and assistance in a small number of local institutions (at both state and county Levels) rather than working with many, broadly.
- Support the efforts of states and counties to increase their own-source revenue through more effective collection of taxes and fees.
- Implement mechanisms to improve cooperation between local officials, citizens and local NGOs.

- Support programs that reduce the professional isolation of local government managers. Also train officers at state and county levels in budget formulation and execution, performance budgeting, service delivery, citizen and NGO interaction and conflict mitigation techniques.
- Support better allocation of human resources among states and local governments and implement intensive programs to develop public servants' basic skills. For example, identify "preventive health" programs that can be carried out with "health promoters," who, after trained, approach communities to provide basic information.
- Assist local governments in developing guidelines and procedures within those areas where existing regulations do not provide clear directives.
- Strengthen ability of legislative bodies at state and local levels to perform political control and oversee fiscal management.

## INTRODUCTION

The main parties to Sudan's North-South conflict signed the Comprehensive Peace Agreement (CPA) in early 2005. Public support for the CPA can be secured in part only through legitimate, democratic governance that can deliver so-called "peace dividends" to Sudanese citizens. The absence to date of visible development in many parts of Southern Sudan and the Three Areas (Abyei and contested areas of Southern Kordofan and Blue Nile states) has dampened enthusiasm for the CPA, opened governments at all levels to criticism and hindered resolution of local conflicts.

As outlined in the team's scope of work (see Annex III), the purpose of this assessment is to inform the development of an integrated, multi-sectoral program to support the CPA by delivering tangible peace dividends. This will be done through building capacity of state and county governments to effectively engage citizens and address their needs. Data for this assessment was gathered through review of official documents, informant interviews, and limited visits to local communities and service providers.

The team for this assessment consisted of Peter Feiden, (MSI team leader), Dr. Mom Arou (MSI), Jaime Arteaga (USAID) and Mike Keshishian (USAID). The team was in Southern Sudan from July 23 to August 8. Field visits to three states were carried out between July 28 and August 6, 2008. Mr. Meceik Mawalu of the GOSS Local Government Board accompanied the team.

During the team's field work, visits were made to the states of Upper Nile and Unity. In Upper Nile, the team visited only Malakal. In Unity, the team visited Bentiu and three counties: Rubkona (which includes the town of Bentiu), Guit and Ruweng. The team also visited the state of Southern Kordofan. Within the state, the team visited Kauda and Kadugli (the capital of the state). Annex IV provides a full list of individuals interviewed in the course of the field work.

As part of its assessment, the team reviewed various documents. Among them were the key agreements ending the civil conflict and the laws passed in draft form pertinent to local governance and service delivery. A list of these documents is attached as Annex IV.



# KEY FINDINGS AND CONCLUSIONS

## I. SOUTHERN SUDAN STATES

With the signing of the CPA in 2005, the Government of Southern Sudan began a process to establish, and ultimately implement, services and development through a decentralized system of governance. The core principle of decentralization is carried forward in the Interim Constitution of Southern Sudan. All people interviewed recognized that living conditions have improved since the signature of the CPA and expressed the perception of a common desire to move programs ahead. However, they also conveyed that the implementation of the CPA requires a better provision of services to communities.

### I.1 LEGAL FRAMEWORK FOR DECENTRALIZATION

#### 1.1.1 All of the legislation indicates that the GOSS wishes to have a decentralized system of governance.

The CPA, the Republic of Sudan Interim National Draft Constitution, the Interim Constitution of Southern Sudan (ICSS), and the Local Government Act of 2009 clearly state that the GOSS has a three-tier structure: Government of Southern Sudan, the 10 state governments and “local governments” within each state. Counties are in effect the third tier of government and are subsequently formed by payams and bomas.



**ABOVE:** Typical County Commissioner's Office in the South of Sudan

As the legislation currently stands, states have a large degree of autonomy from the GOSS, as the legislation truly describes decentralized states in all three spheres (political, financial and administrative).

The 2009 Local Government Act demonstrates interest in deepening political decentralization through implementing elections for a four-year period of the county commissioners (or mayors) and members of the legislative councils. This Act also shows the intention to advance the professionalization of the civil service by appointing chief administrators that are required to be career officers with university degrees.

The Act acknowledges the importance of consulting and involving communities in decision-making relating to the exploitation of natural resources in their areas. It also

empowers communities to initiate and form public-private partnerships for public service delivery and local development, including partnerships with non-governmental organizations (NGOs).

#### 1.1.2 The 2009 Local Government Act is very confusing, exceeds its scope, provides very little elaboration on critical local government matters (such as taxation, public administration and provision of public services) and incorporates some provisions that do not contribute to enhancing accountability of elected officials.

It is uncertain how the 2009 Local Government Act can be harmonized with other sources of local government legislation (Interim Constitution of Southern Sudan 2005, the constitutions of the respective states in Southern Sudan as well as customs and traditions of the people of the respective local government territories within each state). As the Act does not set boundaries for the legislative powers at the county level, it allows potential conflicts with higher levels of legislation issued by state and national assemblies. The Act

also contains provisions that should not be the subject of this kind of legislation, such as customary courts, civil society institutions (including family rights) and regulating traditional authorities. The Local Government Act acknowledges and tries to incorporate the role of traditional authorities and customary law into the local government system; however, it exceeds its scope by regulating specific functions of these bodies.

The Act outlines a complex array of institutions and positions without delimitating their functions, allowing a high degree of overlap. An example of this is the failed attempt to define different types of local government councils (rural councils, urban councils and industrial councils). It offers no practical difference other than labeling them with different titles (city council, municipal council and town Council). For instance, an industrial council is a council established in an industrial area, which may have either or both characteristics of an urban or rural council.

In general, the Act needs elaboration of significant matters, such as devolution of powers and creation of new counties. In particular, as the Act authorizes the delegation of authority without any restriction, this will make it more difficult to hold local authorities accountable for their actions. Another aspect that requires clarification is regarding the creation of new local government units: while the Act states that it depends on the size of the territory, population, economic viability, common interest of law and communities, and administrative convenience and effectiveness, it does not set any minimum for each criteria.

The impact that certain provisions might have on reducing accountability of elected officials is quite significant, as the Local Government Act grants legal immunity to the members of the legislative councils, to county commissioners and mayors, administrative directors, kings and chiefs. According to the Act, individuals with these titles are “immune from any criminal proceeding and shall not be charged with an offence in any court of law during his or her term of the office, except where he or she is caught committing an offence for which the police may arrest without warrant”.

### **1.1.3 While the current legislation appoints local governments as the main entities responsible for delivering public services, it does not define specific services for which local governments are accountable.**

According to the regulatory framework, public services in the 10 states of Southern Sudan are to be provided through the lowest tier of government (i.e. county, payam and boma). The Local Government Act states that counties are responsible for the following:

- regulation and maintenance of law and public order
- regulation, provision and maintenance of service to the people
- land administration and environmental management
- encouragement and promotion of local development and provision of access and opportunities for the people to engage in the development of their communities
- protection of the rights of the people and their interest

However, the Act is quite vague in defining the primary responsibilities of the local governments as it does not specify which specific services should be provided by counties in terms of education (primary or secondary), health or sanitation.

### **1.1.4 It is necessary to have more elaboration on local governments' income generation.**

Both the Interim Constitution and the Local Government Act grant explicit revenue generation powers. On the other hand, the Local Government Act does not sufficiently define rules regarding finances and revenues: it enunciates few principles of finance planning and lists taxes and revenues that can be used to fund local governments' functions, but does not set any parameter for taxes and local rates, giving excessive autonomy to each local government to set rates without any limit. The legislation does not provide any reference to the

principles that will be followed for the allocation of government grants to the local governments; the ability of local governments to borrow or lend money is ambiguous. However, it does reflect clearly the intent to centralize the budget in a single account.

### **1.1.5 The Local Government Act opens a window of opportunity for making county councils key players in demanding transparency of public administrations.**

The Local Government Act appoints county councils as the highest participatory bodies to receive formal reports from the county commissioners or mayors. The Act makes it mandatory for commissioners, mayors or town clerks to prepare and present to the legislative council, before the beginning of the financial year, an appropriation act for the allocation of revenues and expenditures. The Act also mandates commissioners and mayors to present to the legislative council, during the six months following the end of the financial year, the audited financial report of all the council's revenue and expenditure for consideration.

## **I.2 STATUS OF IMPLEMENTING DECENTRALIZATION**

### **1.2.1 Counties have minimal authority. States are the last stage of Government's devolution, making them the first tier of government with a certain level of authority and autonomy to assume the delivering of public services at the local level.**

Commissioners' authority is diminished by the lack of financial and administrative independence. They see their role as coordinators of policies; not as central points of implementation. Governors' supervision is even greater in capital states, where governors make decisions on all aspects of the administration. For example, the market in Malakal was moved by instruction of the Governor, without consulting the County Commissioner, seriously affecting the finances of the county.

At the sub-state level, county governments lack resources to function autonomously and respond to service needs of the citizenry. The employees are essentially state civil servants who are on a state-wide payroll. In the four counties visited, no resources were being transferred to enable them to undertake independent action. Their official responsibilities in the areas of primary health care and primary education relate largely to the provision and maintenance of facilities, for which they have little or no resources. While teachers and health care workers assigned by the line ministries might nominally function under the direction of the county, their actual ability to affect service delivery and performance is minimal.

The lack of a formal division between the SPLM and the government is one of the factors that affect the authority of counties. The most relevant example occurs in the Civil Service Administration. While the GOSS holds the control of the states' personnel, the states control county staff. However, county commissioners seem to feel comfortable with the system and do not consider the fact that having personnel, which are paid and nominated by the government, limits their functions: *"Each Ministry at the state level sends the staff from the top to the bottom: if a Director (the equivalent of the head of a Ministry at county level) does not perform well, the Commissioner will form a disciplinary board."* (Dr. Sayed Awad Morgan, Malakal County's Commissioner). However, the disciplinary board does not have the power to fire the Director without consulting the state.

In any case, it is not clear that most of the staff actually work: i.e. Guit County has 1,200 employees but, according to the County Commissioner, not even half of them perform their functions.

### **1.2.2 The lack of resources undermines all efforts to further develop and empower counties.**

The dependence of states and local governments on transfers from the central government is persistent. While grants are transferred to the states on a regular basis, they often do not deliver the resources to the counties and public resources are usually administered by governors. Attempts to collect revenues at the local level are hindered by the lack of clarity on taxation. In many cases, revenue collection is being done by the army, which is accountable to the state; not to counties. It is an arrangement which is detrimental to counties' income.

Three main factors limit counties' ability to raise their own revenues. First, most counties have not effectively organized the facilities with which revenues have traditionally been charged (e.g. markets, bus stations). Second, these revenue sources are not robust given economic conditions in the country. Third, county governments do not appear to have systems in place for accounting for funds and monitoring their use. The small revenues that counties raise may in fact serve only to supplement the salaries of staff or to enable the governments to hire more staff. The UNDP has provided some training on revenue generation. However, a sustained and deeper effort would be required once revenue sources have been clarified.

### **1.2.3 Current information systems are inadequate for proper planning and centralized budgeting.**

The complicated logistics associated with a geographic region as large as Southern Sudan gives states an additional sense of independence; each state is relatively isolated from others and from Juba; however, independence is compromised by the heavy reliance of the states on the GOSS for revenue (approximately 90 percent of their funds come from the GOSS). At all levels of government, it is almost impossible to perform budget planning as there is largely an absence of financial information: states do not know which counties collect taxes; the GOSS does not know the amounts collected by the GNU from oil revenues; counties are not aware of the amounts of grants transferred from the GOSS through the states (which often do not reach them). Additionally, given that transfers are made from the GOSS line ministries to the state line ministries, it is difficult to establish a unified financial system to track and perform budgetary planning processes at state and local levels.

With the support of UNDP's Local Government Recovery Program, some progress has been made on the part of county officials in developing planning skills and rudimentary systems; however, the planning process at the local level is not consistent with the larger budget process. States do not appear to take county-level plans into account in their funding of local governments, reducing the exercise to the development of a wish list rather than real achievable plans.

### **1.2.4 Civil service composition cannot be separated from broader issues of management and autonomy.**

Governments at all level are overstaffed. Counties generally concede that this is a serious problem, but have been unable and unwilling to reduce staff. With support from UNDP, the Local Government Board has begun to review staffing levels and requirements with the intention of reducing payrolls. It is not clear, however, that there would be any clear motivation to reduce county-level staff, as this might not make any so-called Chapter 1 funds available for non-payroll uses. The civil service composition therefore cannot be separated from broader issues of management and autonomy.

### **1.2.5 Given their mandate and the participation of traditional authorities, legislative bodies at state and county levels are the only institutions capable of demanding accountability from local authorities.**

States perform audits on a regular basis, but results are only accessible to a limited audience. Citizens do not feel entitled to oversee public finances and do not show significant interest or knowledge in doing so. State assemblies and county councils play a significant role in demanding performance reports from governors and commissioners. For example, in Unity, the governor and each ministry present annual performance reports to the members of the legislative assemblies. Moreover, members of the Rubkona County Council said that a significant part of their functions were to oversee policy implementation. At the county level, in absence of any accountability and participatory mechanism (such as town hall meetings), county councils are the only mechanism of representation for citizens. On the other hand, counties do not seem to enjoy significant independence, as they are mostly appointed by the county commissioners.

**1.2.6 There is no agreement about roles and responsibilities in the provision of public services. States have assumed limited duties in this area; in the best circumstances, counties perform limited de facto coordinative authority in the delivery of services.**

The limited system of service delivery was established during the war years, based on funding from donor agencies and private groups, and dependent on NGOs and multinational organizations such as the UN for implementation. Since then, governments are typically bypassed by donor agencies in the actual control of resources made available for service delivery, possibly reducing their reputation in the eyes of the citizenry.

At present, in some instances, state line ministries collaboratively staff facilities under the direction of NGOs, as well as provide staff for some basic services, such as primary education. The few state officials engaged clearly felt the need to take on more responsibilities for service delivery. The states depend on the GOSS for up to 90 percent of their funding. The bulk of this transfer is to cover salaries. The GOSS also provides a block grant to each state (now set at SDG 30 million/year/state) and conditional grants of SDG 12 – 24 million/year/state. It appears that a substantial part of these additional funds are also used for personnel, particularly at the sub-state level, leaving very little for actual service delivery and supplies. Civil service payrolls are clearly bloated and it is possible that they have grown to absorb some of the block grant funds.

The states tend to complain about limitations to their ability to be effective (these views are consistent with those heard from NDI in its work). Specifically, states see the need for improvement in the following areas as necessary for more effective service delivery on their part:

- Increase in own-source revenue.
- Clear authority to hire and fire staff.
- Control over the judiciary.
- Ability to create counties or adjust county borders.
- Clarification on the collection of customs and border revenues.

The county governments play a more circumscribed role, despite the dictates of the constitution. The counties are severely limited in their role as providers of services due to limited revenue, fixed assets (e.g. functioning buildings) and equipment. They also lack basic demographic data and core information on service needs in their locales. They appear to garner little financial support on account of their relationships with the state ministries of local government. Resources transferred to the counties consist nearly entirely of payment of wages for county (and sub-county) employees.

In the best cases, counties limit their role to offering some guidance and direction to NGOs in the provision of their services; promoting the use of the facilities and services among citizenry (through meetings and less formal channels); providing some limited ad hoc maintenance for health and education facilities; making staff available to be trained at NGO health facilities (ADRC does this at their clinics); and monitoring NGO service delivery performance (though, it is doubtful that they could undertake a serious monitoring role involving any assessment of services provided). The county commissioners also appear to acknowledge their responsibility for maintenance of critical infrastructure in the towns – notably roads, drainage, markets, bus stations and abattoirs. It appears that the counties can respond to this need and expectation on the part of the citizenry only to the extent that they can utilize their own workforce (which is limited by low skills, sparse equipment and lack of appropriate supervision). There is very little actual evidence of maintenance happening. In Malakal, an NGO was actually carrying out some maintenance through its labor-intensive livelihoods program, with limited guidance from the county. Several officials were clearly concerned about their inability to carry out this core traditional local government function, and were cognizant of its detrimental effect on economic activity over the longer term.

### 1.2.7 Local government authorities do not show initiative in delivering public services.

While ministers at the state level are aware of their responsibility for public service delivery, local governments do not show significant initiative in this area: in many cases they see their role more as “coordinators” of states’ policies or the initiatives of NGOs and international donors, i.e. *“The County is in charge of controlling the quality of education and health services provided by NGOs and international assistance”* (Peter Mayom, Executive Director, Malakal County). In addition, teachers, doctors, engineers and almost all of the very limited qualified personnel available remain under state authorities.

Many of the senior level officers interviewed have different perspectives about their role in public service delivery. While all agree that elementary school and primary health services are the responsibility of counties and secondary education and hospitals are the responsibility of states, there is little agreement on the provision of water and infrastructure. Sometimes the GOSS assumes responsibility of providing certain health services. Based on visits to four counties and two state-level governments, the actual operation of county-level governments in delivery of services consists of the following:

- Providing and maintaining the facilities for primary education and health services. The ability of county governments to follow through on this responsibility appears to be limited due to a lack of resources, planning and management skills.
- Providing some level of oversight and coordination of the actual services provided by line ministries (especially health and education). County commissioners typically see the ministry personnel in their counties as essentially working for them, but probably lack the resources or power to exercise any real supervision in nearly all cases.
- Providing some coordination and oversight of services being provided by NGOs. These services are largely in the areas of health and education with limited involvement in water, sanitation and local infrastructure in certain locales. The extent to which these governments can coordinate and direct services is limited by their lack of equipment and trained personnel. It is also limited by the fact that many NGOs were present in their current areas of operation before the creation of the GOSS and thus have established operations.

During the field work, the team did not find evidence of any systemic approach to undertaking this coordinating role in the counties visited. The lack of transport was cited as a barrier in this regard.

### 1.2.8 Security is a serious concern. While states may take actions to face this problem, counties do not have any means to address this issue.

Security remains a very serious obstacle for local governments to perform their functions: public officers do not have access to certain areas to provide services or to collect taxes. Robbery is common and detrimental to local economies. Ethnic and tribal conflicts and unemployed youth are also seen as a source of conflict and insecurity. In addition, in the Three Areas, confrontation with the Miserias is constant and is seen as a strategy of the NCP to destabilize these regions *“The NCP provides them guns and supplies and promotes the disruption of the only road coming from the North, while we have been very disciplined in not breaking the pass of our oil to the North”* (Brigadier Simon Magwer, Acting Ministry of Local Governments and Chairman of the Legislative Assembly in Unity State).

However, counties do not have any authority to deal with this issue and different law enforcement agencies (police, army, wildlife protection, prisons) act independently without coordination or authority of local governments. Most of the policemen and army come from irregular armed groups without any professional training. That complicates coordination and affects their interpretation of the law: *“It is difficult to have Chiefs of Police together to facilitate coordination. Chiefs do not have the mandate to send people to prison; they are only supposed to perform ‘proximity justice’ such as conciliation. Perhaps, because the war, they feel they have law authorities”* (James Malula, UNDP coordinator).

### 1.2.9 While capacity appears limited at all levels of government in Southern Sudan, states show higher levels of capacity than counties.

All state and sub-state governments in Sudan are limited in their capacity to undertake programs and deliver services. First, according to most accounts, the labor force lacks mobility. Second, human capacity is limited and it is uncertain that government at any level can compete with the private or NGO sector for the relatively few well-qualified individuals. Third, the logistics and relative isolation of populations makes the provision of services and the placement of staff difficult.

While both states and counties lack clear structures (personnel functions), minimum skills and budget capacities, states show some higher institutional and technical competences to perform governmental functions, as states have access to professional staff, communications and technological resources that are unavailable for most of the counties. At the county level, there are further limitations on human capacity development:

- There are few vehicles.
- Local government offices and facilities are in dismal shape.
- There is a lack of communications infrastructure.
- Provision of training is expensive and complex due to the dispersion of personnel.
- It is uncertain that the skills are present to supervise and make efficient use of the unskilled and semiskilled workers on county payrolls.
- There is little evidence of administrative systems that can handle more than the most rudimentary project.
- Training facilities are few and far between.

## I.3 ACTIVITIES OF OTHERS

### 1.3.1 There is a generalized perception of lack of coordination and impact of international assistance.

Even though governmental officers recognized that NGOs have played a central role in providing public services, they complained about the lack of coordination between NGOs and public entities. They feel that sometimes promises have not been fulfilled by the international community i.e.

*“NGOs are doing nothing to coordinate: they are forgetting the governments. They are not coming to look for support. I have told NGOs that they need to coordinate what they are doing, if they want it to last”* (Gatluak Deng, Governor of Upper Nile).

On the other hand, NGO representatives explained their hesitance in coordinating with the government, given the lack of initiative, inefficiency and corruption. NGOs recognize that there is a lack of information exchange and understanding, but feel that the government demands resources to carry out their responsibilities. Another concern raised by one of the NGOs is the “militarization” of the government, focusing the benefits of the assistance to its ex-combatants and not to the population in general. It was clear to the team that there are few synergies between international donors and NGOs in the field.



**ABOVE:** IRD said that they tried to coordinate with county, who was going to dig a master and drain that all these types of drains feed into. However, they did not do it.

**1.3.2 UNDP programs to build the capacity of local and state governments are an important vehicle for building management and planning skills. These activities should be extended and expanded in order to have a substantial impact.**

To date, the United Nations Development Program (UNDP) has been the main entity working with the GOSS on the decentralization framework through its Local Government Recovery Program in Southern Sudan (LGRP). The objectives of the LGRP are to create a clear legal framework and basic facilities for local government and to increase their capacity. The LRGP runs from January 2006 through December 2009 and has a budget of \$8,000,000.

The UNDP has been training local officials throughout Southern Sudan as part of the LGRP. The UNDP reports that it has trained 132 local government administrators in planning, finance, budgeting and local government administration. The UNDP also states that it has established planning units in all the counties and provided some follow-up support to them.

During field work in the states of Upper Nile and Unity, it was confirmed that a number of county government staff had received training through UNDP. While generally complimentary of the training, some questioned its overall impact given the state of local government, the lack of resources and the outstanding questions about its ultimate role in service delivery. For example, the governor of Blue Nile questioned whether the program was substantial enough to provide the critical mass of training needed to create an essential organization-level shift in performance. At the same time, he questioned whether the staff had the requisite skills to benefit from the training.

It is likely that the UNDP's dispersed approach to providing some services to all local governments may have had only a modest impact to date. UNDP's presence of one person plus support staff for each state seems insufficient for an area as vast as Southern Sudan. The UNDP conducted a one-month training of trainers for placement in each county. These trainers in turn trained staff for one week. Given the low education base in Southern Sudan, the effect on staff capacity may have been limited.

Commissioners received more substantial training, including extended training in South Africa. This initiative would benefit greatly from training in additional revenue generation, designed around the peculiar issues and challenges in Southern Sudan, where the formal economy is small and traditional revenue sources may no longer be sufficient or appropriate.

Notwithstanding the shortcomings noted above, the UNDP program for sub-state governments is important and has developed effective collaborative relationships in the counties. Given the scale of the training and institutional needs at the county level, as well as the continuing need for support in developing intergovernmental relationships and systems, the program is one that can be built on; over the longer term, it has the potential to make an important contribution to improving service delivery.



## 2. SOUTHERN KORDOFAN AND BLUE NILE

In the states of Southern Kordofan and Blue Nile, the decentralization process is challenged by political factors and widely impacted by the CPA. It seems that the CPA's protocols are not well understood by all parties; each side has a different interpretation of its implications. While the CPA protocols for Southern Kordofan and Blue Nile did not specify changes in the existing legal regulations on local governments, there is a sense that the CPA undermined the existing official system of state and local governments in the Three Areas. According to the UNDP, at least 21 related laws are to be enacted in order to fill some of those gaps.

### 2.1 LEGAL FRAMEWORK FOR DECENTRALIZATION

**2.1.1 While the CPA protocols for Southern Kordofan and Blue Nile did not specify changes in the existing legal regulations on local governments, existing legal framework entered into a “limbo” given the impact of the power sharing provisions and the re-delimitation of boundaries within states.**

The protocol on resolving the conflict in the Nuba Mountains and Blue Nile is a significant provision of the agreement signed on May 26, 2004. It deals with an SPLM-administered region during the conflict – the parts of Southern Kordofan state known as the Nuba Mountains and Blue Nile state. The protocol designated the sharing of executive and legislative powers in the Nuba Mountains and the Blue Nile State such that the National Congress Party would have 55 percent and the SPLM 45 percent representation. The protocol also provides that “Governors of the disputed regions would be rotated: each side would assume the office of Governor for half of the pre-election time” (until the 2011 referendum).

The implementation of the power sharing provisions in Southern Kordofan and Blue Nile not only requires adapting the regulatory framework, but also accelerating the integration of education, police, civil service, justice and local governments; boundaries must also be re-delimited to reduce political tensions and enable public service delivery in former SPLA-controlled areas.

**2.1.2 The integration process is fundamental to advancing decentralization in the Three Areas.**

There are several important aspects of integration, including education (content and language), the justice system (Shari'ah law and secular Law), police (formation of joint police forces), civil service (inclusion of SPLM public servants within the state's payroll) and local governance (including acceptance of county boundaries and harmonization of administrative terms and definitions). While there is a long path to full and effective integration, Southern Kordofan has taken some steps. For example, a committee has been formed to address the implementation of the CPA and provide recommendations. Four members are from the SPLM and five are from the NCP.<sup>1</sup>

State governments have prioritized the integration of police forces and the civil service in order to stabilize the status of former SPLA/SPLM members. Among the hurdles, however, is the fact that the GNU has reportedly set strict standards for civil servants which many of the SPLM leaders will be unable to meet.



**ABOVE:** Event of integration held in Kauda, Southern Kordofan on August, 2008. Local SPLM leaders were not invited to participate.

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<sup>1</sup> According to Naron Phillip, SPLM co-chair for the Assessment and Evaluation Committee for Southern Kordofan and former Minister of Rural Development, Southern Kordofan

Integration will also entail a significant expansion of the official state bureaucracy. According to UNDP estimates, Southern Kordofan's staff numbers will increase from 22,000 to 26,000 employees.

## **2.2 STATUS OF IMPLEMENTING DECENTRALIZATION**

### **2.2.1 The biggest obstacle to decentralization is political in nature.**

In former SPLA-controlled areas, there is a common discontent with the CPA. The lack of services and failure of the state to transfer resources has only added to the overall frustration. There is also the suspicion that NGOs have acceded to management through Khartoum and as a result have favored northerners in their hiring. Distrust also exists between different levels of the SPLM. The UNMIS representative for Southern Kordofan explains that local leaders feel betrayed by the SPLM national leadership in the negotiation of the CPA: these regions were central during the war, but remained attached to the North in the end negotiation. It was very illustrative that the second biggest meeting to address integration, held in Kauda on August 4, 2008, was attended by ministries and high level representatives from NCP and SPLM, but none of the local SPLM leaders were invited and in later public statements, serious discrepancies were exhibited.

Currently, there is a stalemate in which states deny resources to former SPLM controlled areas which in turn refuse to recognize state-recognized county boundaries. However, there is some cause for hope that this stalemate will be broken. The Governor of Southern Kordofan is reportedly proposing legislation to the state's assembly to increase the number of existing counties from nine to eighteen. In the context of a comprehensive reorganization of jurisdictions and their boundaries, a negotiated settlement of the boundary disputes pertaining to former SPLM controlled areas might be achieved. Despite these positive signs, the prospects for progress are uncertain.

### **2.2.2 Provision of public services depends on the resolution of the integration process.**

Provision of public services in Southern Kordofan and Blue Nile requires an acceleration of the integration process and a clear definition of local governments' boundaries. In terms of integration, attention must be given to education, police, civil service, justice and local governments; re-delimiting boundaries to reduce political tensions and enable public service delivery in former SPLM controlled areas is also vital. Without such integration, it will be virtually impossible to deliver public services in former SPLA controlled areas: i.e. Kauda is legally part of Rashad Locality; however, it is seen by the local leaders as an "independent" locality. Local SPLM leaders have installed a parallel system of local authorities but they neither receive transfers from the state nor collect taxes for public service provision.

In Southern Kordofan, service delivery is dependent on resolution of the more fundamental issue of incorporating former SPLM controlled areas into the states' administrative fabric. More progress has been made in this regard in the state of Blue Nile. In Southern Kordofan, the signing of the CPA has resulted in a standoff. The SPLM has set up local governments in former SPLM controlled areas; the state refuses to recognize them or share resources on account of boundary disputes and in some cases parallel leadership from a non-SPLM entity. In Kauda, for example, there are reports that neither the SPLM-sponsored local government nor the state ministry employees in education and health are receiving salaries from the state.

Actual implementation of the local government law in former SPLM controlled areas is a moot point until all parties can overcome the broader political impasse. Despite some recent consultations between the two sides, this does not appear imminent, as the integration process proceeds first with the integration of police and security forces; a later phase of integration would address government administration.

The states of Blue Nile and Southern Kordofan have both officially embarked on an integration process and the reorganization of counties. This process seems to have advanced much more slowly for Southern Kordofan than for Blue Nile.

Pending integration and a clear definition of county/Mahliyaat boundaries, state resources are not being made available to former SPLM controlled areas in Southern Kordofan. Reportedly, there are three areas that fit this description: Kauda, Julud and Tima. The example in Kauda is representative of the stalemate that has ensued. Kauda is legally part of Rashad County; however, it is apparently seen by the local leaders as an “independent” locality. Local SPLM leaders have installed a parallel system of local authorities, which neither receive resources from the state nor collect taxes for public service provision.

As mentioned above, the distrust between different levels of the SPLM contributes to the complexity of the political hurdles to integration in Southern Kordofan. Of no less import is the SPLM’s inability to act within the Southern Sudan Rehabilitation Commission (SSRC) and the Humanitarian Assistance Commission (HAC) to better coordinate efforts.

### **2.2.3 States are the main players in the provision of public services.**

Government’s capacity in public service delivery in these areas depends on the states’ ability to allocate the necessary resources at the local level. However, the Three Areas are particularly affected by political challenges stemming from the implementation of the CPA protocols for these areas as well as financial dependence on the GNU. In fact, it is envisioned that the integration will also entail a significant expansion of the existing bureaucracy.

On the other hand, in Southern Sudan, states are highly dependent on national (GOS in this case) transfers. According to the Speaker of Southern Kordofan’s Assembly, 92% of the states’ budget comes from the Government of Sudan. It is common practice for governors to go to Khartoum to advocate for funding; the GNU regularly transfers funds in the form of bonds that have to be traded by the states in order to receive cash.

### **2.2.4 There appear to be few (if any) systems in place to ensure minimum government transparency standards.**

There are few systems in place to ensure minimum transparency standards i.e. payments are being made without receipts. Audits themselves are not transparent and are carried out at the national level. The Ministry of Finance has complained about the lack of capacity of the recently elected Auditor General for Southern Kordofan and there is tension surrounding who should carry out those functions. This tension has taken physical form, including an incident which occurred during riots, where an audit building and banks were burned; it is suspected that somebody used the chaotic situation to destroy evidence. In addition, civil society is not aware or capable of performing social auditing.



**ABOVE:** Filing in Southern Kordofan State Assembly

### **2.2.5 Building capacity is identified as a priority by all public officers, who called for programs that reach mid and low level public staff.**

All interviewed people agreed on the need to develop capacity, in the form of training and skills development. However, UNDP’s assistance is limited and other initiatives have not been comprehensive. The priority on training is public administration, computer literacy and project design/implementation.

The UNDP undertook a broad government training needs assessment. It identified the following general areas of need: 1) Building the capacity of the state civil service; 2) Improving the regulatory framework; 3) Developing skills of civil service in program design, implementation and monitoring; 4) Strengthening budgetary and planning capacities and performance management; 5) Implementing information management systems; 6) Boosting expenditure management, internal controls and oversight; and 7) Increasing gender

participation in the public service. The UNDP's Local Government Recovery Program operates in the Three Areas and on a number of occasions has enabled local government officials from SPLM areas to interact with others in the state.

At the same time, much of what the Core Institutions Program is doing at the national level (FMIS, tax, revenue, strategic planning, payroll cleansing) is somehow being done at the local government level in Blue Nile. Bearing Point/Deloitte has already prepared documents, training modules and other items in local languages which could be adopted for use at lower levels of government. This complements other engagements with the particular local government. It can also help to integrate issues surrounding local government finance into broader government finance issues of the GOSS.

### 2.2.6 Lack of security is a main source of discontent.

Lack of security is a critical issue for the successful implementation of the CPA. In former SPLM-controlled areas, there is a common perception that NCP/SAF is providing logistical and military support to certain tribes and *"maintains some strategic positions in Nuba Mountains, which explains many killings"* (SPLM leader, Kauda). In addition, some observers consider the process of creating the Joint Integrated Units to be unsuccessful. According to a high level UNMIS officer for Southern Kordofan, the JIU *"are not joint, not integrated and not united"* and the lack of clear borders is seen as a source of insecurity. Nevertheless, many of the sources of insecurity have deep historical roots, i.e. tribal conflicts between agricultural and nomadic (cattle herding) tribes.



ABOVE: Civic leader in Southern Kordofan.

## 2.3 ACTIVITIES OF OTHERS

### 2.3.1 In Southern Kordofan, NGOs continue to play a major role in service delivery, but without recognized sub-state governments in SPLM areas, coordination with public officials is minimal.

More so than in Southern Sudan, NGOs appear to have little if any connection to local governance in Southern Kordofan. This results in lost opportunities for coordination. There is little cross training of local government staff in service delivery and, from observation in Kauda, there is a growing suspicion of the motives of NGOs. This is compounded by suspicions raised by the fact that NGOs are now officially registered through the Khartoum government rather than through the GOSS.

International assistance has played a crucial role in providing the limited public services in the Three Areas: these services are seen by some as fulfillment of promises reached during the peace negotiation. Particularly in Kauda, Norwegian Church Aid, Save the Children and Mercy Corps were recognized as strong contributors to the health, education and civil society sectors. However, there is a widespread feeling that the assistance is insufficient and ad-hoc. In some cases, the presence of international donors and NGOs is even seen as detrimental to the longer term prospect of local government's role in service delivery.

Complaints against the NGOs included lack of coordination and the effect that their presence has on raising prices in the local economy: *"NGOs have inflated prices of many things including houses, services, and food (chicken), making impossible for local governments to afford those services"* (Officer from Kadugli). Governments complained about the lack of coordination with them: *"There is no cooperation between NGOs and communities and local government. E.g.: 'EU and SKILLS are working in the same area and doing the same job. They only come to me when there are problems with permissions'"* (High level officer from Kadugli).

The coordination with the Government of National Unity in Khartoum has reportedly made it difficult for some international donors and NGOs to provide assistance. In fact, several local leaders stated that when the assistance is channeled through Khartoum, it does not reach them, marginalizing SPLM-controlled areas.

## 2.4 ABYEI

The team could not travel to Abyei due to security problems; as a result, no information can be presented about how public services are actually being provided. Ongoing fighting has created further uncertainty about current and near-term prospects for service delivery from local government.

Abyei, in the state of Southern Kordofan, has its own protocol. Under this protocol, signed on May 26, 2004, the inhabitants of Abyei are considered de facto citizens of both the Government of Sudan and the GOSS.

The protocol calls for the administration of Abyei through a local executive council, representative and inclusive of all the residents of the area. This council is to be elected by the Abyei residents and be composed of a chief administrator, a deputy and up to five heads of departments. Prior to any elections, the chief administrator and deputy are to be appointed by the President.

According to the protocol, the powers and responsibilities of the Executive Council include:

1. rendering necessary services;
2. supervising and promoting security and stability in the area;
3. proposing development and urbanization projects for the area to both the Abyei Area Council and to the President;
4. presenting proposals to the National Government regarding the provision of assistance to improve the lives of the peoples of Abyei, including urbanization and development.

The resolution also requires that an Abyei Area Council be established, comprised of up to 20 members, which will be appointed by the President prior to elections. Council responsibilities include:

1. issuing local enactments within the powers of local government and on customary matters;
2. approving the budget of the area;
3. adopting reconstruction, development and urbanization plans for the area;
4. as necessary, recommending (to the President) the relief of the Chief Administrator or his/her Deputy;
5. participating in the promotion of reconciliation efforts in the area.

## RECOMMENDATIONS TO ACHIEVE NEAR-TERM LOCAL DEVELOPMENT PROGRESS

Based on the information and analysis of data collected, the following recommendations are made to USAID concerning the design and implementation of development programs. These recommendations are meant to be consistent with principles laid out in the scope of work, specifically that:

- any funding for development projects is managed so as not to deter governments from developing their own-source revenue streams;
- assistance addresses citizen priorities;
- local government capacity is developed; and
- assistance fully integrates civic participation.

In order to reach the objective of local governments that are better able to provide services, the Local Governance Assessment Team recommends:

1. Focus on helping states provide certain services.

Other donors operating in Sudan have had some success in working with the states to improve local service delivery. This method has involved NGOs working with moribund clinics, bringing them up to speed by training staff, putting systems in place, etc, and then transitioning control over to the state. The facilities that donors work with, such as clinics, should be no more than a few kilometers from the ministry which runs them. This approach may be the quickest way to jumpstart service delivery at the local level.

Given the lack of independence of local governments, states may be the only ones in a position to “match funds.” USAID investments should reach agreements with state governments to ensure that their budgets provide for the salaries of the personnel necessary to maintain operations of a school or health center; USAID will provide infrastructure and eventually some supplies. Any USAID matching grants or the like must not detract from funds normally due to the community. For example, one of the “best practices” identified by the LG Assessment Team was found at the Teachers Training Center in Kauda: these centers leave capacity at the local level and enhance the quality of education provided to those communities.

2. Local officials should always remain substantially involved in development activities.

The respect for and credibility of local government will likely decline over time if it is not perceived as delivering more services. It is important that local NGOs and citizen groups are not empowered to the extent that local officials are marginalized. This could have widespread consequences for public institutions in Southern Sudan and might ultimately serve to undermine development efforts in general.

Local governments seem to be acutely aware of this concern. While NGOs are critical to the provision of services and will be for years to come, USAID should make NGO assistance conditional on having a specific plan to engage local governments. Where possible, they should be encouraged to “partner” with local governments in service delivery.

3. Engage local governments on revenue generating and income generating projects.

It is imperative that local governments generate and manage own-source revenues. While county and state governments will continue to rely heavily on resources from higher levels of government, local

revenue is fundamental to local autonomy and accountability. Technical support should be provided, perhaps accompanied by software and accounting systems, to lead governments through the planning and implementation of traditional revenue generating projects and services.

In addition to service delivery improvements, activities at the local level could also focus on creating income-generating facilities. For example, marketplaces and slaughterhouses are a favorite source of revenue for local governments and also create employment opportunities for citizens.

4. Advance from just “training” to comprehensive capacity-building programs.

USAID should consider a broad-based effort to support local government management. This could complement the ongoing UNDP program, but would focus on a small number of key localities where economic development is more likely. An integrated program of technical assistance and training could be offered.

Local officials should be trained in budget formulation and execution, performance budgeting, service delivery, citizen and NGO interaction and conflict mitigation techniques. Training should be immediately followed by activities which put newly acquired skills to use, unlike the UNDP training which reportedly has little or no follow-up. Councilors should be trained in oversight of the executive.

5. Implement strategies to maximize the use of existing human resources.

States and counties are often directed to maintain a great number of “unskilled staff.” There are no signs that the civil service will be reduced in the foreseeable future. Public workers can be trained and oriented in the provision of some public services. For example, in health, identify “preventive health” programs to be carried out with basic skilled “health promoters” After being trained, these health promoters would visit communities to provide information on AIDS, reproductive health, water sanitation and other issues (training and logistics would be USAID’S contribution). Unskilled personnel can also be used for infrastructure initiatives: while local governments contribute the manpower, USAID could train them and direct the construction of small-scale infrastructure projects such as water bore holes. These programs would serve to develop productive skills among public employees that can be used outside the public service.

6. To the extent feasible, focus USAID support on a small number of key locations.

Given the cost and logistical barriers to working in Southern Sudan, along with the weak organizational capacity of many local government institutions, USAID should take a targeted approach to engage the best-staffed local governments serving localities with stronger prospects for economic growth. These areas would also have the best prospects for generating own-source revenue. This would actually complement the broader UNDP program that seeks to provide modest training support to all 78 counties in the country.

7. Strengthen state assemblies and county councils and encourage them to demand accountability from the local governments.

Councils and state assemblies can play a significant role in demanding accountability of local governments and states. USAID should consider developing some capacities to perform control and demand transparency in the management of public resources. These actions must be accompanied by other activities to increase the transparency of local finances: simple, inexpensive measures can be employed, such as posting county revenues and expenditures on bulletin boards in front of county offices.

8. Consider making resources available for programs led by states and counties.

In addition to the above, USAID should consider making resources available directly to local governments to enable them to take the lead on small, high-priority projects (e.g. market improvements, drainage, road repairs, public lighting). One approach would be to establish a local development fund from which funds could be tapped by various local governments based on the submittal of a reasonable construction and management plan. Actual funds should be managed by a partner organization (which might also provide technical support) rather than the local government entity itself.

9. Work to strengthen the association of governors in Southern Sudan so that they can jointly lobby and involve themselves in the legislative process.

USAID experience in other countries has shown that decentralization is often best promoted through associations among sub-national levels of government. Local officials, when organized into associations, can speak with one voice. This helps them to more effectively lobby central governments on changes to the decentralization legal framework in regarding the GOSS system of fiscal federalism.

10. In the Three Areas, USAID should continue to support NGOs providing needed services in former SPLM controlled areas. Agreements with states might help to this end.

USAID should shore up its support for NGOs providing critical services in these disputed areas, but require that NGOs make a sincere effort to coordinate with the de facto local governments and engage them in their work (as some do now) for purposes of training and collaboration.

11. Upon settlement of local government integration issues in the Three Areas (which is unlikely to occur in the near future), USAID should consider a stand-alone program to resuscitate local governments in the former SPLM areas that have not benefited from state government resources since the CPA.

Given the poor condition of roads and their importance for economic development, a broad infrastructure program that engages the county governments would be a good investment.

12. Enhance legitimacy, incorporate citizen participation and political competition in all activities. Councils may play a critical role in this effort.

At present, neither state nor sub-state government levels are elected, and thus lack a key component of accountability. This may change in 2010 with the first elections for state governments. Even though the Local Government Act states that sub-state governments should be elected by universal suffrage, it appears unlikely that any subsequent elections reaching below the state level will be held prior to the referendum in 2011. In the eyes of the citizenry, the perceived legitimacy of county governments is likely to decline with the failure to schedule elections and establish more formal systems for consultation with citizenry.

In the absence of elections, local governments can garner some legitimacy through sharing critical information with the electorate, involving the electorate through community meetings and outreach, bringing local leaders into the governance process by having them serve in advisory and other capacities, displaying an openness to civil society to monitor and report on local government actions, and instituting internal controls by independent bodies. The only aspect of this broader array of measures to bring accountability and greater legitimacy is the appointment of county councils. Councils are explicitly chosen to reflect a broad representation of political parties and both genders. However, these councils appear to be largely selected by the county commissioner himself and it is not clear that there is any sustained effort on the part of council members to engage the constituency. Programs should encourage council members to conduct permanent dialogue with their constituencies and to advocate for transparency in the use of public resources.



# ANNEX I: KEY ELEMENTS OF THE BASIC LEGAL STRUCTURE FOR GOVERNMENTAL DECENTRALIZATION IN SOUTHERN KORDOFAN

While in Kadugli, the team received a copy in Arabic of the Local Government Act for Southern Kordofan, which was passed within the last three months. Relevant sections are summarized below.<sup>2</sup>

1. **Formation of jurisdictions.** Article (5) of the Act calls for the establishment of localities (Counties/Mahliyaat) and administrative units taking into account, but not limited to, the following criteria:
  - a. size of territory;
  - b. population;
  - c. economic viability;
  - d. common interest of the communities; and
  - e. administrative convenience and effectiveness.
2. **Core Responsibilities.** According to Article (9) of the Act, a Locality/county is responsible for:
  - a. public services;
  - b. development;
  - c. supervision of services and development; and
  - d. the exercise of limited powers according to this law.
3. **Establishment of Coordination Council.** Article (10) of the Act establishes the Coordination Council for Local Government and Public Service. The Council is made up of the following:
  - a. Minister of Local Government and Public Service-Chairman
  - b. Commissioners of Counties-Members
  - c. Secretary General of the State Government-Member
  - d. Heads of the Legislative Councils in the Counties-Members
  - e. Secretary General of the State Ministry of Local Government and Public Service-Member
  - f. Directors of the Department of the State Local Government-Members
  - g. Executive Directors of the Counties-Members
  - h. The representative of the State Ministry of Legal Affairs-Member.
4. **Functions of the Coordination Council.** Article (11) of the Act gives the following functions to the Council:
  - a. Coordination and exchange of experiences between the counties for their development.

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<sup>2</sup> This translation was provided by Dr. Mom Arou.

- b. Providing the State Council of Ministers their recommendations for execution by the concerned institutions and counties.
  - c. Issuance of legal directives which organize its functions.
- 5. The Local Government County Legislative Council.** According to the Act:
- a. The elected local government county council is composed of 20 members;
  - b. The members are elected according to the Electoral Law, with the representation of women by 25%
  - c. A member of this council may not simultaneously hold a position in the State Local Government Council, National Assembly or the State National Assembly;
  - d. The duration of membership in the County Council is 4 years.
- 6. Financing for sub-state governments.** The counties fall directly under the State Ministry of Local Government. The Ministry is responsible for them financially, especially in regard to the “Grant-in-aid.” The Commissioner of the county reports directly to the Director General of the State Ministry of Local Government. Services such as education, health and infrastructure are delivered to the counties by state line ministries for health, education and infrastructure. This new Act identifies 14 local revenue sources reserved entirely for local governments and 12 that are to be shared with the state.

## **ANNEX II: SCOPE OF WORK**

### **Introduction and Background**

Sudan is the largest country in Africa, borders nine countries and has a population estimated at 40 million. The current population of Southern Sudan is estimated at 10-12 million people, with an estimated four million others displaced to northern Sudan or living as refugees outside the country. Southern Sudan has suffered from decades of underdevelopment, war, famine, drought and flood, resulting in the devastation of the South's economic, political and social structures. The Southern Sudanese people have neither the basic health and education services nor the infrastructure needed to build a thriving economy and a functioning state. In the mid-1990s, non-governmental organizations (NGOs), faith-based organizations (FBOs) and international humanitarian relief agencies became the prime providers of an array of much needed services.

After decades of civil war, parties to Sudan's north-south civil war signed a Comprehensive Peace Agreement (CPA) in January of 2005. The CPA is comprised of six interlocking agreements related to wealth and power sharing, the establishment of the Government of National Unity (GNU) that provides southern Sudanese with representation in the national government, a resolution of conflicts in the oil-rich border regions between northern and southern Sudan (known collectively as the "Three Areas"), the creation of a southern Sudanese government and state governments with appointed leadership until elections in 2009, and the establishment of a six-year interim period after which the citizens of Southern Sudan will vote to determine whether they will remain a part of a unified Sudan or secede to create an independent state. Despite the death of former SPLM leader and GNU First Vice President John Garang, the country has taken significant steps in implementing the CPA, although progress has been slower than most had hoped and conflict in Darfur has continued. Garang's successor, Salva Mayardit Kiir, currently serves as the First Vice President of Sudan and President of Southern Sudan.

Southern political parties (SANU, SPLM, SSDF, UDF, UDSF, USAP 1 and USAP 2) have continued to face serious challenges in transforming themselves from armed movements and exiled groups into representative and accountable political organizations, while simultaneously establishing an effective Government of Southern Sudan (GOSS). After the signing of the CPA, southern political party leaders were faced with the daunting task of creating and running the GOSS and state governments with no previous experience as lawmakers or civilian administrators. The long years of war in the opposition-controlled areas of Sudan had also prevented the emergence of governance institutions required for civil administration, security and delivery of basic services. The lack of such administration had been one of the greatest hindrances in the recovery and rehabilitation of these areas of Sudan. The development of these new political and governing structures will continue to require considerable technical and material assistance from the international community.

### **Local Governance**

Public support for the Comprehensive Peace Agreement (CPA) can be secured only through legitimate, democratic governance that delivers the peace dividends sought by Sudanese citizens. The absence to date of visible development in many parts of Southern Sudan and the Three Areas has dampened enthusiasm for the CPA, opened southern governments at all levels to criticism and hindered resolution of local conflicts. Failure of the Government of Southern Sudan to establish effective, accountable institutions and of local governments to deliver basic social services could easily lead to a resumption of conflict.

In the federal system established under the Sudan Interim National Constitution and the Interim Constitution of Southern Sudan, state and county governments have the primary responsibility of delivering core public services to citizens. For southern Sudanese, core services such as education, health, and fostering an

environment conducive to economic growth, are the primary dividends of peace. Delivery of these services has lagged as southern Sudanese leadership has focused on the establishment of core governmental functions.

While tremendous progress has been made in establishing functioning institutions where there were none, major challenges remain. Ministries are basically functional. Revenues are coming in and payments are being made yet development gains have been slow. Many governance fundamentals need to be improved. At the GOSS macro level, stronger and more consistent linkages among policy priorities, policy development, legislation, budget and implementation need to be forged. At the state and county level, the same is true for development planning and management of service delivery. The civil service rosters at all levels of government in the south remain bloated. The GOSS and state governments recognize the need to downsize staffs in order to free up government resources for development and infrastructure investments, yet they must be able to provide re-training and pensions in order to do so. On the finance side, procedures to enable transparent financial management are not yet fully implemented and auditing is just beginning at the GOSS level.

Since late 2003, the SPLM Local Government Secretariat (which will become the GOSS Local Government Board in the Office of the President) has been pursuing a consultative process to develop the policy and strategy to guide the establishment and development of local government in Southern Sudan. Governing frameworks include the Local Government Framework (LGF), the forthcoming Local Government Act, and drafts of state and county strategic plans.

Budgets to states were made simplistically without information through equal distribution to all states. During the 2008 budget discussion at the Southern Sudan Assembly in December 2007, the ten states were asked to make their own budgets that should include their own revenues projected as prescribed in the CPA, Interim National Constitution (INC) and Interim Constitution of Southern Sudan (ICSS). However, the majority of the budget still goes toward salaries; the resources remaining for development projects are limited. Improvement in service delivery to generate peace dividends that respond to local needs is a priority for continued public support of the CPA.

## **Other Donors**

Several donors are providing assistance to state and county level government programs; some have expressed interest in expanding their assistance. The UNDP, PACT, and CRS are implementing the Local Government Recovery Program (LGRP), divided among three implementing agencies based on their presence on the ground. UNDP has the overall management and implementation role in the states of Upper Nile, Unity and Western Bahr el Ghazal; Catholic Relief Services in the three states of the Equatorial region (Western, Central and Eastern Equatorial); and PACT in the states of Jonglei, Northern Bahr el Ghazal, Warrap and Lakes. The project aims to support local government in Southern Sudan so that it is capable of playing a leadership role in socio-economic development, therefore contributing to democratic development and sustainable peace in the new dispensation in Southern Sudan (from UNDP website, [http://www.sd.undp.org/projects/s\\_dg1.htm](http://www.sd.undp.org/projects/s_dg1.htm)).

## **Purpose and Objectives**

The purpose of the Local Governance Assessment is to prepare USAID/Sudan to provide technically sound and politically appropriate assistance to local governments in South Sudan and the Three Areas. This assistance is needed in order to improve service delivery and generate peace dividends that respond to local needs. This program will provide capacity building to local governments to better plan and manage core public services, including health, education and fostering local economic growth. The approach will emphasize civic participation in planning and public-private/public-civil society organization implementation partnerships (as appropriate). It may include targeted funding for local development projects which catalyze, not detract from, state and county governments' development of their own source revenue.

The assessment team should first analyze the Local Government Framework and draft of the Local Government Act as well as the Interim National Constitution, the Interim Constitution for Southern Sudan, the CPA and other relevant regulations and laws, such as those dealing with decentralization and local governance. States have also developed draft strategic plans. The LG Act and strategic plans are in draft form and are likely to remain so through the duration of the assessment. State governments are responsible for service delivery yet government institutions on all levels are very new and have limited capacity despite the breadth of functions they are tasked with.

The objectives of the Sudan Local Governance Assessment are to:

- Assess the state of legal provisions and institutional responsibilities of the GOSS, state, and county governments in Southern Sudan and the Three Areas.
- Assess the structure and relationships among political, administrative and financial dimensions of various processes along the vertical and horizontal levels of government.
- Assess capacity of state and local governments to deliver services.
- Based on these factors and the team’s analysis of USAID manageable interest, make prioritized recommendations as to whether USAID should provide in support for the following (and if so, what type of assistance):
  - Achieving near-term local development progress that addresses citizen priorities and provision of services through local government capacity building, facilitated civic participation and funding for local development projects that do not deter the government’s plans for developing their own source revenue.
  - Supporting local governance in the Three Areas, particularly the states of Blue Nile and Southern Kordofan, complementing other USAID health, education and EG programs.
- Assess the current activities and plans of other donors regarding local governance at the state and county levels.

## **Prioritization of Needs**

The assessment team’s analysis of the factors mentioned above is likely to produce a comprehensive set of potential interventions. As part of its analytical process, the team will need to consider other likely donor assistance, including the UNDP and the World Bank, among others, and how USAID activities can best complement (or address gaps in) local governance. The team should also consider known constraints on USAID/Sudan assistance, such as restrictions on movement, security concerns, legal and legislative restrictions, time and budgetary constraints, limited staffing, and the logistical challenges of operating in a large country with limited infrastructure.

After filtering the set of possible interventions according to these considerations, the team will provide recommendations for USAID assistance, identifying high, medium, and low priorities based on the nature of assessed needs, the perceived importance of the interventions, the potential for positive impacts and planned assistance from other donors in the following categories of assistance:

The team should also make recommendations for any key diplomatic messages and suggest priorities for donor coordination to address key election administration needs that may fall outside USAID manageable interests or resources.

## Report Findings and Recommendations

The team will deliver a report summarizing its findings and recommendations. A draft report is due one week after completion of field work. The final report will be due no later than one week after receipt of the Mission's final comments on the draft report. The report, in MS Word, will not exceed 40 pages (excluding executive summary and annexes, single-spaced and 11 point font accepted) and should include:

- Executive Summary (not to exceed 10 pages, which can be used as an independent briefing paper)
- Introduction
- Conclusions and Supporting Findings
  - State and local governments' legislation, legal frameworks and plans – e.g. Interim Constitution, Interim Constitution of Southern Sudan, state constitutions, other GOSS policies, Local Government Framework, draft Local Government Act
  - Status of decentralization progress – administrative, budget, capacity and development of strategic plans
  - Structures, roles and relationships of GOSS, state and local governments – include functions of SPLM Local Government Secretariat/GOSS Local Government Board
  - Assessment of state and local government capacity
  - State and local government structures and how they work with citizens in the delivery of services
  - Analysis of situation and identification of key factors of successful devolution-support programming
  - Assessment of state and local government capacity building efforts and work with civil society integration to local governance by other donors
  - Impact of 2009 elections on state and local government structures, leadership and staff positions, and ability to deliver services
  - Other stakeholders
  - Longer-term considerations
  - Other donor assistance
- Recommendations - state and local government
- Immediate local government assistance (up to December 2008)
  - State and local government capacity needs to deliver services
  - Civic participation
  - Geographic focus among 10 states and the Three Areas, particularly where local governance activities can complement other USAID programs
  - Diplomatic messaging
  - Donor coordination priorities

- Mid-to-longer-term local government administration assistance focus

### REQUIRED TASKS AND WORK PLAN

Tasks (All team members unless otherwise noted)	Work Days (6-day weeks)	Timeline for Completion
Initial Preparation Prepare preliminary analysis based on review of legal framework and other background documents, attend MSI Team Planning Meetings (TPM), make travel preparations, provide feedback on SOW and SUPPORT Project's Evaluation Quality Management Guide, conduct other Washington meetings and travel days.	5	July 2008
In-Country Evaluation Initial briefings, meetings, field visits and debriefings.	11	July 23 –August 7, 2008
Report Preparation in Kenya Draft report preparation, submit for review, incorporate collective Sudan feedback, complete final report and submit to USAID DG Team Leader.	4 each and 6 for Team Leader	Initial draft due before departing Mombasa o/a August 7th. Final paper can be due 2 weeks after completion of field work.
Total for each Evaluation Team member	20	
Total for Assessment Team Leader (2 additional days)	22	

### Team Composition and LOE

USAID/Sudan envisions a two person team, including a consultant team leader with experience in local governance and, if possible, prior experience in Sudan or elsewhere in East Africa. The other team member should be a consultant with experience managing USAID local governance programs.

The team should expect to spend about two weeks in Sudan to conduct field work. The USAID/Sudan Mission requests that the entire team arrive in Juba at the same time (fragmentation of team member's arrivals is unacceptable) for the initial briefings and discussions with the USAID DG team leader and other Mission officers, as well as GOSS and donor representatives. Subsequently, the team will commence its field trips and meetings. (Note: The DG Team Leader maintains offices in both Khartoum and Juba and may be in and out of Juba during the course of the evaluation. Due to the timing of the assessment, the in-brief may be in Nairobi, where the team will have a layover prior to entering Juba.)

During the initial meetings in Juba/Nairobi, the assessment team leader will present (in writing and orally) the team's proposed work plan for the entire period of its presence in Sudan and thereafter with respect to the submission of the draft and final reports (i.e., draft due one week after completion of field work and final due no later than two weeks from wrap up of field research). The work plan will also include a schedule for periodic USAID meetings/progress reports and possible submissions of specific work products, as determined by the two parties.

While subject to change with the acceptance by both parties, it is envisioned that all team members will be in Sudan the entire two-week duration of the evaluation's in-country component (six-day work weeks are authorized). Besides travel days, an additional four days are provided for each team member for purposes of the team's initial U.S. preparations; an additional four days are provided for report drafting and finalization. The team leader will be provided a total of six additional days upon return the U.S. to ensure the completion and transmission of the final report as well as the closure of any outstanding matters. (See table above.)

The team leader will be responsible for managing the team members, organizing their work, and ensuring quality control and delivery of the required report as agreed by both parties.

A written outline and oral de-briefing of the findings, conclusions and recommendations of the evaluation team will be presented to the USAID/Sudan DG team leader prior to the departure of the team, as per the outline described above. Briefings for other USG and/or Sudanese officials will be provided as determined by USAID.



## ANNEX III: ORGANIZATIONS AND INDIVIDUALS CONTACTED & INTERVIEWED

NAME	POSITION	ORGANIZATION	PHONE 1	PHONE 2	E-MAIL
Abel Jakthon	Administration Officer	Parang County	0910 409 899		
Ahaya Agabash	Executive Director		0925 742 197		
Andrew Kuong	Minister of Information	Unity (state)	0918 201 020	0915 978 424	<a href="mailto:penjokcong@hotmail.com">penjokcong@hotmail.com</a>
Breima Jannol		Kadugli Locality	0918 137 070		
Brigadier Simon Magwer Gai	Minister for LG and Law Enforcement / Speaker for the Assembly	Unity (state)			
Chang-jwec D. Diing	National Security	Parang County	0910 853 306		
Dok Jok Dok	Deputy Governor	Upper Nile state	0911 068 641		
Edith Rolich	Governance Trainer	UNDP/Southern Kordofan	0910 604 210		
Elijah Wal Chol	Administrative Officer/Njeel Payam	Parang County	091 026 010		
Faroq Idris Kuku	Executive Director	Rashad County - Kauda			
Gache Bucheiko Aliongo	Engineer	IRD / Upper Nile			
Gat Deat Gany	Deputy Commissioner	Rubkona County	8821621 002 111		
Gatsieh Mayor	Director Local Government /Ministry of Local Governments	Unity (state)	0913 489 848		
Hyssein Ajuong	Director General/ Ministry of Local Government and Law Enforcement	Upper Nile (state)	0911 109 356		
Jama Gapan	Chairman Local Council	Rubkona County	0915 959 763		

NAME	POSITION	ORGANIZATION	PHONE 1	PHONE 2	E-MAIL
James Malula	Project Analyst - Local Government Recovery Program	Upper Nile (state)	0477 154 672	0129 032 385	<a href="mailto:james.malula@undp.org">james.malula@undp.org</a>
James Pui	Commissioner	Guit County	8821643 335 395		
Lealem Berham	UNDP Office Manager / Southern Kordofan	UNDP/Southern Kordofan	0919 644 989		
Mabek L. Mackling	Commissioner	Parang County	0910 731 007		
Mahadi Hassan Baba	Secretary Rashad	Rashad County - Kauda			
Mahdi Anur Aaud	RCLC Member	Rashad County - Kauda			<a href="mailto:mahdi@yahoo.com">mahdi@yahoo.com</a>
Makuei Wekok Ruai D.G.	Ministry of Local Governments	Unity (state)	0913 314 672	0126 585 994	
Mary Baddawi	Sec of planning	Rashad County - Kauda			
Mohamed Al Bassir an Outhman	Executive Director	Kadugli Locality	0915 178 893		
Neroun Phillip	AEC Co-chair	Rashad County - Kauda			<a href="mailto:neroun2005@yahoo.com">neroun2005@yahoo.com</a>
Peter Mayom	Executive Director	Malakal County	0911 163 856	0121 478 841	
Ruai Kuol Jal	Commissioner	Rubkona County	882163 334 750		
Salah Abrihim Yacob	Executive Director		0121 695 474		
Sat Koun Jiek	Executive Director	Guit County	0914 154 349		
Sayed Awad Morgan	County Commissioner	Malakal County	0919 194 052		
Simon Achub	Administration Officer	Parang County	0910 731 019		
Sultan Kong Kong Bal	Deputy Governor / Minister of Social Welfare	Unity (state)	0916 642 164	0129 405 974	
Tabitha Gwang Awok	Director for Gender	Upper Nile (state)	0122 466 519		
Yaunan Bashir	Sec of Information	Rashad County - Kauda			<a href="mailto:aladdin_33@yahoo.com">aladdin_33@yahoo.com</a>

<b>NAME</b>	<b>POSITION</b>	<b>ORGANIZATION</b>	<b>PHONE 1</b>	<b>PHONE 2</b>	<b>E-MAIL</b>
Yoannes Amiua Regitar	Director Planning and Training/Ministry of LG and Law Enforcement	Upper Nile (state)	0918 222 200		
Younan Albarreud	SPLM Chair Person	Rashad County - Kauda			
Younan Bashir Kubku	Information Officer	Rashad County - Kauda			

## **ANNEX IV: MAJOR DOCUMENTS REVIEWED**

1. The Interim National Constitution, 2005
2. The interim Constitution of Southern Sudan, 2005
3. The CPA Protocol on Power Sharing, January 9, 2005
4. The Protocol on the Resolution of the Abyei Conflict, May 2004
5. The Protocol on the Resolution of Conflict in Southern Kordofan/Nuba Mountains and Blue Nile states, May 2004
6. The Constitution of Southern Kordofan, March 2008
7. Southern Kordofan Local Government Act, 2008
8. GOSS 2009 Local Government Act
9. GOSS Draft Financial Management and Accountability Act, 2007
10. Unity State Strategic Plan, 2007 – 2011
11. Upper Nile State Strategic Plan 2007 - 2011
12. UNDP Local Government Recovery Program documents
13. World Bank Strategic Options Paper on Decentralization
14. NDI Reports: “Findings from Focus Groups with Men and Women in Southern Sudan, 2007”
15. Community Planning for Resettlement, Juba, Wau, and Malakal, USAID/Sudan
16. 2007 Report on the Multi-Donor Trust Fund
17. “Budget at a Glance,” approved GOSS 2008 budget