

Southern Sudan

Local Governance in Complex Environments
Project Assessment

The DGTTF Lessons Learned Series

United Nations Development Programme

Southern Sudan

Local Governance in Complex EnvironmentsProject Assessment

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Abbreviations¹

CANS Civil Authority of the New Sudan

CO Country Office

CPA Comprehensive Peace Agreement

DGTTF Democratic Governance Thematic Trust Fund

GGEPP Good Governance and Equity in Political Participation in

Post-Conflict Sudan Project

GoNU Government of National Unity

GoSS Government of Southern Sudan

Interim Constitution of Southern Sudan

IDPs Internally Displaced People

JAM Joint Assessment Mission

LGA Local Government Act

Local Government Recovery Programme

Local Governance Secretariat

NCP National Congress Party

NGO Non-governmental organization

OECD/DAC Organisation for Economic Co-operation and Development/

Development Assistance Committee

SPLA Sudan People's Liberation Army

SPLM/A Sudanese People's Liberation Movement / Army

UNDP United Nations Development Programme

UNICEF United Nations Children's Fund

UNMIS United Nations Mission in Sudan

¹The abbreviations and acronyms relate to those used in the main text, not those that are found only in the Annexes.

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Preface

The Millennium Declaration from the Millennium Summit in 2000 emphasizes the centrality of democratic governance for the achievement of the Millennium Development Goals (MDGs). World leaders agreed that improving the quality of democratic institutions and processes, and managing the changing roles of the state and civil society in an increasingly globalized world, should underpin national efforts to reduce poverty, sustain the environment, and promote human development.

The Democratic Governance Thematic Trust Fund (DGTTF) was created in 2001 to enable UNDP Country Offices to explore innovative and catalytic approaches to supporting democratic governance on the ground. The DGTTF Lessons Learned Series represents a collective effort to capture lessons learned and best practices in a systematic manner, to be shared with all stakeholders, to serve as an input to organizational learning, and to inform future UNDP policy and programming processes.

Executive summary

The findings presented in this report are the result of an assessment that was conducted by an independent consultant on two DGTTF funded projects in Southern Sudan in 2005 and 2008. The projects were part of UNDP's broad efforts to support the development of decentralized democratic governance through the implementation of the Comprehensive Peace Agreement (CPA) signed in January 2005.

The study was conducted within a methodological framework of political economy. It examined the projects' impacts within the context of history and political process specifically relating to local governance and gender equality. The assessment focused on the qualities of effectiveness, efficiency, innovation, catalytic effect and sustainability. The study attempts to provide an understanding of the key factors underlying and driving events and future scenarios. These understandings provide the basis to determine the impact of the projects identified.

Decades of violent conflict between the North and South regions of the Sudan provide the backdrop for today's challenges. A history of Southern marginalization, discriminatory policies, the concentration of power and wealth in the hands of a central Northern elite, and the actions of a dysfunctional State establish the magnitude of challenge for democratic governance.

A major defining feature of Southern Sudan lies in the tribal nature of its social organization, identity and the adherence to traditional culture and systems. The only constant throughout history in terms of governance practice has been the role of traditional authorities in the leadership of their communities.

The prolonged civil war managed to damage but never to eradicate these systems. Division of labour within the parameters of a traditional society has historically defined gender roles, but war changed these roles as women assumed new responsibilities.

The Comprehensive Peace Agreement (CPA) signed between the representatives of the National Congress Party and the Sudan People's Liberation Movement provides a blueprint for democratic transformation and respect for the equality of all Sudanese people. The CPA created the new autonomous Government of Southern Sudan (GoSS), which was required to establish the institutions and processes of governance with no previous experience in government. Few qualified professionals, virtually no infrastructure and limited resources juxtapose the available capacity with significant popular expectations for a peace dividend. The projects, therefore, were implemented under challenging conditions and with high programme risk.

Main findings and lessons learned

The first of the projects assessed, Support for the Development of Policies and Legislation for Responsive, Accountable and Equitable Local Government in Southern Sudan, organized formal consultations with traditional authorities in order to elicit their opinions and directives on how to incorporate traditional authorities into a Local Governance Framework. The results indicate:

- ✓ A highly innovative effort to involve traditional authorities in a democratic process to determine State structures and legal frameworks of local government. The recommendations of these traditional authorities informed the Local Government Act of 2009.
- ✓ The Act, which incorporates traditional authorities into local governance, opened a political debate between 'modernists' and 'traditionalists' over whether a modern State can support parallel cultural systems of authorities and law.
- ✓ The catalytic effect of the consultations is reflected in the promulgation of the Act, and the ongoing activities that incorporate the traditional authorities into local planning and budgeting processes.
- ✓ Sustainability will depend upon the maintenance of peace and the will of the political classes to allow space for democratic debate and process to define issues.

The second of the projects, Strategy for Mainstreaming Gender Empowerment in Local Government in Southern Sudan, was a component of the broader Local Governance Recovery Programme that supported gender equality by training state and county government officials in gender awareness, sensitivity and mainstreaming. The assessment determined that:

- ✓ Although the commencement of the project was delayed by a significant time period, the project built databases, trained specific and general local government staff members, developed policy guidelines and successfully introduced gender issues into planning and budgeting of local government throughout Southern Sudan. Efficiency may be questionable in terms of time management but the project proved to be effective.
- ✓ A Gender Policy Framework was completed in the latter half of 2009. However, it was too late to be used to inform the final draft and subsequent Local Government Act.
- ✓ A network of 20 Gender Focal Points was created and based at the Ministry of Local Government in each of the 10 Southern states. The role of the Focal Points was to initiate and coordinate gender activities with communities in an attempt to increase participation of women in community decision-making. Although this project achieved undeniably positive results, its sustainability is now threatened by a lack of resources for the Gender Focal Points to carry out their mandated activities.
- ✓ The design, implementation and impact were catalytic only in their potential for creating wider gender awareness and opportunities within the local community. The broader gender movement laid out in the CPA had already convinced the government to proceed in this direction.
- ✓ UNDP had also mandated gender mainstreaming in all its programmes since 2005, therefore the project was not innovative per se, but sought to implement UNDP policy in this area.

The assessment undertaken identifies both the challenges and opportunities available in a post-conflict situation that is subordinated to a negotiated peace agreement.

Introduction

Purpose, scope and methodology of the assessment

The Democratic Governance Thematic Trust Fund (DGTTF) was created in 2001 to provide the opportunity for UNDP Country Offices (COs) to engage in innovative activities that could have a catalytic effect in supporting sustainable democratic governance on the ground.

Within a much broader range of UNDP activities in post-war Southern Sudan, the CO undertook two projects funded by the DGTTF in 2005 and 2006-2008. The first of the two, 'Support for the Development of Policies and Legislation for Responsive, Accountable and Equitable Local Government in Southern Sudan', funded with USD 200,000 enabled the CO to undertake formal consultations with traditional authorities in Southern Sudan in order to elicit their ideas on traditional structures, authorities and systems of the communities to facilitate decentralization and the incorporation of these authorities into the new local government and state structures being developed in post-war Southern Sudan.

The second project, 'Strategy for Mainstreaming Gender Empowerment in Local Government in Southern Sudan' focused on empowering local women to take their place in local government within the democratization of Southern Sudan. This project focused on the institutionalization of gender awareness, gender sensitivity and the incorporation of gender criteria within local government structures. And more importantly, the project provided an avenue where gender issues were introduced into discussions at the lowest levels of the government, emphasizing the importance of women's political participation and contribution to the development of Southern Sudan. It was funded with USD 485,000 and spanned the years 2006 -2008.

The purpose of this study undertaken in February 2010 is to assess the impact of these projects within the criteria of effectiveness, efficiency, innovation, catalytic effect and sustainability, defined according to OECD-DAC evaluation criteria and DGTTF guidelines in the following manner:

Effectiveness

Effectiveness is a measure of the extent to which an aid activity attains its objectives.

Efficiency

Efficiency measures the outputs in relation to the inputs. Were activities cost-efficient and were objectives achieved on time?

Innovation

Innovative projects are those that address a recognized critical democratic governance issue and if resolved might lead to substantial improvement in democratic governance. They are initiatives, in terms of the problem addressed or the approach taken, that have never before been attempted in a given country. And although they may be potentially risky or less certain of success than traditional projects, they will position UNDP as a key player in democratic governance and one that 'pushes the frontier'.

Catalytic effect

A catalytic project has a high likelihood of receiving support from government or other governance institutions (including other donors) for scaling up or following up, if the project is successful.

Sustainability

Sustainability is concerned with measuring whether the benefits of an activity are likely to continue after donor funding has been withdrawn. Projects need to be environmentally as well as financially sustainable.

The methodology utilized for this study consists of:

- ✓ A preliminary literature review of all available project documents and reports, political analysis reports on Southern Sudan as well as academic studies on democratic governance in post-conflict or fragile States, and political economy analysis.
- ✓ A political economy analysis of the situation in Southern Sudan, from a historical perspective as well as in the post-war period governed by the CPA, to set the context within which these two projects were formulated and implemented. The study does not attempt to enter into

a detailed description of current events and situations, rather it aims to provide an analysis that permits a clear understanding of the key factors underlying and driving these events and future scenarios. These understandings should provide the basis to determine the impact of the identified projects.

✓ A field visit (8–12 February 2010) to Juba and Torit County, Southern Sudan in order to conduct semi-structured interviews with UNDP staff and former staff members, who were responsible for implementing these projects and subsequent activities, local counterparts, stakeholders and members of the donor community. It is considered important to understand how impact is perceived by both UNDP staff members and the international community, but also by the beneficiaries of the projects.

Limitations to the assessment

UNDP staff members were collaborative and generous with their time. However, it is important to note that very few project documents were available from the Governance Unit of UNDP CO. The period of post-war history in which these projects took place was chaotic and extremely challenging in terms of logistics, availability of qualified international or national professionals, political uncertainty and insecurity. While acknowledging that UNDP moved from Nairobi to Rumbek and then to Juba within a very short period due to political exigencies that created disruption and unfavourable conditions for maintaining archives, there should have been electronic data systems in place that would have ensured the preservation of project documents.

In addition, the principal staff members actively involved during this period are no longer part of the UNDP Country Team at the time of the study visit, and although contact was made with a few of them, time was insufficient to totally recreate the history of these projects. Information was garnered from UNDP where available, from interviews and from documents provided by other sources. It was not possible to identify or obtain copies of any tools that were utilized for these projects.

Due to the busy schedules of most people and the restricted time-frame for the field visit, not all recommended interviews were accomplished, plus a planned visit to a local community was cancelled due to security reasons. Within the limitations mentioned above, a timeline was developed that shed light on the significance and impact of these projects within an historical and challenging period of history. While official project reports detailed project challenges, outcomes and achievements, interviews with people on the ground provided the broader vision, relevance and goals of a continuing process to develop decentralized democratic governance in Southern Sudan with the support of UNDP.

Country and political context

The Republic of the Sudan is Africa's largest country. It shares borders with nine neighbours² and has approximately 800 km of coastline on the Red Sea. Since the annexation of Darfur by the British in 1916, the international boundaries have remained largely uncontested; however, state jurisdictions within the national territory have altered. The border that demarcates North Sudan from Southern Sudan in the area of Abyei was recently determined by the Permanent Court of Arbitration in The Hague, in preparation for a referendum on self-determination in 2011 that will conclude whether or not Southern Sudan remains a part of a unified Sudan, or whether it secedes and becomes independent.

Geographically the Sudan is divided on a north/south axis by the Nile River and its tributaries; the northern part of the country is arid desert and the far south is tropical rainforest. However, the greatest divides in the Sudan are the ones that starkly separate those who have access to education, power, and wealth from those who do not; these divisions fall along both geographic lines and those of tribal, ethnic and religious identity. In broad terms the divisions align the Northerners as Arab and Islamic, the Southerners as black African adherents of traditional spirituality or Christianity, and the subsistence level population of both groups is divided by pastoralist and agriculturalist lifestyles. Since independence from British rule in 1956, power and wealth have been held at the centre by a small elite of Nile riverine tribes at the expense, not only of the South, but also of a marginalized periphery that extends around the country. Although oil was discovered in Sudan in 1978, the benefits have accrued predominantly to the central elite, while most Sudanese remain desperately poor. The oil revenues have been shared with the Government of Southern Sudan (GoSS) according to the CPA wealth-sharing agreement and now provide 98 percent of GoSS revenues.

For most Sudanese the earliest conquerors of their territory were the 'jellaba' – traders and soldiers from two Northern tribes who conquered and dominated national territory. However, officially the first colonial period (1821-1883) was dominated by Egypt, at that time a province of the Ottoman Empire, and in the second period (1898-1955) the Sudan was formally an Anglo-Egyptian condominium.

Since the end of the colonial period, a half-century of independent statehood, peace has been elusive. From prior to independence until the 1972 Addis Ababa agreement, the Anyanya Movement fought a separatist rebellion. A short-lived peace in the South came to an end when the Jaafar Nimeiri government rescinded the Addis Ababa agreement and imposed Shari'a law throughout the country in 1983. The subsequent uprising led by John Garang initiated a new Southern rebellion under the banner of the Sudanese People's Liberation Movement / Army (SPLM/A), which spread to adjoining areas of the North in 1985 and to Eastern Sudan in 1994. In the western part of the country sporadic and low-level conflict took hold from the late 1980s and Darfur broke into full-fledged insurgency in 2003.

Although lack of representation, opportunity and the imposition of Islam and Arabization policies directly brought about the brutal civil war between North and South Sudan, it is important also to remember that there was a narrative that uses "slavery" to reflect southern grievances, as this legacy has not been forgotten; it fuelled a war of liberation and today strongly plays into the political dynamics of choosing a 'unified' Sudan or secession of the South.

The constitutional framework for a parliamentary system has long been installed in the Sudan; however each brief democratic period that witnessed the emergence of political parties, and social movements that channelled political contestation later disappeared when the next military regime assumed power in the country. Outside these brief periods the Sudan has little experience of either democratic governance or equal rights for the diverse cultural traditions of all its inhabitants. There was never a 'social contract' negotiated between the governing elites of state structures and the citizens of the Sudan.

²Egypt, Eritrea, Ethiopia, Uganda, Kenya, Democratic Republic of Congo, Central African Republic, Chad, Libya.

Sudan is a diverse society of numerous tribes, cultures, languages and religious practices where tribe and religious identity have dictated access to health, education and opportunity. Traditional tribal culture and life still dominate the Southern states where local leadership is widely enacted by tribal chiefs and monarchs. Although the war weakened these traditional structures through population displacement, military domination and loss of moral authority of the cultural values, peace, decentralization and the development of local government have brought a re-empowerment and integration of the traditional authorities into state structures at the level of local government.

Among the lessons to be learned from the historical processes of nation-building in Southern Sudan are that a sense of political community and national identity remain weak. Southern Sudan is defined in terms of a geographical area rather than as a nation. Inhabitants of the region identify themselves primarily with their tribes, sharing only a concept of a common enemy - the government in Khartoum. The absence of social cohesion, a salient feature of the political community, is aggravated by an absence of road and communication networks in Southern Sudan.

The rural population in the south represents up to 90 percent of its inhabitants who largely maintain a traditional tribal lifestyle. Contact with state power has always been mediated by the chiefs, so the general population does not have experience of direct participation in the formal political process. The tribal members are informed by their leaders as to what occurs in the formal structures, or the environment outside of their communities. Tribalism is the defining feature of Southern Sudanese social organization and is recognized in the Interim Constitution of Southern Sudan and the Local Government Act.

The Sudan currently finds itself subject to the implementation of the CPA, a negotiated agreement that brought an end to civil war. After lengthy negotiations it was signed in January 2005 by the two dominant politico-military forces in the country – the National Congress Party (NCP) led by President Omar al-Bashir, and the SPLM/A led by the late John Garang. An interim period of six years was determined in order to implement democratic transformation throughout the Republic that would make unity of the country attractive to all. This period is quickly coming to an end. The ongoing Darfur conflict, which has detracted both international and national attention from the North-South peace process, has presented political obstacles for the consolidation of peace and full implementation of the CPA, while an indictment by

the International Criminal Court against President Bashir for war crimes and crimes against humanity has complicated political dynamics and processes.

The status of Southern Sudan, as derived from the CPA, is based upon the concept of decentralization and the establishment of an autonomous democratic government. The GoSS has political institutions and governance structures as well as the Interim Constitutions of the Government of National Unity (GoNU) and the GoSS. The region has three levels of government where local structures of governance are regulated by respective constitutions - the Interim Constitution of Southern Sudan (ICSS), the 10 state constitutions and an Act for the 78 counties. In 2009 the Local Government Act was also promulgated, which recognizes the role of traditional authorities and culture. For the first time Southern Sudan can boast its own government institutions and the integration of traditional structures into the State.

Previous local government experience

As a society Southern Sudan has maintained its tribal structures, authorities and cultural values. However there have been periods when the ruling regimes attempted to introduce forms of local government. The three main experiences were introduced under British colonial rule as native administration, by the Nimeri government as limited autonomy and later by the SPLM/A under their Civil Authority of the New Sudan (CANS).

Native administration³

As early as 1921, the British in the South began to support the concept of 'native administration'. Deputy-governors were installed in the provincial capitals while district and assistant district commissioners interfaced directly with traditional authorities at the local level. The logic of native administration was that much routine administration could be done through local authorities, using customary structures and law in so far as these could be co-opted by the colonial government.

The Nimeri period

Sudanese President Jaafar al-Nimeri signed the Addis Ababa accords in 1972, giving the South limited autonomy with local government and almost ten years of peace. However Nimeri ended the agreement by unilaterally imposing Shari'a law on the south in 1983, sparking the second civil war between the North and South of Sudan.

³Miner, Edward, "Native Administration in the South and the Beginnings of the Nasir Station", available at http://www.gurtong.net/Governance/Const itutionLaws/CustomaryLawsofSouthSudanNativeAdministrationintheSouth/tabid/348/Default.aspx. Last access: 28 March 2010.

The SPLM/A CANS

During the war, Sudan People's Liberation Army (SPLA) commanders worked closely with the traditional local authorities in order to maintain control within the SPLA territories, and in the 1990s the SPLM/A started to build up administrative structures in these areas. In 1994 the SPLM/A held a National Convention that declared a new State with a five-layered government structure and elected John Garang leader of the New Sudan. These reforms aimed at setting up a civilian administration separated from the military with involvement of the population in decision-making processes on different levels.⁴ The SPLM/A relied on traditional chiefs for governance at the local level. These chiefs collected taxes, judged at local courts and provided recruits and labour. This governance structure became known as the CANS.

Gender relations

Southern Sudan is traditionally a male dominated society and gender roles have been determined on the basis of a division of labour. Women played, and continue to play a variety of social and economic roles but have been relegated to the fringes of public decision-making and responsibility. Domestic tasks, such as building huts, cultivating fields, gathering and preparing food, are heavy and consume most hours of the day - water collection in rural areas can take several hours and is required on a daily basis. Even in modern sectors indicators reveal glaring disparities in education, employment, representation and leadership, resulting from high illiteracy and traditional customs. In 2004 only 16 percent of girls had access to school⁵, and of those girls that entered primary school very few progressed beyond. Parents often advocate for early and arranged marriages, as marriage involves high bride price paid in cattle or money; girls are seen to be a source of income for their families. Even within these circumstances women do wield significant informal power, as is seen in their ability to incite men to go to war or to engage in cattle raiding. They also influence peace initiatives and community welfare.

War changed the traditional role of women; communities were displaced, men were left to fight, and often killed, and women assumed the roles men had traditionally held in order to maintain life and family. Some women took up arms while others fled with their families or community members into exile in neighbouring countries, or even left for far-flung parts of the world. The women who entered refugee camps in Uganda or displacement camps in the North came into contact with women's organizations that began to introduce new possibilities for women – education, jobs, leadership and general empowerment of women beyond what traditional culture had offered. Many of these women became militants

and advocates for peace, and formed their own organizations and networks – although they were never formally included in the peace negotiations. Women who arrived in Europe or North America had educational opportunities where they could pursue the careers of their choice.

The Comprehensive Peace Agreement

The CPA, signed in January of 2005, became the framework for a democratic transformation of the Sudan. The CPA provided for shared power in the GoNU, shared wealth derived from oil production, a new autonomous GoSS and a constitution that recognizes ethnic and religious diversity within a modern human rights framework. The peace agreement identified a six year interim period for the new democratic government to 'make unity attractive', and within which multi-party elections would be held. The ultimate decision for or against unity will come with the 2011 referendum when Southerners are given the opportunity for self-determination, to decide whether to remain part of a unified 'New Sudan' or to secede and become independent.

The commitments undertaken by the parties to this agreement established the basis for a new Interim National Constitution and another one for the newly declared autonomous Southern States. Although the CPA defines a democratic transformation of the country, decentralization, respect for human rights and equality for all, the negotiation process was not a participatory one – neither political sectors apart from the NCP and SPLM/A nor civil society were included in defining the new State or the future of the country. However, at the time of writing these sectors are playing crucial roles in the democratization of the Sudan.

Sudan Joint Assessment Mission

The Sudan Joint Assessment Mission (JAM)⁶ was carried out by the World Bank and the United Nations, with the full endorsement, guidance and participation of the Government of Sudan and the SPLM, between April 2004 and February 2005. The report presented is the result of a year-long detailed assessment of recovery and development needs.

The report indicated that the national government faced major challenges to the improvement of governance at a national

⁴Rolandsen, Øystein H., 'Guerrilla government: Political changes in the Southern Sudan during the 1990s'. Nordic Africa Institute, Uppsala, 2005.

⁵CoS and LINDR Sudan Millannium David propert Goals: Interim Unified Papert.

⁵GoS and UNDP, *Sudan Millennium Development Goals: Interim Unified Report.* Khartoum, 2004, pp. 63-67. Available at

http://www.arab-hdr.org/publications/other/undp/mdgr/sudan-nmdgr-04e.pdf. Last access: 28 March 2010.

⁶Available at http://www.unsudanig.org/docs/Joint%20Assessment%20 Mission%20(JAM)%20Volume%20l.pdf . Last access: 28 March 2010.

level, including a process of decentralization of government that would be sufficient to allow for community-led recovery with strong civil society participation. More equitable distribution of the national wealth and public resources would be required to enable state and local governments to fulfil their service delivery responsibilities, and provide better education, healthcare, water and sanitation access in underdeveloped regions.

The GoSS, having adopted a vision for equitable development and poverty eradication, would face challenges commensurate with the low levels of institutional capacity and socio-economic development. Key education and health indicators, such as child and maternal mortality and primary enrolment, were among the worst in the world. Infrastructure was virtually non-existent, with no paved roads outside the main urban centres, and a civil service and service delivery structures that needed to be created essentially from scratch. Millions of internally displaced people (IDPs) were expected to return to the South, compounding the challenges, and women were identified as shouldering enormous work burdens, and suffering from discrimination in economic and public spheres of life. The challenges set out were enormous.

Within the context of the CPA, the recommendations of the JAM and the legal framework established in the Interim Constitutions of both the Republic and Southern Sudan, the United Nations system in Sudan committed itself to support the sustainability of peace and development of the country by providing assistance to fully implement all terms of the CPA. In Southern Sudan UNDP has taken a leading role in supporting democratic governance. The Governance Programme includes support to the Presidency, to the States, to the Judiciary, the Ministry of Legal Affairs, Good Governance, Equality and Political Participation and Local Government Recovery.

Project Support for the Development of Policies and Legislation for Responsive, Accountable and Equitable Local Government in Southern Sudan

Background and strategy

Supported by DGTTF in 2005, the 'Support for the Development of Policies and Legislation for Responsive, Accountable and Equitable Local Government in Southern Sudan' project developed out of earlier efforts, alongside the British Council, to support the SPLM Technical Team (which later became the Local Governance Secretariat -LGS) develop a Local Government Framework. The SPLM, in its political manifestos and policy declarations, had always recognized the traditional authorities, their role in the administration of the people and their support to the war effort. The first National Convention of the SPLM/A at Chukudum in 1994 also committed the movement to grassroots participation in government and ascribed village government to traditional authorities. The SPLM/A leadership, ten years later, invited all traditional Kings, Queens and Chiefs to a consultative meeting in Kapoeta, Eastern Equatoria. The meetings concluded with the Kamuto Declaration stating, among other things, that it was necessary to define and determine the powers of traditional leaders and chiefs within the framework of local governance.

The Swiss cooperation complemented these efforts, and the work of UNDP with traditional authorities, by sponsoring meetings with traditional authorities in the Nuba Mountains and other Southern areas since 2000. The Swiss efforts had achieved the establishment of five Traditional Authorities Councils when they were forced to stop, as there was not yet any legal framework on which to constitute these Councils.

Since 2004 the SPLM's LGS and UNDP jointly undertook a process to develop a framework for traditional authorities. UNDP organized a Local Governance planning workshop in Rumbek in November 2004 in order to obtain consensus on the broad direction of the overall governance programme

for Southern Sudan. It became clear that there was a need for greater understanding of the role of traditional authority figures. Between January and March 2005, UNDP deployed research teams to five regions of Southern Sudan to carry out a comprehensive baseline study/assessment of the role of traditional authorities in local government. The purpose was to determine modalities, strategies and parameters that could facilitate incorporation of relevant traditional governance norms and practices in the overall framework of decentralized local governance in post-war Southern Sudan. The 'Consolidated Report' summarized the findings.

The Consolidated Report was shared with SPLM leadership and authorities at a workshop in Rumbek in July of 2005 in order to ratify the findings and develop specific recommendations for implementation into a legislative framework. Based upon the results of the workshop, a Traditional Authorities Framework was prepared and it was recommended that a wider consultation be organized specifically with traditional authorities.

UNDP funding from the DGTTF project was used to conduct these consultations and to incorporate the inputs of the traditional authorities into the Framework. The Framework would subsequently be introduced into the drafts of the Local Government Framework, which would ultimately become the Local Government Act. The project also undertook the task of designing a subsequent project that would become known as the Local Government Recovery Programme.

Three workshops conducted with DGTTF funding were held in late 2005 (Yei, 5/6 December – Poptap, 9/10 December – Rumbek, 12/13 December) and aimed to:

- ✓ Disseminate the Draft Local Authorities Framework;
- ✓ Ratify the Draft Traditional Authorities Framework;
- Promote wide consultations with stakeholders (GoSS and traditional authorities) on traditional authorities' key issues;
- ✓ Develop a vision statement for traditional authorities.

The workshops were well attended (94 participants) and broadly representative. Recommendations that were presented for ratification were endorsed, and suggestions for revisions of the draft document were discussed, adopted and used to produce the 'Final Draft Traditional Authorities Framework'. Many other issues were also discussed regarding how to proceed in developing the legislation,

procedures and structures of a new democratic government in Southern Sudan. These workshops demonstrated a high level of innovation and resulted in the first time that traditional authorities, as such a category, had a direct input into the legislative framework of the future Local Government Act.

In August/September 2006 a group of traditional authorities participated in a study tour to South Africa, Botswana and Ghana in order to gain first-hand understanding of comparative governance systems that include traditional authorities already in place in the African context.

The second aim of this project was to design the Local Government Recovery Programme to ensure ongoing technical support for developing the Local Government Act and its subsequent implementation. This project aimed to assist the county governments to play a meaningful role in the recovery process and to build a basis for participatory, democratic local governance. The original project, executed with PACT and CRS, was funded for three years (2006-2008) and was renewed for a second phase (2009-2011). Today, although we are still awaiting promulgation of the Traditional Authorities Bill that will legislate the County and Payam levels, the National and State Councils of Traditional Authorities and Leaders have been formed under the Local Government Act of 2009. These Councils are integrated into the planning and budgeting processes at their corresponding levels. The President of Southern Sudan, Salva Kiir, has also convoked the traditional leaders to conventions (Bentui 2009) in order to solicit their support in resolving inter-tribal conflicts, preserving peace and supporting implementation of the CPA.

Findings

Effectiveness

The project goals with two principal outputs were successfully implemented when the consultations resulted in the full participation of traditional authorities in defining the terms and structures of local governance within a new decentralized democratic State. Out of a peace process that was dominated by two politico-military forces, democratic participation began to become a reality.

The Local Governance Recovery Programme, and second output, was designed, funded and came into being in 2006 with PACT and CRS becoming implementing partners with UNDP. The establishment of this programme was a direct result of the efforts expended under the DGTTF funded project.

Efficiency

This project was very slow to commence; it was delayed due to the realities of an extremely demanding environment in post-war Southern Sudan. The workload for all involved in assuring the final signing of the CPA and then its implementation was enormous; SPLM systems of delegation and coordination were not yet developed, while key people were geographically dispersed between Nairobi, Khartoum, Juba and the Southern States. UNDP also faced security, communications and transportation challenges. The delay also resulted from a process that had not yet reached the point of conducting the consultations. Once all necessary preliminary work had been accomplished, the workshops took place in December of the prescribed year - they were late but they did happen within the anticipated project year.

Under ideal conditions, UNDP management and supervision of their projects in environments as fragile as was Southern Sudan at this point of history should have been more vigilant. However, UNDP had no solid structures nor networks in Southern Sudan, they had not participated in the UNICEF led Operation Lifeline Sudan⁷ during the war, and they were still in the process of organizing their structures between Nairobi and Khartoum – hence oversight received less attention than it should have.

Catalytic effect

Catalytic effect was clearly demonstrated by the inclusion of traditional authorities in local governance under the Local Government Act of 2009. At another level, catalytic effect resulted in the Local Government Recovery Programme (LGRP) that commenced the following year in 2006 in collaboration with the Local Governance Board. The ensuing project has directly involved State and local government structures, support to the GoSS in developing local government and to the ongoing process of revision and drafting of the Local Government Framework that in 2009 was finally promulgated in the Local Government Act. Other donors i.e. Germany, the Netherlands, Switzerland, UK, USA - have continued or joined the efforts to support the development of democratic government and local government in Southern Sudan. Later collaboration also took place between UNDP and UNMIS Civil Affairs in a joint project to assist and monitor local government capacity in planning and budgeting. UNDP Rule of Law and Support to State projects have also collaborated closely with the LGRP.

⁷Operation Lifeline Sudan was a UN operated programme that provided humanitarian relief supplies and emergency food aid to civilian populations in Southern Sudan during the war.

Sustainability

Sustainability of democratic local government that includes traditional authorities, structures and values will depend upon the continued will of the political classes, and will only be guaranteed by participatory democracy, and the supportive legal frameworks still being constructed in Southern Sudan. Traditional authorities still have popular support in rural Southern Sudan so the major threat to sustainability would be the imposition of a state of emergency with suspension of democratic rights due to escalating conflicts, or a return to war and the imposition of a military regime.

The integration of traditional authorities into local governance structures is not without opposition from both national and international sectors. The increasing institutional strength of traditional leaders has provoked a political debate between those who are deemed to be 'traditionalist' versus the 'modernists' who would prefer to create a modern State with a clear set of institutions, procedures and a legal system unencumbered by customary law or traditional authorities. If 'modernists' were to win the political debate, the presence of traditional authorities in local government might not be sustainable.

Innovation

This project was highly innovative, probably its most important characteristic. The outcomes and the impact have been both specific, in terms of the legislation that has resulted, and widereaching and controversial with respect to the political debate that has developed and ensues. Traditional tribal leadership has been the only constant in local governance throughout the history of Southern Sudan and interviews conducted in Eastern Equatoria revealed not only the public acceptance of the role of the Chief but the practice that results from this acceptance. Repeatedly we were informed that if anything were to happen at the community level it would have to pass through the Chief - whether the activity was being initiated by the population, or whether the State was proposing some development. The Chief is the channel through which all initiatives must be consulted and directed - without involvement of the Chief very little would happen. Now these comments cannot be generalized across Southern Sudan, but they are indicative of a system - although damaged during the war - that has retained a certain legitimacy among the population.

The innovative quality of this project rests upon the direct involvement of traditional authorities in the determination of State legislation and structures. There is no international consensus as to how traditional authorities and structures should be incorporated into modern States, and many States

are attempting to reconcile traditional values, jurisdictions and the right to self-determination of indigenous peoples with inflexible state structures and legal frameworks. The active involvement of traditional leaders in Southern Sudan development is demonstrative of the participatory democracy outlined in the CPA and subsequent legal frameworks. The mechanisms are in place but they have not halted the debate. Although the SPLM has repeatedly and publicly stated the importance of the role of traditional authorities in community governance, and John Garang always advocated to "take the towns to the people", there is still no general consensus on what exactly should be 'recovered' from traditional structures and culture. Inconsistencies exist between the ICSS and the LGA that will need to be made compatible. Interviews also indicated that some sectors are interested in recovering the SPLM structures – CANS - imposed during the war, structures that incorporated traditional authority, but within the control of SPLM/A doctrine and territories. Other interviewees spoke of the need to recover Native Administration as it was exercised and co-opted by British colonial rule. On the other hand, intellectuals⁸ have cautioned that decentralization could undermine peace if established in the manner of the Nimeri regime that led to unilaterally dividing the South into three regions, each with its own executive body and regional assembly. These actions threatened to weaken the South and were in part responsible for the re-initiation of civil war. The concern is also expressed that putting land ownership in the hands of the communities as stipulated in the CPA and the Interim Constitutions, has and will provoke land disputes between communities.

⁸Rial Gok Machok, 'Reconstruction, Governance and Public Administration Capacities in Post-Conflict societies: The Case of Southern Sudan', Chapter 9 of UN DESA Report of the Expert Group Meeting, Lessons Learned in Post-Conflict State Capacity - Reconstructing Governance and Public Administration Capacities in Post-Conflict Countries, New York, 2009

Gender

The goals of the CPA, the JAM recommendations, and new legal frameworks alongside UNDP's commitment to mainstream gender in all their programming led to the design and implementation of gender sensitive programming in Southern Sudan. The three major programmes are mutually supportive and collectively promote the institutionalization of gender equality.

The first gender programme initiated by UNDP began in 2005 as the *Good Governance and Equity in Political Participation in Post-Conflict Sudan Project (GGEPP)* (May 2005 –July 2008). It was a national level project with GoNU and GoSS as counterparts. The three main objectives were to:

- Enhance the capacities of potential Sudanese women leaders and institutions impacting women's political participation;
- ✓ Raise the Sudanese people's awareness of good governance principles and the importance of the political participation of women;
- ✓ Improve the conditions for gender-sensitive policy reform for political participation.

In Southern Sudan the GGEPP is considered to have achieved high levels of success at state level and the major outcome of the project in the South is increased gender sensitivity within government itself, including the parliaments, at GoSS central and state levels, and in women's awareness of policy issues.

UNDP supported the efforts of the Ministry of Parliamentary Affairs and the GoSS to organize the 1st Conference on Women in Politics in the Sudan, in May 2007. This conference brought together women leaders from both the North and South of the country to create awareness around women's political participation and also to deepen understanding of women's development needs and causes of female marginalization. Although great strides have been made, gender issues are still hampered by traditional role expectations and persistent social and economic neglect.

Women have assumed roles of importance in GoSS, as many former peace activists of the SPLM moved from their NGO work during the war to appointments within the new GoSS. Three of 23 Ministers are currently women and the number of female candidates has exceeded expectations for the April 2010 elections⁹. At the time of this field visit, four women were running for Governor, two for the SPLM and two as independents, while 417 women had presented their candidacy for 120 legislative seats in Southern Sudan.

It is important also to mention the controversy that has involved female candidates for the SPLM. Women were nominated by their communities as candidates but were not approved by the SPLM as they had already chosen the Party candidates. Women, as was explained to us, decided to proceed as independent candidates and compete with those nominated by the Party. We were informed that most of these women, if successful, will probably return to the SPLM – and in such a case they will have sent an important message that democratic nomination must be respected by the Party.

The second project initiated in 2006 focused on the internal structures and policies of UNDP itself and was known as *the Institutionalizing of Gender Mainstreaming in UNDP Sudan*, funded by UNDP's Gender Thematic Trust Fund. This project aimed at identification and implementation of a strategy to bring about gender equality and advance women's rights by infusing gender analysis, gender-sensitive research, women's perspectives and gender equality goals into all policies, projects and the UNDP institutional framework. UNDP was internalizing the same measures they were advocating for the GoSS and other Southern Sudan institutions.

⁹Conversations with Dr. Julia Duany, Undersecretary of the Ministry of Parliamentary Affairs

Project Strategy for Mainstreaming Gender Empowerment in Local Government in Southern Sudan

Background and strategy

The DGTTF project Strategy for Mainstreaming Gender Empowerment in Local Government in Southern Sudan was funded with USD 485,000 and was implemented between the years 2006 – 2008; it was a logical step beyond the two earlier programmes. This project was an integral part of the Local Government Recovery Programme (LGRP) and aimed to:

- mainstream gender issues in all elements of the programme;
- ensure close coordination and collaboration with other gender-specific programmes as well as with the Rule of Law and Traditional Authorities programmes.

The Gender project began with a baseline study in 10 counties of five Southern states, to identify the real conditions of women and girls in Southern Sudan. The study covered female access to basic services, and the level of representation and participation that women had as decision makers within their communities. The assessment provided information to (1) formulate a long-term gender mainstreaming strategy for local governments in Southern Sudan, (2) develop a set of manuals and guidelines on gender mainstreaming for local governments and (3) formulate a Local Government Gender Policy Framework.

The Local Government Gender Policy Framework was finalized in 2009, and the process included a series of consultations with key stakeholders (Ministry of Gender, UN Agencies, Local Governments, Women Leaders, Gender Advisor to the President, Women's Union) to ensure ownership of the Framework. A network of 20 Gender Focal Points (18 women and two men) was created and based at the Ministry of Local Government in each of the 10 Southern states. The role of the

Focal Points was to initiate and coordinate gender activities with communities in an attempt to increase participation of women in community decision-making.

And finally gender modules and tool kits were developed and tested, while a three-week training workshop was conducted in Juba for all Gender Focal Points. A two day gender training for planning/budgeting was introduced into the Training of Trainers programme for local government officers, and gender disaggregated data was included into Payam (sub county level) profiles and planning guidelines. Advocacy activities were initiated.

Unfortunately, the assessment team found that the work of the Gender Focal Points has reached a standstill, as resources are currently not available to maintain their activities. ¹⁰ There is still a need for the donors to support these activities. However, in the long term, economic activity at the local level must be developed in order to create a taxation base that can support local government and its initiatives in the community.

Findings

Effectiveness

The project built databases, trained specific and general local government staff members, developed policy guidelines and successfully introduced gender issues into planning and budgeting of local government throughout Southern Sudan. The project also created an avenue for dialogue on women's political participation and contribution to development in Southern Sudan. At this level the goals of this project were achieved. However, the significance of the delay in finalizing the Gender Policy Framework resulted in its exclusion from informing the LGA.

Efficiency

For reasons that are unclear at this time the Gender component of the LGRP did not commence in 2006 as originally planned, it took place in 2008 – at the end of the first phase of the LGRP. The three-year delay probably did not significantly jeopardize progress towards democratic local governance, as the Act did not come into effect until 2009. However, the Gender Policy Framework, completed in the latter half of 2009, was too late to inform the final draft and subsequent Local Governance Act. We were told that it would be used as an interpretive document for the implementation of the Act.

¹⁰The international gender expert finished her contract and no one as yet has taken over the post. The Gender Focal Point interviewed as part of the field visit indicated the only activities she can now conduct are when NGOs or other organizations hold meetings that she can piggy-back on.

Catalytic effect

The Local Government Recovery Programme operated, and continues to do so, jointly with the Local Governance Board, or previous LGS, and Ministries of Southern Sudan, therefore the objectives and activities of this programme had been adopted by the GoSS since at least 2005 when this programme was conceived. The GoSS had long since demonstrated its will to incorporate gender issues into all State institutions, and the donor community had done the same. The outputs and impact of this programme are unquestionably positive. However, the design, implementation and impact were catalytic only in their potential for creating wider gender awareness and therefore opportunities within the local community. The broader gender movement laid out in the CPA had already convinced the government to proceed in this direction.

Sustainability

The sustainability of gender awareness and its incorporation into planning and budgeting regimes at state and county levels has been strongly supported by legal frameworks that demand these activities. However, real sustainability will only occur if resources are available to support the work and efforts of the Gender Focal Points. Women clearly pointed out in numerous interviews conducted that they will never agree to return to traditional gender roles.

Innovation

It is difficult to identify the innovative quality of this programme, as by 2008 gender mainstreaming was mandated in all UNDP activities, plus UNDP was already operating a highly successful gender programme that collaborated with the LGRP. The CPA, JAM recommendations and the Interim Constitutions have all advocated for gender equality since 2005. If innovation is to be found it is at the level of being the first programme to institutionalize gender issues into state and county planning and budgeting. However the GoSS already had Ministry of Gender, Social Welfare and Religious Affairs.

Lessons learned and recommendations

The challenges faced by Southern Sudan in establishing democratic governance are enormous – post-conflict fragility, little infrastructure, widespread poverty, a largely uneducated rural population, few qualified professionals, and the vulnerability of dependence upon oil revenues that are subject to fluctuations of the international markets and internal politics of the Sudan.

Implementation of the CPA has been fraught with delay, a lack of political will to fulfil commitments, ongoing insecurity in the South and a lack of adequate trust-building between the North and South. At the time of writing two definitive hurdles - the elections and the referendum - still need to be successfully accomplished. Multi-party elections were planned to provide an opportunity for the population to ratify the agreements signed and to elect their representatives, because upon establishing the GoSS, people had initially been appointed to all positions. The referendum on selfdetermination will decide the future of Southern Sudan and as the referendum approaches most sources hold that separation is the more likely outcome¹¹. The fiscal crisis of 2008, with the decline of international oil prices, reduced GoSS revenues by at least 40 percent in 2009 (now somewhat improved) and the unprecedented escalation of inter-tribal violence in 2009 are indicators of potential sources of future violence and instability. The challenges remain great.

In order to be successful the South will be dependent upon a long-term commitment to support from the international community, and it will need to rely upon the strengths of its own population.

As earlier noted, the traditional authorities and indigenous cultural systems have provided the only constant structures of governance throughout the history of Southern Sudan.

Traditional authorities know their people, their needs and the challenges of their environment. They have always provided leadership and received popular legitimacy. If the GoSS can work with these chiefs and monarchs, incorporating them, as has been done in the LGA, participation of the communities in the construction of an autonomous State or a newly independent Southern Sudan will follow. Although weakened, to a greater degree in some areas than others, traditional leadership is still the norm in most regions of the tribal society of the South. These authorities need to be supported through ongoing capacity-building and adequate dissemination of the new laws, and identification of the links between different levels of government. They need to become familiar with a State structure and how to interact within it.

Some sectors fear losing political power if traditional authorities are strengthened, and others maintain that modernization of the State cannot be achieved if competing value systems are permitted to co-exist. UNDP originally supported the SPLM's attempts to recover the CANS. Inviting consultation and including opinions of the traditional authorities in the Local Government Framework facilitated granting these authorities a voice beyond the SPLM position in determining State structures. Whether or not UNDP anticipated the ensuing political debate, it supported and continues to support the democratic process in a sensitive political environment. The delay in promulgating the LGA was reportedly due specifically to the internal debate over the role that should be attributed to traditional authorities. These debates should and will continue; democratic process must be allowed to determine the outcomes.

UNDP is well positioned to support an inclusive and uniquely Southern Sudanese democratization process. Through its support for a role for traditional authorities, respect has been demonstrated for local culture as well as a broad understanding of democracy-building. Innovative actions are necessary to break the mould of common practices that may not always be adequate or opportune. The debate between the 'traditionalists' and the 'modernists' needs not limit the possibilities to one or the other. By working with traditional authorities one maintains comfortable and legitimate structures that have the capability to rally the population towards peace and development. Education and economic

¹¹Cook, Tracy D., 'A Place to Call Their Own – Southern Sudanese Comment on the Hard Work and Struggles of Self-Governance', The National Democratic Institute, Washington, DC, December 2007, available at

 $[\]label{lem:http://www.ndi.org/files/2221_sd_fgroup_placetocall_11092007.pdf . Last access: 28 March 2010.$

development will provide the modernizing mechanisms in these communities, and as the women have loudly stated, once they have been exposed to new possibilities, they are not returning to traditional roles – conditions and expectations will change as long as opportunity is provided.

Southern Sudanese women have indicated how the war changed their roles as women and that they would never revert to traditional expectations. The GoSS has also demonstrated its determination to support equity in gender relations through the promulgation of new legislation that supports these efforts. Women have demonstrated these convictions through their active participation in the electoral campaign. For society to fully incorporate these new values, education based on mainstreaming gender issues will encourage other women to adopt new roles and men to support these changes.

By sharing governance responsibility at the local level with traditional authorities, the GoSS has the ability to create a common Southern identity around a grass-roots peace and democratization process, or movement – an identity that will unite diverse and often conflicting tribes. A common Southern identity is fundamental to successful state-building. As intellectuals¹² have pointed out, the most successful democracy-building exercises in multi-ethnic societies have been where the efforts to democratize and develop have over-ridden ethnic identity and formed the focus for both unified effort and a common shared identity.

Development in democratization or socio-economic activity does not follow just one path – the path is dependent upon the unique history and culture of each nation, and the forms of participation of the citizenry. UNDP provides support to many of these processes by offering the expertise and experience it has accumulated. For UNDP to follow, support and intervene, historical memory must contribute to the vision and direction of each process. Comparative historical memory will also provide possible alternatives that have been tested in other environments. The state-building of Southern Sudan needs to be fully documented so that a full and accurate historical memory is available to future generations, and also to other nations embarking upon a similar process.

Recommendations

1. The UN has a responsibility to identify and disseminate lessons learned in peacebuilding, democratization and development, therefore it is recommended that UNDP conduct a historical reconstruction of its efforts and projects in support of decentralized democratic

governance in Southern Sudan. It should also create a lessons learned database on forms of local governance, and possible ways to integrate traditional authorities and cultural values into state structures, for future Sudan reference and also for other States challenged by similar circumstances.

- 2. In fragile-state environments, particularly post-conflict where conditions are in flux, UNDP should make greater efforts to ensure vigilant supervision and record-keeping for all its projects and activities. In such environments there is a risk that documentation might be lost, so archives must be maintained in an organized and secure manner.
- 3. Recognizing the significant progress that has been made, it is also necessary to mention that our fieldwork indicated a lack of full understanding of the Local Government Act at the state and county levels. It was strongly recommended to us, and we adopt the position, that greater dissemination of the Act still needs to happen. Traditional authorities as well as other local government officials need a clearer understanding of the links between county, state and central levels of government in order to be able to operate optimally within these new state structures.
- 4. UNDP should continue to work closely with traditional authorities and support the GoSS to do the same. In this way the traditional authorities can assist in consolidating effective local governance, and their traditional roles can be tapped to bring their communities fully into peacebuilding and development activities that will guarantee a stable future for the South. A common identity can be created on the basis of the communities' involvement and promotion of peace and socioeconomic advancement for Southern Sudan.
- 5. Gender mainstreaming and gender equality are new themes in Sudanese governance policy and therefore require ongoing consistent support in order for them to become strongly rooted in Sudanese society. The international donor community should continue to provide guidance and resources for the Gender Focal Points and other important gender related programmes.

¹²Collier, Paul, *Wars, Guns, and Votes: Democracy In Dangerous Places*, Harper Collins, New York, 2009.

- **6.** The Gender Policy Framework was completed in the latter half of 2009 too late for it to inform the final draft and subsequent Local Government Act. We were told that this Framework would be used as an interpretive document for the implementation of the Act; it should also be used to inform other gender related activities throughout the South.
- 7. UNDP has demonstrated a will to support the consolidation of peace in Sudan, and the development of democratic governance, including local governance and gender equity. It now needs to nurture these programmes and promote the necessary economic development and diversification that will ensure that resources in the South are available to support and sustain democracy, justice and peace.

Annex I – List of persons interviewed

Anselme Sadiki, Programme Specialist, UNDP Southern Sudan

Anthony Agyenta, Team Leader Civil Affairs, UNMIS

Blaise Brunier, Swiss Cooperation, Juba

Director of Eastern Equatoria State Women's Group, Torit

Droma Bank, LGRP staff member, UNDP Southern Sudan

Ferdinand Olang, UNDP, Torit

Freddy Carver, Joint Donor Team

George Conway, Deputy Head of Office, UNDP Southern Sudan

Imke Van der Honing, SNV World, Juba

Julia Duany, Under-Secretary of the Ministry of Parliamentary Affairs, GoSS

Local Governance Board, Under-Secretary and Programme Directorate

Lona Elia, Former UNDP staff member, Juba

Ministry of Local Government officials, Torit

Ministry of Planning and Budgeting officials, Torit

Naoko Anzai, Manager of LGRP, UNDP Southern Sudan

Noha El-Mikawy, Governance Practice Leader, UNDP Regional Centre, Cairo

Shyam Bhurtel, Former UNDP staff member, Juba

Sjarah Soede, Joint Donor Team

State Gender Focal Point, Torit

Traditional Authorities and Paramount Chief, Torit

UN Team Torit (UNDP, UNMIS, WHO, UNHCR, WFP, UNICEF, UNDSS)

Virginia Chitanda, Former UNDP staff member, Juba

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