

**International Studies Program  
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**Decentralization in the Post-  
Conflict African Environment:  
Sierra Leone and Southern Sudan**

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# *Decentralization in the Post-Conflict African Environment: Sierra Leone and Southern Sudan*<sup>1</sup>

(Draft: not to be quoted)

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<sup>1</sup> Paper prepared for the Andrew Young School of Policy Studies, Georgia State University Conference on Decentralization: “Obstacles to Decentralization: Lessons from Selected Countries” September 21-23, 2008.

<sup>2</sup> As a consultant to the World Bank and other agencies, the author has worked extensively in both Sierra Leone and Southern Sudan.

## **1. Introduction**

The ten year civil war in Sierra Leone ended in late 2002 with a negotiated peace between the Government and the insurgents. The even longer conflict in Southern Sudan<sup>3</sup> finished with a Comprehensive Peace Agreement in January 2005 between the Government of Sudan in Khartoum and the Sudanese Peoples' Liberation Army/Movement (SPLA/M) based in Juba, Southern Sudan. In both cases, international agencies were involved in brokering the settlement and decentralization of government was seen as one means by which long-term peace might be brought to the people of these nations<sup>4</sup>. This Paper looks at the processes of trying to decentralize government since the wars stopped, and points to significant differences in the results thus far. It asks why the differences exist and what lessons can be learnt by the International community on how best to assist nations wishing to decentralize their governance structures. In both cases, of course, it is still 'early days' after the conflict and therefore difficult to be definitive in what the eventual outcome might be, but some things already seem clear.

## **2. Background on the Two Nations**

Like nearly all nations in Africa, both Sierra Leone and Southern Sudan live with a colonial past. In both cases, the British were involved in the colonial period but they left very different legacies behind in Sierra Leone and Southern Sudan. When Sierra Leone gained self-government in 1961, it had a fully functioning National Government and a set of District Governments. Its decentralised government structure was abolished in 1973 and the undue level of centralisation (usually described as marginalisation of the people) later became one of the reasons for the civil war. At the end of the war, there were basically no structures of government outside the capital city, Freetown, and three other smaller urban centres. The District Officers of the Central Government were still officially in place but were rarely located in their Districts. Almost all government infrastructure outside Freetown (and much within that city) had been destroyed. Very few Government services were being provided and no public revenue was being collected outside Freetown, except by the traditional Chiefs.

In Southern Sudan, independence from colonial powers came in 1956 but the national structures of government were dominated by the North<sup>5</sup>. Lack of representation in Khartoum and the Arabic approach to Government that has been prevalent there, have been long-term problems and the conflicts over more than 30 years have been largely about secession. There has been something of a decentralised system of government in operation throughout the period of turmoil but the structure of decentralised government in Sudan had changed several times over the last 40 years. At the end of the war, there was a structure of 10 States and

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<sup>3</sup> In October 2006, Cdr Dr John Garang, Chairman of the SPLA, describes the war as extending from 1955 till 1972, and then again from 1983 till 2005.

<sup>4</sup> Southern Sudan is part of Sudan and not a separate nation. It is described here as such only for convenience. The true structure of government in Sudan is detailed later in the Paper.

<sup>5</sup> Cdr Daniel Awet Akot, Governor of Lakes State, has said that at the time of Independence, only a handful of Parliamentarians were not from the Nile valley, north of Khartoum. (The Imperative of Decentralization, Conciliation Resources, London, 2006.)

about 80 local councils in Southern Sudan. Of the 10 States, three were based in what had been Sudanese Government garrison towns and had been controlled from Khartoum. The other seven were in areas that had been controlled by the Sudanese Peoples' Liberation Army (SPLA). Those in the SPLA area used English as the official language of education, government and business. The other three used Arabic. At least one State had a dual government structure because 'control' had been shared between Khartoum and the SPLA. Like Sierra Leone, the destruction of government property had been widespread and public services were generally non-existent. Very little public revenue was being collected except to fund military operations.

**Table 1. Basic Information: Sierra Leone and Southern Sudan**

	<b>Sierra Leone</b>	<b>Southern Sudan</b>
Population (estimated)	5 475 000 (2007)	10 000 000 (est)
Area	71 700 sq kms	640 000 sq kms
Resources	Diamonds (widespread but alluvial), gold, rutile	Oil (in 3 States)
Causes of war	Marginalization from government, lack of development, allocation of resources within nation	Separation from the North, lack of resource sharing with the North, access to oil revenue as source of funds for development
Date of Peace	Late 2002, early 2003	January 2005
Central Govt. before Peace Agreement	Yes, elected in 1996	No, peace negotiated by SPLA. It then formed the Government of Southern Sudan
Traditional Chiefdoms	Yes, and politically strong	Yes, but not as strong
Legal Basis for Decentralisation	Local Government Act 2004 Local Government (Assumption of Functions) Regulations 2004	Interim National Constitution of Sudan, 2005 Interim Constitution of Southern Sudan, 2005 Local Government Act 2003
Levels of sub-national govt. at time of peace agreement	1 in the 5 larger urban areas. None in rural areas.	2
Legal status of sub-national governments		Central Government (Khartoum) legislation and/or SPLM decisions
Levels of sub-national government required by law	1	2
Sub-national governments in 2008	19 Councils	10 States about 100 local councils

In summary, some information about the two nations in this study, relevant to their efforts to revitalise decentralization once peace was attained, is shown in Table 1. In both nations, the World Bank, UNDP and other donor agencies have been assisting the reintroduction of operational decentralized government.

### **3. Getting Decentralization Started**

Sierra Leone and Southern Sudan took very different first steps to get decentralization moving, and this difference seems to have been caused by several things. In 1997, even

before the war in Sierra Leone had finished, the elected Government has produced a policy paper '*Good Governance and Public Sector Reform Strategy*' which outlined its decentralization objectives. Immediately after the war, it used this policy to develop a timetable for action with the aim of holding local government elections in December 2003. It planned to use 2003 to develop a Local Government Act and was being assisted in that process by the UNDP. By April of that year, the Government was deeply involved in community consultation on the matter and was concurrently developing a *Decentralization and Local Government Policy Paper*. The *Local Government Act* was eventually passed by the government in March 2004 and the first local government elections were held on 22 May 2004, within 18 months of peace being reached<sup>6</sup>. The Act detailed the revenue assignments of the Councils and by November 2004, the *Local Government (Assumption of Functions) Regulations* detailed a program of expenditure function devolution to the Councils over a four year period. Those charged with implementing decentralisation now had a clear roadmap of what was required and when things were to happen.

The one detrimental factor to implementation was the position taken on the roles of the traditional authorities: the Chiefs. Interaction between the Chiefdoms and the new Councils was left largely unmentioned in the new legislation and the Chiefdom Councils Ordinance 1938 (last amended in 1983) was not replaced with legislation that was compatible with the new LGA 2004. Much of the difficulty stems from the revenue-raising powers taken over by the Chiefs over the period in which there was no decentralised (or deconcentrated) government structures, and the specification of many of these as Council revenues (sometimes shared with Chiefdoms) in the Local Government Act. The difficulty appears to have stemmed from the Chiefdoms being traditionally supported by the Central Government's Ministry of Local Government and its leaders not always supporting the new Council structure. The Chiefs had been given representation on the Councils but not control of them and a great deal of antagonism still exists.

The SPLA in Southern Sudan had had a Commission for Local Government for at least two years before peace (with Cdr Daniel Awet Akot as Chairman). During the peace negotiations, boundaries between Northern and Southern Sudan were obviously a difficult issue and there was doubt about what jurisdiction at least one region along the agreed border would ultimately belong to. A great deal of detail regarding political decentralization was provided in the *Comprehensive Peace Agreement* and the *Interim Constitution of Southern Sudan*, and there was detail on revenue assignments and revenue sharing between the north and the south, but there was very little on either revenue or expenditure assignments within Southern Sudan. Never-the-less, there was little effort put into clarification of these issues once peace had been achieved. In October 2006, the Chairman of the SPLA/M, Cdr Dr John Garang, produced *The Local Government Framework for Southern Sudan: "Take the Towns to the People"*, which was regarded as the policy document on decentralization, but the structure of government and institutional arrangements were still very confused. Given that not all areas within what was now Southern Sudan had been under SPLA control, the focus of

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<sup>6</sup> The second Local Government elections in Sierra Leone were held in August 2008.

action had been on political stability at the local level (loyalty to the new Government of Southern Sudan (GoSS)) and it appeared that little thought had been given to getting local government operational.

The Comprehensive Peace Agreement defined most of the structures of government in Southern Sudan, but it was not until the Darfur Peace Agreement between the Government of Sudan and some of the insurgent groups from Darfur in May 2006 that a complete national picture could be determined. Figure 1 below illustrates the extent to which government structures in Sudan had to be “tortured” to get agreement between the parties and give Southern Sudan “independence” with Sudan. The agreed arrangements indicated that future decentralization might be a very difficult task.

The SPLA appears to have had difficulty changing from being an army to being a government. In December 2007, two years after peace had been reached, most Government positions in Southern Sudan were still held by people with military titles and systems of government were still being developed. The focus of government activity was still their independent armed forces and stability along the border with the north. Several pieces of legislation relating to decentralization had been drafted but no legislation had yet been passed by the Legislative Assembly<sup>7</sup>. Some of the States were further advanced than the GoSS and had passed their Constitutions (at least one of which was in part contradictory to the Interim Constitution of Southern Sudan) and/or legislation, although most were still operating on the Government of Sudan legislation relating to States and local government.

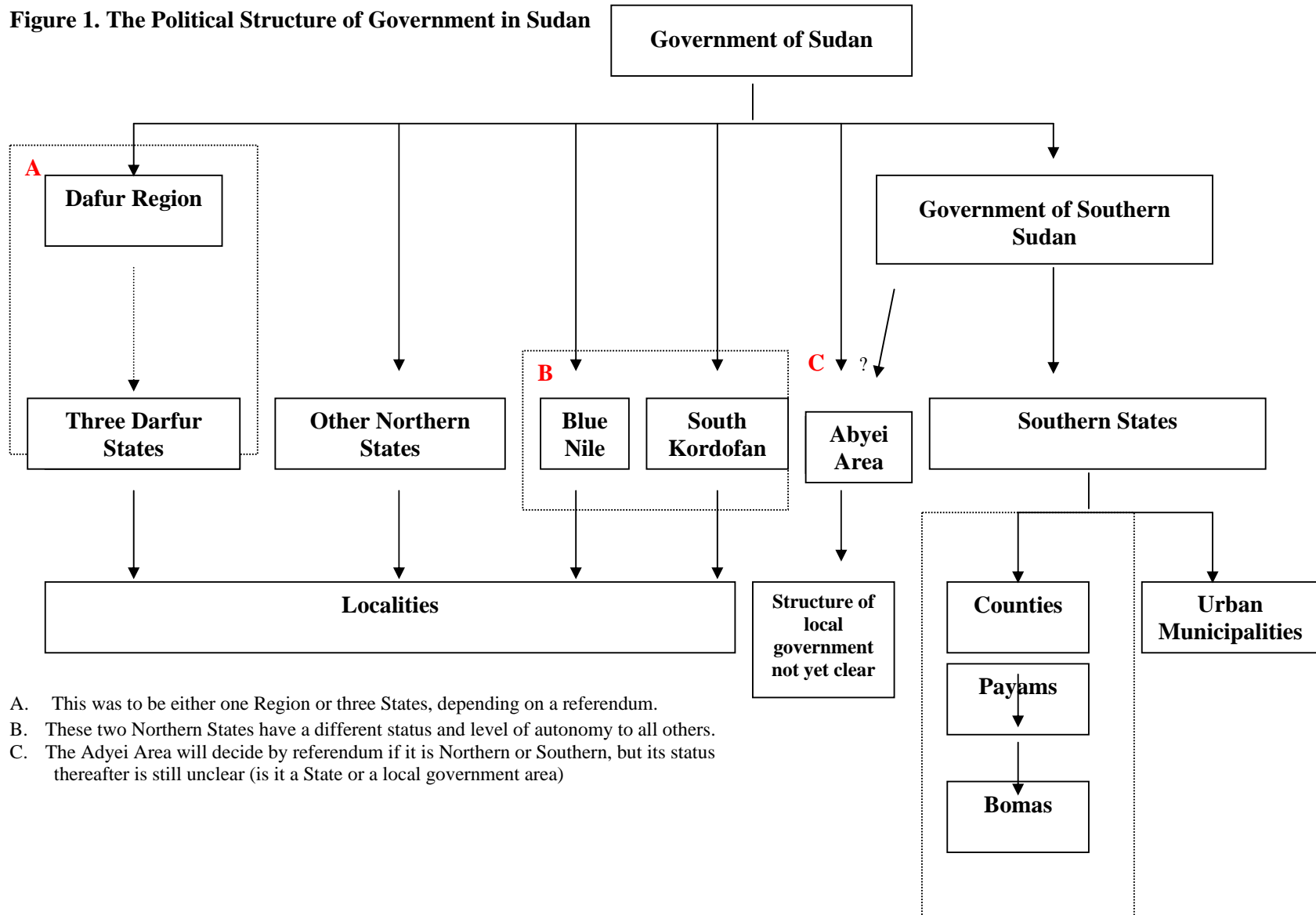
#### **4. The Initial International Support**

In both nations the main source of international support for decentralization, at least in the early stages, was the World Bank. The UNDP was also active but tended to “pick the low fruit” to get immediate results rather than take a strategic and more long-term approach to the

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<sup>7</sup> The Bills had most often been drafted by a largely inexperienced individual who saw the need for an Act but had very little consultation or discussion on which to base what he proposed. The drafts were often contradictory to one another and did not always adhere to the Sudan Draft Constitution or the Interim Constitution of Southern Sudan.

Figure 1. The Political Structure of Government in Sudan



task. The approaches the World Bank took in the two instances were very different indeed: possibly because of the relationship it had with the nations. The Bank had an ongoing program in Sierra Leone and in early 2004 provided it with a USD 25 million grant to, *inter alia*, get decentralised government re-established as part of an Institutional Reform and Capacity Building Program (IRCBP). That Sierra Leone is classified by the World Bank as a Low Income Country Under Stress (LICUS) and had received substantial debt relief from international creditors helped in this regard.

A large proportion of the Bank's initial funding went to employ three groups of local contractors who would play very important roles in the implementation of their Government's policy on decentralisation. The first group, in a Decentralisation Secretariat (DecSec) attached to the Ministry of Local Government (but physically and ideologically separated from that Ministry) has responsibility for political and administrative decentralization. The second, the Local Government Finance Department (LGFD) of the Ministry of Finance, was responsible for fiscal decentralisation and establishing the planning and financial management capacity of the Councils once they were elected and staffed. The third, the Public Financial Management Unit (PFMU) of the Ministry of Finance, had a wide-ranging role in improving public sector financial management, but took special responsibility for developing the financial management system of the new Councils.

All staff in each of these units were engaged under contract and paid well in excess of their local civil service contemporaries. In the long-term, their roles either disappear or are to be subsumed into their parent Ministries, and the salary levels established in late 2003 when the staff were recruited is an ongoing difficulty in the planned Ministerial consolidation.

Never-the-less, the key staff in the DecSec and LGFD in particular<sup>8</sup> have been able to drive the decentralization process and take many other Ministries, Departments and Agencies of the central government along with them. The LGFD has had the support of the Ministry of Finance in terms of building the devolution plans into forward budget planning at both the central and local government levels and the development of fiscal transfer system, and this has helped decentralization considerably. The co-location of the three units in temporary accommodation, Decentralization House, for the first three or four years of their operation also gave them a combined identity and focus that was beneficial. That they were all funded from the same accountable source of funds also helped as they were required to organize their work plans and control their finances as a single entity

In Southern Sudan, the Bank's approach to assisting the Government implement its decentralization objective has, as indicated earlier, been very different. In this case, the Government of Sudan has a large unpaid debt to the World Bank and it has been more difficult to find funding for anything other than technical assistance. The Bank has engaged a small number of experts to advise the GoSS on how best it might sequence the many aspects

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<sup>8</sup> The Director of DecSec was from a Chiefdom family and held in high regard for that reason. The key person in the LGFD had widespread authority within the central government Ministries and was well known to the initial secondees who acted as Council staff.

of public sector reform it faces, and had papers written about how it might proceed with decentralization, but has not been able to make funds available for direct support as it did in Sierra Leone. The GoSS has formed a Local Government Board and the President and State Governors regularly talk about how decentralization is necessary for the long-term governance of Southern Sudan, but there is still no legislation on which to base development and still no real 'champion' of decentralisation in Juba to push the process forward.

The World Bank has had difficulty getting the stakeholders in decentralization together to discuss issues and its efforts have probably resulted in as much frustration among the Southern Sudanese as they have advanced the cause. In December 2007, the Bank prepared a series of Strategic Options Papers that included *Making Decentralization Work for Basic Service Delivery*, but this was not discussed by the stakeholders in Southern Sudan until mid 2008. Thus, three and a half years after peace was achieved, those involved were still really only talking about what might be done.

## 5. Institutional Arrangements

As stated earlier, the LGA 2004 in Sierra Leone has already resulted in two nationwide Council elections and the operation of democratically based Councils. The LGA 2004 and the Government's funding agreement for the IRCBP have also caused an institutional structure to be established to implement and then run a decentralised government structure. The parts played by the DecSec and LGFD have already been described. To manage human resource issues, the Act established a Local Government Service Commission<sup>9</sup> with responsibilities to develop policy guidelines for recruitment, training and promotion etc: set staff professional standards; carry out organisational and job analysis for the councils; and develop common schemes of service and performance appraisal. This Commission is a full-time agency working to the Minister for Local Government but has not yet performed as expected due to political difficulties in making appointments and the Government's incapacity to fund support staff.

To manage the fiscal transfers to Councils, the LGA 2004 established a part-time Local Government Finance Committee<sup>10</sup>, which reports to the Minister of Finance and has the Local Government Finance Department acting as its secretariat. Its role is to receive and consider the annual budgets of the Councils, develop formula for the distribution of grant funding between Councils and make recommendations based on those formulae for the distribution of the grants. This Committee is working well and, in a current review of the LGA 2004, is pushing to be given more wide-ranging responsibilities.

Above all these implementing units is an Inter-Ministerial Committee on Decentralization<sup>11</sup>, Chaired by the Vice President and with its Members made up of eight central government Ministers and four Chairpersons of Local Councils. As might be expected, the major role of

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<sup>9</sup> LGA 2004, S 35.

<sup>10</sup> LGA 2004, S 52.

<sup>11</sup> LGA 2004, S 109.

this Committee is to oversee the further development and implementation of local government and decentralization.

In Southern Sudan, the Interim Constitution required the establishment of two agencies: a Local Government Board<sup>12</sup> and a Southern Sudan Fiscal and Financial Allocation and Monitoring Commission (SSFFAMC)<sup>13</sup>. The Local Government Board has constitutional responsibility to review the local government system and recommend necessary policy guidelines and actions. It was active in preparing a draft Local Government Bill in late 2007 but did so after very limited consultation with interested parties and produced a document that needed a great deal more development. It has no role in relation to decentralization at the State level.

The SSFFAMC was formed by Presidential Decree in 2005, with Col Gabriel Mathiang Rok as Chairman and a small secretariat staff. Its role is to:

- i. guarantee appropriate sharing and utilization of financial resources;
- ii. ensure transparency and fairness in the allocation of funds to the States and local governments in Southern Sudan; and
- iii. ensure that equalization grants from the Southern Sudan Revenue Fund are transferred in a timely manner.

This agency has tried to be active and expresses a great deal of frustration at not being able to perform its constitutional role, but is poorly equipped to do so and wants to widen its role to look at distribution of resources between the GoSS and the Government of Sudan in Khartoum<sup>14</sup>. To date, the FFAMC has concentrated on grants to the States and has indicated no interest in local government finances. In any case, the GoSS has taken very little notice of the SSFFAMC recommendations for State grants and is making no grants at all to the local governments.

Neither of the two agencies established under the authority of the Interim Constitution has an overall responsibility to see that decentralization policy objectives are achieved. Neither has a role to see that both the State and local government levels of sub-national government become more effective. The Research and Monitoring Directorate in the Ministry of Presidential Affairs may develop that role but is, at present, much more focused on States than on local government and much more interested in political decentralization (preventing social conflict) than the wider aspects of decentralised government. At least in name, both levels of decentralised government exist in Southern Sudan but in many ways, they act respectively as deconcentrated arms of the GoSS and the State.

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<sup>12</sup> Interim Constitution of Southern Sudan, Clause 173 (3)

<sup>13</sup> Interim Constitution of Southern Sudan, Clause 188.

<sup>14</sup> This was the subject of a very detailed part of the 2005 Comprehensive Peace Agreement (The Wealth Sharing Agreement and, while there are no doubt issues around how the parties are implementing that Agreement, the SSFFAMC would seem better placed to limit itself to funds distribution within Southern Sudan.

This lack of political decentralization may be due to the Interim Constitution making such specific and wide-ranging provisions for control by the GoSS during the first few years of self-government. The ICSS allows the President to appoint State Governors pending elections by the end of the fourth year of the interim period – i.e. 8 July 2009. Under Section 169, the Governors appoint the States' Councils of Ministers.

Both the ICSS and the CPA detail how the political interests will be represented in the State legislatures and executives pending the elections, but neither of those documents on which policy is being based has any details of how appointments are to be made. After the elections, the members of the executive will be appointed by, and be accountable to, the Governor, thus strengthening State autonomy.

At the local government level, Section 173 (2) of the Interim Constitution provides that

‘for the purposes of the initial establishment of a local government system throughout Southern Sudan, and in order to set common standards and criteria for the organization of local government, the Government of Southern Sudan shall enact the necessary legislation’.

These provisions have been used at the State level and extended by the appointed State Governors into the local government sector. At present, it appears that:

- States are operating with appointed members of the Legislature and Councils of Ministers and, as such, could be seen as outposts of the GoSS. While the basis of selection of the appointees is not clear, it is known that the Chiefs are represented to present ‘community’ views.
- Both the State and local government levels are acting under authorities and instructions (delegations) from the GoSS.
- Local Government Commissioners and executive officers have been appointed into the current structure of Counties, which is to be replaced by the urban/rural differentiation outlined in the ICSS after the elections.
- Local Government has no elected Assemblies and is operating under a system of appointed Executive Committees that are said to be representative of the community and were organised through the Chiefs.

In summary, there seems to be something like a deconcentrated or delegated system of government in Southern Sudan, with real power distributed in some *ad hoc* way between the GoSS (through the appointed Governors and Local Government Commissioners) and the Chiefs, even though the Chiefs get very little mention in the base documents as far as governance is concerned. There is very little political decentralization.

Administrative decentralisation and consideration to human resource aspects of sub-national government management is also still largely without any champion in Southern Sudan. A Civil Service Bill was drafted by the Civil Service Commission in mid 2007 but it largely disregarded any possible interface with the civil services of the States and local government. Many issues relating to administrative decentralization in this important field were simply left to legislation the drafters assumed would be passed in the future by each State.

If decentralization is to progress in Southern Sudan, there is urgent need for a GoSS agency dedicated to implementing the Government's policy.

## 6. Progressing Administrative Decentralization

Administrative decentralization will be looked at from the point of view of infrastructure development for sub-national governments, and their human resource management activities.

**Infrastructure.** In Sierra Leone, immediately after the war ceased there was a census organised by UN agencies of all public sector building infrastructure<sup>15</sup>. That database indicated that the Central Government's District Officers had no buildings or other assets they could hand over to the prospective District Councils. The urban Town Councils had some useable buildings but were in need of extensive refurbishment, and in Freetown the Town Hall had been destroyed and the Council was operating from an ancient 'slave castle' on the side of the harbour. Power supply, water and communications were all basically non-existent outside the capital (where they were intermittent at best) and only two centres outside Freetown had commercial banks. There was obviously a great need for infrastructure provision needed before Councils could operate effectively.

Part of the IDA funding of USD 25 million was set aside for building refurbishment, vehicles and equipment so that all Councils could operate at a minimum level. Once each Council has somewhere to meet and establish its staff headquarters, it was provided with necessities such as a safe, office furniture, a generator, a computer, a four-wheel-drive vehicle and a motor bike. While these assets were not always wisely used, and some of the vehicles were used more like private vehicles by the Council elite, this equipment provision did much to increase morale of the new Councils and support the urban areas in their limited activities.

In Southern Sudan, with no such source of funding from an outside benefactor and there was no structured approach to infrastructure redevelopment for the States and/or local governments. It is possible that there are some funds made available to the States for this purpose from the small budget the President has to give to the States as he decides, but it must be assumed that most of them will have very little administrative infrastructure.

**Staff Resources and Management.** The difficulties sub-national governments in the two nations have faced in regard to staffing has, I believe, stemmed from different attitudes taken at the end of the wars. In Sierra Leone, the Government was effectively 'resuming power' and appears to have felt a commitment to continue to employ those in its army, and to rehabilitate and reintegrate those from opposing forces into the community. Neither of these commitments had any impact on the number of public sector employees. In Southern Sudan, the incoming Government was seen by the community as having 'won' the war and there

<sup>15</sup> This census of facilities was organised by UNOCHA with the data collected by members of the District Recovery Committees managed under a World Bank funded community development fund: The National Commission for Social Action (NaCSA).

was, as a result, an expectation that it would help all those who had supported it during the struggle. It is probable that members of the Government also felt a commitment in this regard. Either way, this had a dramatic impact on numbers of public sector employees.

In Sierra Leone, the Councils have power to employ and have done so, but in relatively small numbers. The requirements of fiscal responsibility imposed on them and then monitored by the LGFD and the PFMU of the Ministry of Finance have helped greatly to educate the Councils and avoid a large staffing (and salaries) problem. The following five groups of staff can be separately identified in relation to the decentralization process in Sierra Leone.

*1. Administrative Core Staff.* A maximum of six key staff (being the Chief Administrator, Deputy CA, Finance Officer, Accountant, Procurement Officer and M & E Officer) in each Council were originally staffed by seconded civil servants. These positions were then advertised and filled through the Local Government Service Commission in early 2007 and the staff are now employed by and are responsible to the Councils. The transfers of funds from the Central Government to cover their salaries are made quarterly upon acquittal of past transactions and it is Council responsibility to make the payments of salary to the individuals.

*2. Inherited staff.* These are staff that were working in the Central Government's District Offices and were transferred to District Councils when they were formed in 2004. The exact number of them is unknown but it may be that there are 100 or so of these staff spread across about 14 Councils. At this stage, they are still being paid through the Government of Sierra Leone payroll system as civil servants but there are plans to overcome this anomaly.

*3. Old Urban Council staff.* Prior to the Local Government Act 2004, the five urban Councils had staff that were being funded in part by grants from the central government and in part from the Councils' limited own-source revenues such as market dues and a poll tax on male adults. In 2003, there were about 950 of these staff, of which 330 were employed by Freetown City Council. Many of these staff are grossly inefficient and the Councils have been thinking of redundancy arrangements: funding has been the drawback.

*4. Devolved function staff.* It was intended that as functions were devolved, all central Government staff providing those functions would be transferred to the Councils. Because it included teachers, agricultural workers and health workers, this is a very large number of staff involved. Problems of identification arose where central office positions should have been transferred to the local government sector, and in 'overhead' type positions where there were insufficient central government staff outside Freetown to place one in each Council. At present, the staff working on functions that have been devolved are reporting to their local government employers but are still being paid as central government staff. The current proposal is that responsibility for salaries will not be passed to Local Government until the payroll system is 'clean' and there is no agreed timetable for devolving the salary task to Councils. Early action is required to involve the Local Government Service Commission in determining the arrangements under which these staff will move to Councils responsibility.

5. *Non-devolved staff in Central Government MDAs.* As is common in these situations, the Ministry, Department or Agency that was expected to give staff to Councils has often understated the number involved and will be left with too many staff performing the greatly reduced range of functions left for the Central Government. Sierra Leone has not come to this realisation yet but, as the salaries issue is sorted out and Councils become more active in fulfilling their responsibilities (rather than letting the central MDAs perform them), there will need to be an assessment of the levels of efficiency with which the Central Government MDAs are operating.

Through its regular monitoring of the activities of the Councils, the LGFD is already expressing concern that some of the financial devolutions it was able to negotiate with the MDAs were not correct. With other colleagues in the Ministry of Finance, it intends to go back to that issue, as well as the staff numbers to be transferred. At present, leaving aside the staff for the devolved functions, it would seem that the 19 Councils would not have more than about 7000 to 8000 administrative staff.

In Southern Sudan the staffing situation is much more confused, but the general feeling seems to have been that the oil revenue the South was to get from the Khartoum Government under the wealth sharing part of the Peace Agreement would be a never-ending supply of funds and Governments could fulfil the expectations of help by direct employment. No data are available on public sector employment when the CPA was signed in January 2005, but in November 2004, the SPLA/M said it would aim at having around 30 000 public service (non-military) staff. In November 2005, a survey done by GoSS in all the States and Counties found about 54 000 employees who claimed to be in public service. In the 2007 GoSS Budget, just under 40 000 staff were budgeted for<sup>16</sup>.

In June 2007, the GoSS asked the World Bank for a detailed analysis of its financial position as public sector costs had become uncontrollable and oil revenues had declined. While staff numbers could still not be determined accurately, and no data were available for the armed forces, Table 2 shows the best estimates of the total staff employed.

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<sup>16</sup> GoSS Budget Documents 2007 said 39 259 persons were budgeted for salaries payments.

**Table 2. Estimated Public sector staff in Southern Sudan, June 2007**

Category		Estimated staff
GoSS	Civil Service	24 000
GoSS	Uniformed Forces	
	Police	20 000 to 33 000
	Fire	5 000
	Prisons	16 000
	Wildlife	13 000
	Sub Total	54 000 to 67 000
States (incl Counties)		
	Civil service	120 000 to 150 000
	Teachers	20 000
	Sub Total	140 000 to 170 000
SPLA		200 000 to 300 000
<b>Total</b>		<b>418 000 to 561 000</b>

Source: World Bank discussion paper on Civil Service Reform, Juba, June 2007.

Clearly, there had been a massive increase in employment in the first two years after the war. There is no information on the growth rate in the SPLA (the military) but increases in expenditure in that area indicate that the army, like the other uniformed services, has been used to give employment to ex-combatants for whom the Government feels some responsibility.

In November 2007, eight of the States gave details of the staff numbers they had budgeted for in 2008. They discussed the desire to reduce staffing and how this might best be done, and gave the estimates shown below in Table 3. Given that these can be assumed to be reductions since 2007, the results make the estimate for total State employees shown in Table 2 look reasonable.

**Table 3 State and County Staff Budgeted for in 2008**

State	State employees	County employees	Total	
			No.	Percent State
Western Equatoria	11 139	1 136	12 275	90.7
Central Equatoria	7 950	15 121	23 071	34.5
Eastern Equatoria	na	na	na	na
Warrap	6 867	1 600	8 467	81.1
Upper Nile	19 036	5 362	24 398	81.0
Unity	9 784	4 806	14 590	67.0
Lakes	na	na	na	na
Western Bahr El Ghazal	7 874	186	8 060	97.7
Northern Bahr El Ghazal	3 829	1 207	5 036	76.0
Jonglei	4 150	5 141	9 291	44.7
<b>Total (8 States only)</b>	<b>70 629</b>	<b>34 559</b>	105 188	<b>67.1</b>

Source: Author's notes, UNDP Workshop of State Budgeting, Juba, 1 November 2007

At this stage, the GoSS treats all States the same in relation to their staffing expectations. It knows they have different populations but does not yet have any census data to prove this, so it assumes they are all the same size. The most recent decree agreed by Governments is that the staffing norm for all States should be 10 000. From the data above, some States obviously exceed that by a large margin, others are already below it. The link between these budget objectives and the availability of funds is discussed later in the paper.

Just how accurate the data in Table 3 are is also a little problematic because the great variations not in total numbers but in the distribution between State and County employees indicate that it may not be of uniformly good quality. What is clear, however, is that the task of decentralization in Southern Sudan faces a very much greater problem of downsizing staff than exists in Sierra Leone. This is not a problem that can be overcome in the short term.

In September 2007, the GoSS commissioned Adam Smith International to undertake an assessment of staff reduction options. The main findings and recommendations from that study are reproduced in Box 1 below. While the recommendations would achieve the required results, it is far from clear that they are all practical options in the socio-cultural environment existing in Southern Sudan.

**Box 1: Adam Smith International: Rapid Assessment of Staff Reduction Options**

- Establish a cut-off date, preferably before end 2007, for re-integration into SLPA, Uniformed Forces, GoSS and State public services
- Impose recruitment freeze across all payrolls, with possible exceptions for teachers, health workers, priority technical positions and key vacancies. Any new recruits must fit within Nominal Rolls set for 2008 budget
- Complete payroll cleansing by building on current efforts, with pay parades and comparing payrolls across Ministries and States, to eliminate duplication
- Capture payroll data in a simple off-the-shelf computerized system, such as EXCEL
- Dismiss those hired illegally and duplicate names without termination benefits
- Begin procuring an all-Government integrated payroll and HR records system
- Remove or retire under/over age staff
- Establish maximum numbers for unclassified staff for ministries. Workshare until excess eliminated
- Avoid voluntary retirement schemes (adverse selection)
- Proceed in a sequenced manner to determine desired staffing levels by reviews of mandate/function/organizational structure/staffing, and drawing up job descriptions. Staff to re-apply on a competitive, merit based selection process, using primarily competency testing, not qualifications
- Retrenchment package for those not selected
- Communication of rightsizing program to all stakeholders
- Continue using other avenues of exit – resignation, dismissal for incompetence, dishonest, inappropriate conduct, normal retirement
- Develop a pensions policy for GoSS, crediting years of past service and paying benefits through budget
- Consider a welfare system for deserving cases: physically handicapped, widows etc
- Stop SPLA from sending further excess personnel to organized forces, GoSS and States.

Obtain donor support

## **7. Fiscal Decentralization: Revenue Assignments**

In both nations, the rights to collect taxes and charges has been a matter of intense interest for the sub-national sector, but in neither nation are they yet recording much revenue.

In Southern Sudan, as mentioned earlier, the CPA and Interim Constitution give a great deal of detail about wealth sharing (both oil and non-oil revenue) between Khartoum and Southern Sudan. It also details the revenue sources of the GoSS as against the States, but there is no mention of the revenue sources to be allocated to local government. In fact, few of the traditional sources of local government revenue are included in the lists contained in the base documents. Some Government officials in Southern Sudan use these provisions to claim that all the revenue sources of a 'local nature' have been included 'incorrectly' as State sources.

The most important limitation of the documents, however, is that the base documents have created confusion on what level of government has capacity in what areas, and provide no details of how tax collection mechanisms are to work in the decentralized government model. These confusions have arisen because of:

- the concurrent taxing powers between the GoSS and the States – eg. Personal Income Tax and Excise Duties;
- the general provisions for both levels of government that allow them to levy 'any other taxes as may be determined by law';
- the lack of provision for local government; and
- Section 184 (1) (b) that allows GoSS to raise revenue from 'any of the sources listed as State revenue source'.

To date, the GoSS has no legislation on revenue raising but some of the States have established their Revenue Authorities under legislation and have passed Acts for some specific taxes and licences. In general, however, there is great confusion about what revenues can be collected, where they can be collected and by what government. Few details are available but, in November 2007, all the indications were that there would be very little non-oil revenue raised in Southern Sudan and shown in the public accounts of either GoSS or the States (which include County activity). See Box 2 below.

### Box 2: Local Revenue Collection in Southern Sudan

At the UNDP State Budget Planning Workshop on 1 November 2007, the GoSS and all State Ministers for Finance were present. One by one, the State Ministers told of their inability to collect revenue because of the confusions that exist, lack of harmonisation between governments and the 'informal' taxes of militia.

The GoSS Minister then told of his recent experience re-entering Southern Sudan from Uganda when, at the border, he was confronted by 12 desks with different tax collectors at them, representing either the Central Government (GoSS) the local State or one of the two local governments that operate out of the centre at his point of re-entry. It was generally agreed that this was too many and must be made more efficient.

The Minister then went on to say that no matter how frequently he asked, only one of these desks was able to give him a receipt for his tax payment. Again it was agreed that this was not good enough and probably indicated why little or no local revenue was being recorded in the accounts.

The GoSS Minister then called the relevant State Minister of Finance to the front of the meeting and gave him a copy of the receipt he had been given. It was very clearly marked '*Government of Uganda*'. Amidst great frivolity, the State Minister looked embarrassed and told his colleagues he would look into the matter.

The incident illustrated very well that public revenue collection in Southern Sudan was (is) in a shambles. Over the long periods of conflict, revenue collection had been haphazard and uncontrolled, and it is taking some time to get any formality and legality back into this aspect of public sector activity.

It is agreed at both the GoSS and State levels that 'harmonisation and co-ordination' of revenue effort is necessary before collections will increase greatly. Without this having been done, the draft State budgets for 2008 included a wide range of revenue sources, often with very optimistic expectations attached to them, and often overlooking the Interim Constitution allocation of revenue capacities to the Government in Khartoum and/or the GoSS. As for local government, the States are yet to specify what areas the Councils can operate in and appear, as an interim step at least, to be using revenue sources that may have been better allocated to Councils.

What is interesting is that sub-national governments in Southern seems to be more interested in revenue collection than it is in service delivery. This may be because services are already being delivered but that is unlikely. More likely, I think the struggle of the South to achieve self government and a sharing of the oil revenue with the Khartoum Government has resulted in an assumed association between the decentralization of government and gaining access to revenue sources.

It is clear from the Draft Constitution of Sudan (but not repeated in the Interim Constitution of Southern Sudan) that it is a GoSS responsibility to manage 'taxation and revenue raising in Southern Sudan as a whole'<sup>17</sup>. Before revenue assignments can be clarified and collections be made efficiently, Southern Sudan needs decisions on:

<sup>17</sup> Draft Constitution of Sudan, March 2005, Schedule B, Item 12.

- i. The principles to be applied when distributing revenue capacities between the GoSS, the States and local government;
- ii. What level or levels of government can set the rate of tax to be applied to each tax base;
- iii. Whether a government can vary tax rates set by another (it has been proposed that concurrency of authority would allow a State to vary the rate of a GoSS tax to be applied in its area);
- iv. What authority is to be given to governments at each level (and Traditional Authorities) so as to maximise the efficiency of revenue collections;
- v. Where two or more governments are sharing a revenue base:
  - how is that base to be defined – can the two have different definitions;
  - are governments to set a combined rate and issue a combined assessment, or are they to act separately, including on collection;
  - how are they to agree on the proportions of revenue to flow to each;
- vi. What arrangements are to be established to cover costs of revenue collection by authorities collecting revenue on an ‘agency’ basis; and
- vii. What overall agreements are to exist between governments to implement the arrangements, including such things as the frequency of redistributions from collectors and the auditing of joint collection procedures?

In Sierra Leone, attempts were made in the Local Government Act 2004 to give clarity to Councils revenue collection powers. Sources of revenue were specified and where revenues were to be shared, arrangements were to be put in place for this to occur. It was realised that much of the data for relevant tax bases did not exist and would take time to reconstruct, but it was thought that market dues, mining dues and Local Tax (a poll tax) would be relatively simple to get operational.

As in Southern Sudan, it has been hard to remove the illegal and black market revenue collections in Sierra Leone and, in the first three years of Council activity, very little local revenue was generated. The problems seem to be more with the operation of the law rather than the law itself, although that is not without its problems. During the war prior to decentralization being re-introduced, the traditional authorities – i.e. the Chiefs - had taken it on themselves to collect a wide range of taxes that may or may not have been their prerogative. It was the Chiefdom administrations that had the tax collecting structures and systems in place, but they were totally unaccountable to either the Government or the community and provided very few services that are now the responsibility of the Councils.

The sharing of Local Tax (the poll tax) is an interesting example. Deciding the amount and shares of this tax is now the legal prerogative of the Councils<sup>18</sup> but the Local Tax Act 1975 has never been repealed or amended to bring it into line with LGA 2004. In general, the Chiefs have continued to act as they had prior to the LGA 2004 being passed, although did take the opportunity to increase both the rate of tax and apply it to all adults for the first time. In 2005, the first year of Council activity, the Chiefs were more generous to them overall than they have been since. They give the Councils what they think is ‘fair’ and this results in great

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<sup>18</sup> LGA 2004, S 59.

variability in Council revenue from this source, as shown in Table 4. It is now also clear from an analysis of Chiefdom finances being done by the Local Government Finance Department<sup>19</sup> that much of the revenue collected was (is) seen as private revenue either for those making the collections, or for the Chiefs.

**Table 4 Sierra Leone Rural Councils' Local Tax Receipts from Chiefs, 2005 to 2007 (Le m)**

Rural District Council With Chiefdoms (a)	2005	2006	2007
Bo	91.78	5.99	29.58
Bombali			31.51
Bonthe	85.40	23.03	21.57
Kailahun	16.61	81.38	13.16
Kambia			1.19
Kenema	40.56	46.19	
Koinadugu			81.48
Kono	38.80	66.25	5.35
Moyamba	130.76	3.28	35.54
Port Loko			8.84
Pujehun	13.16	14.17	
Tonkolili			12.40
<b>Total</b>	<b>417.07</b>	<b>240.29</b>	<b>240.62</b>

(a) There is also a Western Area District Council but it has no Chiefdom structure within its area.

Source: Correspondence between the author and the LGFD, Government of Sierra Leone.

Note: These data are still being checked by the LGFD, 9 Sept. 2008.

If the most common annual tax rate of Le 5000 per adult was collected in 2007, the total collection in these Council areas should have been about Le 4 500 000 000. On that basis, the Table indicates that Councils received less than five percent of what might have been collected, but there may still be some errors in the data.

The problems that have arisen between Councils and Chiefs on revenue sharing are due in part to the Chiefs simply not wanting to give up revenue, but also to the fact that the new arrangements written into the LGA 2004 were not discussed with them sufficiently (if at all) prior to the law being passed, and other Acts were not made compatible with the LGA. The revenue sharing arrangements for Local Tax and mining revenue<sup>20</sup> foreshadowed in the LGA are obviously not supported by the central government Ministry for Local Government and it has not worked with Councils to get solutions that suite both sides. Rather, it had confused the issue and use of official Council receipts, not fulfilled its legal obligations regarding revenue sharing and has supported the Chiefs who, on many occasions, have refused to give revenue to the Councils.

<sup>19</sup> Draft Report on Chiefdom Finances, LGFD, March 2008.

<sup>20</sup> The sharing of mining revenue is supposed to be determined by the Ministry of Local Government but, in fact, the GoSS Ministry of Mines makes royalty cheques out in the name of the relevant Chief, not either a Chiefdom or a Council account.

Since late 2007, urban Councils in particular claim to have been putting much more effort into revenue collection than they had in the past and introducing more systems aimed at minimising (reducing) private rent seeking by collectors. They have started to concentrate more on property rate revenue and business licences<sup>21</sup>, and the rural Councils can also see that they had some potential in these areas. Like people elsewhere, the Sierra Leonean population have argued in the past for ‘no taxation without service provision’ and this may be a reason why we are only now starting to see more effort made in this regard.

The friction between Councils and Chiefs on revenue sharing is probably one of the reasons for the current review of the Local Government Act 2004, but it does seem to have been initiated by the Chiefs, not by the Councils, and their aim can be assumed to be to substantiate their current position. It is to be hoped that this review does not result in a redistribution of revenues between the Councils and Chiefs without consideration of their respective responsibilities for service delivery, and a rewriting of the Chiefdoms and other tax legislation to make them compatible with the LGA. Never-the-less, the consultations with the Chiefs must be beneficial to the future of decentralization in Sierra Leone.

## **8. Fiscal Decentralization: Expenditure Assignments**

In Sierra Leone, the initial period after decentralized governments were reintroduced saw a concentration on service delivery rather than revenue collection. The Government’s aim was clearly to show the people that Government could work for it and that democracy, at both the central and decentralized levels of government, was better than conflict. They did not take the ‘Big Bang’ approach of some nations<sup>22</sup> but, within three years, Councils have been given responsibility for all primary health care infrastructure and services; all basic education infrastructure and services, environmental health care; locally delivered agricultural services; fire prevention; feeder roads and tracks; waste management; and urban and rural water supply. The functions to be devolved were listed in the *Local Government Act 2004* (see Attachment A for this list) and then each was given a timeframe of between 2005 and 2008 in the *Local Government (Assumption of Functions) Regulations 2004*. Not all these functions were being performed by the Central Government prior to devolution and it is probably the case that they are still not all being performed. Never-the-less, in the major services to the people, the devolution program has not varied greatly from the plan except in relation to Education where there was some resistance from the Central Government Ministry (but this has now been overcome) and Roads, where there are some legitimate and unforeseen legalities that are delaying the process. In fact, the devolution has been seen by those involved in delivering services that a number of hospitals that were not to be devolved to Councils have

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<sup>21</sup> In Makeni Town Council, *market dues* revenue increased from a maximum of Le 300 000 a day to a set amount of Le 400 000 per day after contracting out the collection. In that same city, a survey of properties and better collection methods increased the *property tax* base from about 4000 to about 9000 properties and increased tax revenue from Le 3.3 million in 2005 to over Le 37 million in the first half of 2008.

<sup>22</sup> Such as Indonesia did when it decentralized in 2001. See *Decentralizing Indonesia: A Regional Public Expenditure Review Overview Report*, World Bank, June 2003.

started to lobby the Government for their devolution. Certainly, it is clear from the monitoring and evaluation being done by the Institutional Reform and Capacity Building Program managing decentralization that the people now see better services being supplied in most devolved areas<sup>23</sup>.

The Government of Sierra Leone operates its Budgets on a Medium Term Expenditure Framework (MTEF) model and produces annual estimates of future expenditure for a rolling three year period. It also required the new Councils to do the same. This, and having the LGA and Regulations, has been a very great advantage in getting the devolution plan accepted. They have provided the details on which the Ministry of Finance, through the Local Government Finance Department, has negotiated with MDAs to get their forward expenditure estimates adjusted in line with the planned devolution of functions. They have also shown the Councils the level of confidence placed in them and the future expansion of their responsibilities. As we shall see shortly, the funding for devolved functions moves from the budget of the line Ministry to the grants section of the budget (controlled by the Ministry of Finance) once devolution occurs and the forward expenditure estimates have been an annual reminder to MDAs of what was to happen. The following discussion on fiscal decentralization will give more details of this.

In Southern Sudan, the Interim Constitution specifies what functions are to be the responsibility of the Government in Khartoum, the Government of Southern Sudan and the State Governments. However, it leaves a number of concurrent responsibilities shared between two or more of those levels of government and says nothing about the responsibilities of the local government level. Details are provided in Attachment 2. It can only be assumed that in those States that were previously managed from Khartoum, the Counties are still operating on the outdated local government legislation from Khartoum, and in the States previously controlled by the SPLA, local government is operating under the informal (i.e. non-legislative) basis they were before the war ended.

To date, nothing has been done to produce a common list of what responsibilities are to be given to local government. Like others, this is a matter that will need to be examined and given a legislative base before true decentralization to the local government level in Southern Sudan can be effected.

At the State level, the matter is a little clearer as we know what services the States are receiving grants for. This will be discussed shortly but the States are taking responsibility for education, health, animal resources and fisheries services. It is also helpful in regard to what States are doing to note some details given at the UNDP State Budgets Workshop on 1 November 2007. At that occasion, the States were working to a standard budget format which, on the expenditure side, differentiated between: Accounting, Economic and Financial Management; Public Administration, Rule of Law and law enforcement; Natural Resources

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<sup>23</sup> See *Decentralization Watch: The First Three Years of Decentralization in Sierra Leone*, Katherine Whiteside, IRCBP, September 2007.

and Social Security; Physical Infrastructure; Education; Health; Security; Transfers to Counties; and Projects.

One State, Western Equatoria, also gave details of its staff by area of operation but used a slightly different classification of activities: namely – Secretariat, Legislative Assembly, Finance, Infrastructure, Information, Social Security, Local Government, Agriculture, Health, Education and Public Service.

The procedures for deciding the authority where concurrent powers have been used and may be in conflict seem to be less than satisfactory as they leave much room for judgement. It is hard to imagine that, if they are ever to be used, they will assist governments to decide matters. It is more likely that the real power would be sequential through the Khartoum Government, the Juba Government and then the State Government.

### **9. The Fiscal Transfer Systems**

In both nations, it is largely assumed that the functioning level of decentralized government – Councils in Sierra Leone and States in Southern Sudan – have little or no own-source revenue and their functions must be funded through grants. In Southern Sudan, the source of the grant funding is oil revenue whereas in Sierra Leone, it is more normal sources of Central Government revenue, plus international budget support from donors. In both nations also, there is a legal basis for the grant system from the Central Government. In Sierra Leone, it is the LGA 2004. In Southern Sudan, it is the Interim Constitution.

In Sierra Leone, there is a complicated system of grants under which there are two grants to cover recurrent administrative costs, 25 grants to cover recurrent costs of devolved functions and three grants to assist capital development. The philosophy for the transfer system was developed by the Local Government Finance Committee and Local Government Finance Department and the process is extremely transparent. All details are published annually in a

**Table 5 – Sierra Leone Recurrent Grants to Councils 2008 – Bases of Distribution**

Grant	Variables used in Distribution
Admin. Grant for sitting fees and transport of Councillors	Number of Councillors Number of meetings Unit costs
Admin. Grant for recurrent purposes	Share of total devolved function expenditure (60% weighting) Revenue capacity (40%)
Primary Health – Drugs and medical supplies	Set at 20 percent of Primary Health envelope. Population (40%) No. of primary health centres (60%)
Primary Health – other facilities (Births and Deaths registration, facilities maintenance, health educ. and environmental health educ.	Population (60%) No. of primary health centres (40%) Plus a Lump Sum (10% of Primary Health envelope)
Secondary Health (Hospitals) – Drugs and Medical supplies	Share of expenditure on devolved functions
Secondary Health – Other activities (hospital utility costs etc)	As above
Education Admin. Costs	Number of schools
Education Inspectorate Costs	Number of schools
Education – to cover District and Regional Libraries	Based on evidence from the Library Board, after talks with regional staff
Education – teaching and learning materials (TLM)	School enrolments
Education – school fees subsidy (SFS)	School enrolments
Education – text books primary	School enrolments
Education – text book secondary	School enrolments
Education examination fees – primary leaving (NPSE)	School enrolments
Education examination fees – Secondary (BECE)	School enrolments
Education development Grants	Lump sum JSS enrolments
Agriculture - crops	Area under cultivation (60%) Crop farming population (30%) Number of Wards (10%)
Agriculture - livestock	Livestock numbers (90%) Number of Wards (10%)
Agriculture - forestry	Based on the advice of the professions in the Ministry.
Agriculture – land and water	Area of inland valley swamps (70%) Farming population (20%) Number of Wards (10%)
Solid Waste Management	Urban population
Rural Water Supply	Rural population (60%) Population with no access to safe water (40%)
Fire Prevention	Population Lump sum
Social Welfare, Gender and Children's Affairs	Number of children (60%) Number of females (25%) Number of disabled (15%)
Youths and Sport	Population 5 to 44.
Marine Services	Based on regional allocation of expenditure within the Ministry

Government gazette and an annual booklet<sup>24</sup> gives the data and formula used in the distribution of each of the 32 grants. Summarising the detail provided to the public, Table 5 gives details of the basis of distribution for the recurrent grants in 2008.

While there are good reasons to simplify this system, those running it believe that, at this stage of the Councils' development, the disaggregation is beneficial to financial management and monitoring. Not all the 'grants' are actually paid to Councils in cash as central purchasing is still being used for drugs, school books and the like and these goods are provided to Councils but given a cash value for grant quantification purposes.

The total amount of funding to accompany a devolved function is specified in the LGA to be that which was spent on the function the year before its devolution. The total funding to Councils is then to increase at least equally with the total budgetary resources of the Central Budget<sup>25</sup>. In each case, the funds are to be distributed between Councils according to need. At this stage, all recurrent grants to Councils are tied but the LGFC has developed a plan so that the system will:

1. commence with a separate tied grant for each function devolved to local councils;
2. commence with very detailed conditions attached to the tied grants for each (or most) of those functions;
3. remove the detail within the conditions as councils are capable of accepting more authority and autonomy, until most of the funding for each function is a general tied grant;
4. maintain sufficient funding in the detailed tied grant category to give the government capacity to achieve 'national' objectives as opposed to local objectives; and
5. eventually combine most of the general tied grants into a large untied grant, with the specific tied grants continuing to run in parallel.<sup>26</sup>

It has put no timetable on this schedule of change but has noted that grants for some functions will progress faster than others.

The Government of Sierra Leone has not yet been able to afford to make full payments in any year. In 2007, the national budget performed very poorly and, on average across the 35 recurrent grants, Councils received only one third of their allocation. The transparency of the system helped the LGFC and LGFD manage the system in this period of severe stress and is seen as a key to the successful operation of the scheme. The Councils and professional staff in the Central Government line Ministries are given several opportunities each year to discuss the bases of distribution with the LGFC and its Secretariat, and changes have been made at their instigation.

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<sup>24</sup> See Republic of Sierra Leone, *Intergovernmental Fiscal Transfer System, Local Government Equitable Grants Distribution Formulae and Annual Allocations, 2008*, LGFD, Ministry of Finance and Economic Development, March 2008.

<sup>25</sup> See LGA 2004, S 47.

<sup>26</sup> See Fiscal Decentralization Framework for Sierra Leone. LGFD, Government of Sierra Leone, May 2005

Because of their importance to decentralization in Sierra Leone, the capital grants programs are discussed separately in the next section.

As previously stated, the legislative base for the fiscal transfer system in Southern Sudan is held in the Interim Constitution where brief guidelines were provided on how the grants might be managed. As expected, this is not nearly sufficiently specific. The Interim Constitution established the Southern Sudan Fiscal and Financial Allocation and Monitoring Commission (SSFFAMC)<sup>27</sup> to:

- guarantee appropriate sharing and utilization of financial resources;
- ensure transparency and fairness in the allocation of funds to the States and local governments in Southern Sudan; and
- ensure that equalization grants from the Southern Sudan Revenue Fund are transferred in a timely manner.

It did not mention the types of grants that can be used by the GoSS, except to describe at least some of them as ‘equalization grants’.

In 2007, the GoSS made grants to States through several different mechanisms, with the SSFFAMC playing very little role, if any. No grants were made to local government and the SSFFAMC showed no interest in becoming involved at that level, claiming it to be a role for each State. Because of the stage of development of the accounting system within the Ministry of Finance and Economic Development, it is difficult to get complete details of the grants being made. One reason for this is that the definition of ‘transfer’ is not consistent over time or between GoSS agencies. The transfers (grants) most usually identified in 2007 expenditure statements are:

- |              |  |
|--------------|--|
| Block Grants | (1) to cover the cost of each State’s Council of Ministers;  |
|              | (2) to cover the cost of each State’s Legislative Assembly;  |
|              | (3) to provide special development opportunities in five States;   |
|              | (4) other Block Grants to cover other State salary costs (the 2008 GoSS Budget shows these to be over 75 percent of the total Block Grants); |
| Tied Grants  | (5) to cover education workers’ salaries;  |
|              | (6) to cover veterinary officers’ salaries; and  |
|              | (7) to cover health workers’ salaries.   |

The current basis of distribution of the grants is said to be that categories 1, 2, 4 and 7 are an equal amount to each State, irrespective of the size, expenditure needs and revenue capacities of the States. Category 4 grants are said to ‘cover’ the salary costs of the agreed number of civil servants in the States but differences between States means this cannot be the case<sup>28</sup>. There is very little done to ensure the funds are spent as required. Category 3 is also said to

<sup>27</sup> See Interim Constitution of Southern Sudan, Clause 188.

<sup>28</sup> See earlier discussion on Administrative Decentralization and the assumed 10 000 people per State.

be an equal amount per State but only five States are involved. Categories 5 and 6 are said to be based on the number of staff whose salaries are being supported.

In effect, the block grants are all tied to specific areas of State expenditure. Their distribution between States was decided at a Governors' Forum (Chaired by the President) that rejected a paper prepared by the SSFFAMC and based at least in part on its understanding of equalisation-based distributions. Grants type 5, 6 and 7, those nominated as being tied, are distributed between States on the recommendations of the GoSS line Ministries, although there are doubts about the staffing data on which grants 5 and 6 might be based.

The details available on the 2007 grants to the States are held in Appendix C. It will be noted that there is no information on the grants in categories 1 and 2 above, and that categories 3 and 4 have been combined. The distribution in categories 3 and 4 does not match the expected 'equal per State' basis but that may be due to some transfers through category 9. The distribution of the transfer to cover salaries of veterinary officers shows the 'equal per state' approach that was taken until May, but the distribution now follows the number of veterinary officers and differs between States, with one State said to be receiving nothing. The distribution of the grants for salaries in the health area generally follows the 'equal per State' approach but there are some anomalies, again possibly resulting from type 9 transactions.

There are at least four additional ways by which States receive assistance but on which there are no data held in the accounting system. They are:

- (8) grants made direct from the Presidency - these are classified as Presidential expenditure;
- (9) grants made through 'cash cheques' to States by GoSS Ministries and recorded as expenses of the Ministry;
- (10) direct payments by GoSS to cover State expenses; and
- (11) GoSS provision of capital assets for the States.

For the future, there are five policy issues that must be decided before a grant system in line with the general objectives of decentralisation can be developed. They are:

- what constitutes a grant;
- the type of grants to be used;
- the basis of distribution of those grants;
- whether grants are to be paid to local governments as well as States; and
- the scope of activities of the SSFFAMC.

Clarifying the meaning of 'grant' will enable greater transparency of the process and clarity of the data. At present, neither the GoSS nor the State officials know what to classify as a grant and there is constant confusion about the level of resources flowing to the sub-national governments. This is not helped by the County (local Government) accounts forming part of the State accounts and any transfers from the States to the Counties somehow (or at least sometimes) influencing those accounts.

On the type of grants to be used, the GoSS and the States should agree on the blend of tied and untied grants so that levels of autonomy of the sub-national government are made clearer.

Maybe, like Sierra Leone, there needs to be a policy or philosophy developed for the use of the different types of grants.

For both tied and untied grants, political decisions are needed to decide the basis on which grants should be distributed. This does not mean government should put the distribution formula, or even the formula criteria, into policy or legislation. Government's role is to decide the philosophy that is to be applied. Is it to continue, for example, with the 'equal amount per State' distributions, or move to a closer relationship between needs and funding levels.

The Interim Constitution gives the SSFFAMC a role in safeguarding the flow of funds to local government. However, it also says that the link between the Government of Southern Sudan and the local government shall be through the government of the relevant State<sup>29</sup>. The role of the SSFFAMC in regard to local government will need an agreed interpretation of these sections of the Interim Constitution.

### **10. The Sierra Leone Local Government Development Grants Program**

As stated earlier, there are also three capital grants in the Sierra Leone fiscal transfer system. These are all within the Local Government Development Grants Program (LGDGP) and have been central to the concentration of showing that Government could work for the people and creating community confidence in the newly established Councils.

The LGDGP was commenced in 2004 with funding provided both from within the USD 25 m IDA grant for the Institutional Reform and Capacity Building Program (IRCBP) and from Government of Sierra Leone sources. The objective was to get funding to the Councils for small development projects as quickly as possible to show the people Local Government could work for them. As long as they met minimum conditions of planning and financial management, and involved the community, each Council was funded for projects up to \$ 25 000 in the first year. With assistance from the Dec Sec and LGFD, a Rapid Results Approach was introduced and funded through the IRCBP to help Councils manage their projects and complete them within 100 days wherever possible.

Over time, the minimum conditions have been expanded so that for 2008, the Councils must meet the extensive list in the Program Operations Manual. These are shown in Table 6 below.

In applying the minimum conditions, the LGFD often defers payment in a year until a Council conforms. In 2007, this led to 11 Councils not receiving any LGDGP grants because by the time they conformed, there was no funding available for the Program.

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<sup>29</sup> See Interim Constitution of Southern Sudan, Clauses 52 and 188.

**Table 6 Sierra Leone LGDGP Minimum Conditions, 2008**

Condition
There is a duly elected Council holding ordinary meetings according to legislative requirements
Council has a Bank Account
Council has a financial management team with capacity to manage the funds
No substantial adverse comments bordering on dishonesty in the audit report
Council has a Development Plan approved by Council that includes the proposed projects and a Budget based on the Development Plan
Key stakeholders have been involved in the preparation of the Development Plan
Council has an approved balanced budget that includes the proposed projects, and a plan for the funding of asset maintenance
Council has annual statements of account prepared, debated in Council and submitted to the Auditor-General in accordance with the Local Govt. Financial Regulations
Council is meeting the transparency requirements specified in the LGA 2004 on matters related to development plans, financial statements, assets of the Council and minutes of Council meetings
Councils have developed acceptable project proposals with acceptable procurement plans
Council has a Procurement Unit with functional capacity
Council has a Procurement Committee with functional capacity
Councils submit progress reports on project implementation in accordance with Program requirements
Council must have a Grant Agreement with the GoSL
Council has a copy of the National Procurement Guidelines and held training on them for relevant Committee members and Council staff

Note: The LGFD also encourages Councils to hold an 'event' to make their annual budget known to the community, although this is not a condition of the grant.

Although there have been some instances where things did not go as planned and/or funds were misused, and there was a general problem with funding the Program in 2007, it has been very successful. The initial funding has now been spent and other donors, namely the European Commission and the British Government (DfID), are taking over and have pledged to fund it with the Government until 2012. It is also being examined by other Programs within the World Bank to see if it can be used to achieve other community-based development goals.

The three elements of the LGDGP are discretionary grants, roads grants and performance grants for those Councils that show they can manage further development assistance. The funding for each of the three for 2007 and 2008 is shown in Table 7 below.

Even though this Program is project-based, the planned horizontal distribution of funds between Councils for the discretionary component is based on a formula described in the Operations Manual. It is based on:

**Table 7 Sierra Leone LGDGP Budget and Expenditure, 2007 and 2008**

2007				2008			
Budget (Le bn)		Actual expenditure (Le bn)	Percent of Budget	Budget (Le bn)		Actual allocation Q 1 & 2 (Le bn)	Percent of Budget
GoSL	Donors			GoSL	Donors		
<b>Discretionary Grants</b>							
2.0	5.0	5.0	71.4		5.408	0.145	2.7
<b>Non-discretionary Grants (Roads)</b>							
3.0			0.0	2.550	0.450	1.144	45.8
<b>Performance Grants</b>							
	1.0	1.0	100.0		0.411	0.0	0.0
<b>Total Grants</b>							
5.0	6.0	6.0	54.5%	2.550	6.169	1.299	14.9%

“Weighted Population – weighted 60%, and is composed of:

- Weighted urban population per council; and
- Weighted rural population per council

Weighted Infrastructure Composite Damage Index – weighted 40%, and is composed of:

- Educational facilities damage index
- Health facilities damage index
- Roads damage index
- Damage index of infrastructure of civil authorities”

The non-discretionary (roads) component is based on the weighted population of the council and its road damage index value<sup>30</sup>, with an initial lump sum being given to all councils prior to these variables being applied. The Performance Grant distribution is based on the score a Council gets in an assessment using the pre-determined indicators and a scoring system, that examines each Council’s performance in the areas of financial management; planning and budgeting; revenue generation capacity; procurement; transparency and accountability; project implementation performance; management, organisation and institutional structures; monitoring and evaluation; and human resource management.

The types of projects funded through the LGDGP are shown in Table 8 below.

**Table 8 Number of Projects Funded Through Sierra Leone LGDGP 2004 to 2006**

Sector	No. of Projects Implemented			Total	Percentage of Total
	2004	2005	2006		
Agriculture	2	16	6	24	14.5
Education		6	5	11	6.7
Governance		2	10	12	7.3
Health & Sanitation	7	7	7	21	12.7
Markets	1	11	7	19	11.5
Recreation			4	4	2.4

<sup>30</sup> Derived from the surveys of the condition of infrastructure discussed earlier in the paper.

Roads	5	14	17	36	21.8
Social Infrastructure	1	12	6	19	11.5
Tourism		1	5	6	3.6
Transportation		1	2	3	1.8
Water Services	3	2	5	10	6.1
	<b>19</b>	<b>72</b>	<b>74</b>	<b>165</b>	<b>100.0</b>

Source: Monitoring Review of the Local Government Development Grant Program, Summary Report (Draft), LGFD, June 2007

### Similarities and Differences

It is clear from this Paper that, although it is still early days in both Sierra Leone and Southern Sudan, and there are some similarities in their experiences, there are very great differences in how decentralization is progressing. The three main similarities seem to be that: both are having trouble mobilising sub-national government revenue, there is tension between the sub-national governments and the traditional Chiefdoms in both places, and there are some difficulties in both nations in getting expenditure assignments finalised.

In Sierra Leone, there is a close link between its revenue mobilisation difficulties and the tension with the Chiefs as the Councils' revenue was planned to be to the detriment of the Chiefs and they were not sufficiently involved in making that decision. In Southern Sudan, the revenue problems stem from a lack of clarity in the Peace Agreement and Interim Constitution and the lack of legislation, while the tension with the Chiefdoms results from that level of governance being ignored to too great an extent when peace was being negotiated.

Getting expenditure assignments determined has not yet been started in Southern Sudan except for the somewhat confused picture in the negotiation documents, while in Sierra Leone, although there is a clear vision of what is wanted, there are some difficulties getting central Government Ministries to accept their lesser role and some unforeseen legalities because of conflicts in legislation and not all legislation having yet been made compatible with that relating to decentralization.

Many of the major differences between how decentralization has progressed seem to stem from the circumstances in which peace was achieved and the attitude of the parties at that time. In Sierra Leone, the Government, although not well experienced, effectively resumed its role and set to with an active plan to decentralize. It prepared and passed its Local Government Act as a matter of priority to give all stakeholders a firm base to work on. In Southern Sudan, the incoming Government had very little experience and it seems that so much energy had been put into achieving Peace that it thought the Comprehensive Peace Agreement and the Interim Constitution were all that was needed. Even today, high-ranking Government officials (both Ministers and others) will say that 'it is all laid out in the CPA and the Interim Constitution', or that John Garang said it all in 'Take the towns to the People'. Those with an

interest in progressing decentralization have no firm base on which to proceed. The lack of legislation relating to decentralization is a great hindrance to its implementation.

There also seems to have been different drivers of why those negotiating the peace thought decentralization would be a good idea. In Sierra Leone, the main thought seems to have been that it would be beneficial to development, and thus prevent social conflict. Thoughts such as these seem to have driven the concentration on getting services devolved to Councils as soon as possible and introducing the LGDGP immediately after the first election of Councillors. The aim was to show that Government can work for the people. In Southern Sudan, it seems more likely that decentralization was as much about sharing revenue and other resources as it was about maintaining peace. The SPLA's concentration on getting its share of oil-revenue from the North (as part of its independence) may have exacerbated this feeling, but there seems to have been little direct association between achieving decentralization within Southern Sudan and achieving development of the new nation.

In Southern Sudan, the influence and/or anticipation of oil revenue also has a wide-ranging impact. Too many people see it as a panacea to all problems and think<sup>31</sup> that they will be able to buy their way out of any difficulties. I am sure the expectation of oil revenue is a large influence on the lack of co-ordinated action by both the GoSS and its sub-national governments to raise any substantial amounts of non-oil revenue. It may also be a hindrance to getting the legislative base for revenue mobilization sorted out and a large determinant of the willingness with which sub-national government in Southern Sudan have taken on staff, resulting in a long-term and expensive legacy of the first two years of decentralization. In Sierra Leone, diamonds could possibly be just as important to the national economy as oil is to most States in Southern Sudan, but the lack of public revenue emanating from this source causes most at the sub-national level of government to disregard it completely. They have been much more restricting in their willingness to take on staff, supported by frequent reminders from their IRCBP 'minders' that they have no funds with which to pay any additional staff they recruit. The future difficulty in Sierra Leone will be reducing salary levels paid to those implementing decentralization (even if new staff are appointed) and integrating the functions into the civil service.

That Southern Sudan has two levels of sub-national government and Sierra Leone has only one is, I think, a difference of some importance. In Juba, decentralization is very often seen as reactivating the States, with the local level of government (and the Chiefdoms) being overlooked. In Sierra Leone, decentralization is clearly understood because it relates only to the Councils, but the Chiefdoms are still overlooked. In both cases, I suspect that the Chiefdoms are overlooked, at least in part, because of a natural tension between the new 'democratic' leaders and the traditional roles and social powers of the Chiefs. I suspect that in some ways the Chiefdoms are not considered to be part of the new structure of government and have thus been seen as irrelevant to the decentralisation process.

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<sup>31</sup> Even after the dire straits that the GoSS budget fell into in the first half of 2007 when oil revenue plummeted.

The way international agencies have assisted the decentralization process has been very different in the two nations. The much more direct approach in Sierra Leone has resulted in more funding being available to those implementing the policy and also given the international champions some leverage to get things done according to their requirements of governance. In Southern Sudan, where the influence had been much less structured and less well funded, the impact has not been nearly as great.

It is clear from the two nations studied that the implementation of decentralisation needs a Champion to drive it. There has been no-one in Southern Sudan who has had both the desire and power to perform that role. In Sierra Leone, the Champion became the institution the government established (funded with the IDA grant). The two key Unit heads of the IRCBP, although not particularly high-ranking officials, were given the autonomy to get the policy implemented. The strength of their personalities and their standing within the community in which they were asked to work gave them the power to Champion the cause and achieve much of what was required by Government. Having an institution as a Champion in Sierra Leone has allowed capacity building to be much more focused towards the objective than in Southern Sudan where it is much more piece-meal and aimed at individual institutions or stakeholders than at the overall objective.

The introduction of modern budget management practices by the Government of Sierra Leone at the same time as decentralization was being re-invigorated was also advantageous. It meant a lot more work for Government, and the Ministry of Finance in particular, but it allowed a fresh approach to be taken to financial management at the sub-national level right from the start. Importantly, it also allowed the devolution of functions plan built into the Government's legislation to be included in the forward expenditure plans Government and all other stakeholders saw each year. In Southern Sudan, the lack of legislation or other clear guidelines has meant that expenditure assignments, like their revenue equivalents, are still a long way from being clarified.

Both nations have proceeded to appoint an institution to look after the fiscal transfers to sub-national governments. In Sierra Leone, the LGFC is acting enthusiastically and wanting to take on a wider role. The fiscal transfer system is already well developed (if not too complicated) and the Councils seem to have confidence in it being based on equity. In Southern Sudan, the SSFFAMC is being sidelined. A series of fiscal transfers is in place but there is little or no equity involved in funds distribution and the major decisions are being taken at a political level.

### **Lessons Leant**

It seems that there are six main lessons to be learnt from the experiences of Sierra Leone and Southern Sudan in terms of decentralization after conflict. They are:

1. Documents designed to achieve peace are not enough. A legislative base is also necessary.
2. Getting the objectives clear is often achieved through the development of the legislation.
3. Make sure all levels of decentralized government are adequately considered, and that all stakeholders are involved in system design.
4. Early identification of Champions who can implement the policy is a big advantage.
5. Having funding specifically to achieve the decentralization objective is important.
6. Measure expectations of what can be achieved against future revenue capacities.

In terms of documentation, the lesson from Southern Sudan is that the parties to take up Government after peace has been negotiated must be made aware while that is being done that the documents designed to achieve peace are not the document on which Government can be run. There must be legislative action taken to give those mandated to implement decentralization the base they need to do so. In Sierra Leone, we learnt that this legislative base must consider all the laws relevant to the objective: not just the major piece of legislation. There, we are just now starting to ensure that all other legislation is compatible with the Local Government Act. If that had been done in 2005, decentralization could now be much further advanced than it is at present.

Preparing the legislation behind decentralization also leads to a clarification of what is required and how it is to be achieved. If the legislation is to achieve wide-spread public support, it should be the subject of wide-spread discussion. This will mean that all stakeholders are involved and that any tensions arising from the new way of delivering government services and new revenue collection modalities can be minimised. Even if they are not considered to be levels of government in a new decentralized and democratic political structure, traditional forms of 'government' like Chiefdoms need to be considered and involved in what is to happen. In Southern Sudan the CPA and Interim Constitution gave the GoSS power to establish the States' local government systems during the first few years after peace, but they have concentrated very much on the State level of sub-national government rather than attempting to establish sub-national (decentralized) government as-a-whole.

The early identification and support of Champions of the decentralization cause is clearly important to achieving the goal. The experience of Southern Sudan shows how difficult it is to work without a Champion. The experience of Sierra Leone shows that these Champions do not have to be high-ranking Ministers or appointed officials. As long as they have determination and a power to influence the action of other stakeholders, they can achieve a lot with only minimal direct support from Government.

The experience of Sierra Leone also shows the benefit of having a budget identified as being for decentralization. This allows the objective to be looked at in its entirety rather than as a series of associated but unconnected administrative processes. It is not necessary for the source of this funding to be donor support, but that might help if the nation also needs other

public sector management reforms to reduce corruption and nepotism, improve public sector management more generally and change human resource management methods.

Finally, it is probably important that those to resume or take over Government after peace is achieved have a realistic appreciation of what can be achieved with the resources likely to be available to the (new) nation. Even before peace is achieved, they need to start thinking about what Government priorities will be and how they might be achieved. Revenue mobilisation is unlikely to be high in the minds of either the incoming Government or the people, but its importance to what can be achieved must be stressed.

## **Appendix A**

### **Sierra Leone Local Government Act 2004 Third Schedule: Functions Devolved to Local Councils**

#### **Ministry of Agriculture**

##### ***Crops Division***

Tree and Cash crop nurseries  
Plantation development and maintenance  
Seed production/multiplication  
Produce inspection, grading and licensing  
Extension Services  
Input delivery services

##### ***Forestry Division***

Sensitisation campaigns on forest conservation  
Fire prevention and control  
Village forest nurseries  
Community forest woodlots  
National production forests  
National production forests catchments  
Central nurseries

##### ***Livestock Services***

Animal health  
Animal production  
Cattle settlement schemes  
Settlement of crop/livestock disputes  
Administration of livestock markets

#### **Ministry of Development and Economic Planning**

Local level planning  
District Recovery Committees to provide short term support to Councils

#### **Ministry of Education**

District Education Schools  
Primary to mid-Secondary schools  
School Supervisors

#### **Ministry of Energy and Power**

SALWACO – Water supply: Rural water supply to be run at cost, not for profit  
Community ownership of wells  
Bulk supply of water except where this function is to be privatised to the District and Town Councils  
Sanitation

#### **Ministry of Fisheries and Marine Resources**

Licensing of small canoes and attendant fishing gear  
Establishment and management of fishponds and inland lakes

#### **Ministry of Health**

Registration of Births and Death  
Public Health information and education  
Primary Health care  
Secondary Health care  
Maintenance of non-technical equipment  
Facilities management  
Procurement of equipment and medicines

**Ministry of Information and Broadcasting**

Information Services

Purchase of gazettes and receipts

**Ministry of Internal Affairs**

Sensitisation and education on fire prevention

Basic non-technical fire-fighting

Drug control and prevention programme

**Ministry of Labour and Social Services**

Manpower planning

Enterprise development

Trust Fund based safety net scheme

**Ministry of Lands, Country Planning and the Environment**

Land surveying

Land registration and control of illegal sale of land

Leasing Government land

Strategic local plans

Issuance of building permits

Sand dues

Preparation of land use plans

Education and sensitization on environmental issues

**Ministry of Local Government and Community Development**

Community Development

**Ministry of Social Welfare, Gender and Children's Affairs**

Family case work

Probation

Disability issues

Child welfare

Community Based Organisations

Gender issues

**Ministry of Works, Housing, and Technical Maintenance**

Maintenance of Council buildings/premises

**Ministry of Mineral Resources**

Establishment and management of Community Development Funds

Co-ordination of mining licences

Rehabilitation of mined-out areas

**Ministry of Tourism and Culture**

Local museums

Cultural villages

Freetown Central Library

**Ministry of Youth and Sports**

Youth affairs

Local sports

**Registrar-General's Department**

Celebration and registration of civil marriages

Administration of Estates and Gratuities

**Sierra Leone Roads Authority**

Maintenance of primary feeder roads

Maintenance of chiefdom roads/tracks

**Appendix B**

**Interim Constitution of Southern Sudan:  
Schedule (B): Powers of the Government of Southern Sudan**

The exclusive legislative and executive powers of Government of Southern Sudan shall be as follows:

1. The adoption and amendment of the Constitution of the Government of Southern Sudan;
2. Police, Prisons and Wildlife Services;
3. Security and military forces during the Interim Period;
4. Legislation relating to the Government of Southern Sudan structures for the delivery of services at all levels of Government of Southern Sudan;
5. Borrowing of money on the sole credit of the Government of Southern Sudan within the national macro-economic policy;
6. Planning for Southern Sudan Government services including health, education, and welfare, etc;
7. The appointment, tenure and payment of Government of Southern Sudan officers and civil servants;
8. Development of financial resources for the Government of Southern Sudan;
9. The co-ordination of Southern Sudan services or the establishment of minimum Southern Sudan standards or the establishment of Southern Sudan uniform norms in respect of any matter or service referred to in Schedule C or Schedule D, read together with Schedule E, with the exception of Item 1 of Schedule C, including but not limited to, education, health, welfare, police (without prejudice to the National Standards and Regulations), prisons, state public services, such authority over civil and criminal laws and judicial institutions, lands, reformatories, personal law, intra-state business, commerce and trade, tourism, environment, agriculture, disaster intervention, fire and medical emergency services, commercial regulation, provision of electricity, water and waste management services, local Government, control of animal diseases and veterinary services, consumer protection, and any other matters referred to in the above Schedules;
10. Any power that a state or the National Government requests the Government of Southern Sudan to exercise on its behalf, subject to the agreement of the Government of Southern Sudan or that for reasons of efficiency the Government of Southern Sudan itself requests to exercise in Southern Sudan and that other level agrees;
11. Referenda in Southern Sudan on matters affecting Southern Sudan within the competencies of Southern Sudan Government;
12. Taxation and revenue-raising in Southern Sudan;
13. Southern Sudan Budget;
14. Public utilities of Government of Southern Sudan;
15. Government of Southern Sudan flag and emblem;
16. Reconstruction and development of the Southern Sudan;
17. Government of Southern Sudan information, publications, media and telecommunications utilities;
18. Rehabilitation and benefits to disabled war veterans, orphans, widows and care for the dependents of deceased war fallen heroes;
19. Any matter relating to an item referred to in schedule D that cannot be dealt with effectively by a single state and requires Government of Southern Sudan legislation or intervention including, but not limited to the following:
  - (1) Matters relating to businesses, trade licenses and conditions of operation;
  - (2) Natural resources and forestry;
  - (3) Town and rural planning;
  - (4) Disputes arising from the management of interstate waters within Southern Sudan;
  - (5) Fire fighting and ambulance services;
  - (6) GOSS reformatory institutions;
  - (7) Firearms licenses within Southern Sudan; and
  - (8) Government of Southern Sudan recreation and sports.

20. Such matters relating to taxation, royalties and economic planning as is specified in the Agreement on Wealth Sharing;
21. Southern Sudan census and statistics within the competence of the Southern Sudan Government;
22. Issuance of identity cards within Southern Sudan, driving licenses and any other appropriate documentation.

### **Schedule (C): Powers of States**

The exclusive executive and legislative powers of a state of the Sudan shall be as follows:

1. The Constitution of the state, subject to compliance with the National Constitution and, as relevant, the Constitution of Southern Sudan;
2. State Police and prisons;
3. Local Government;
4. State information, state publications and state media;
5. Social Welfare including state pensions;
6. The Civil Service at the state level;
7. The State Judiciary and administration of justice at state level including maintenance and organization of state Courts, and subject to national norms and standards, civil and criminal procedure;
8. State Land and state Natural Resources;
9. Cultural matters within the state;
10. Regulation of religious matters;
11. Internal and external borrowing of money on the sole credit of the state within the National macro-economic framework;
12. The establishment, tenure, appointment, and payment of state officers;
13. The management, lease and utilization of lands belonging to the state;
14. The establishment, maintenance and management of reformatory institutions;
15. The establishment, regulation, and provision of health care, including hospitals and other health institutions;
16. Regulation of businesses, trade licenses, working conditions, hours, and holidays within the state;
17. Local works and undertakings;
18. Registration of marriage, divorce, inheritance, births, deaths, adoption and affiliations;
19. Enforcement of state laws;
20. Statutes enacted under the penal law power, save for the penalization for the breach of National laws relating to the national competencies;
21. The development, conservation and management of state natural resources and state forestry resources;
22. Primary and secondary schools and education administration in regard thereto;
23. Laws in relation to agriculture within the state;
24. Airstrips other than international and national airports within civil aviation regulations;
25. Intrastate public transport and roads;
26. Population policy and family planning;
27. Pollution control;
28. State statistics and state surveys;
29. State referenda;
30. Charities and endowment;
31. Quarrying regulations;
32. Town and rural planning;
33. State cultural and heritage sites, state libraries, state museums, and other historical sites;
34. Traditional and customary law;
35. State finances;
36. State irrigation and embankments;
37. State Budget;
38. State archives, antiquities, and monuments;

39. Direct and indirect taxation within the state in order to raise revenue for the state;
40. State public utilities;
41. Vehicle licensing;
42. Fire fighting and ambulance services;
43. Recreation and sport within the state;
44. Firearms Licenses; and
45. Flag and emblem of the state.

### **Schedule (D): Concurrent Powers**

The National Government, the Government of Southern Sudan and State Governments, shall have legislative and executive competencies on any of the matters listed below:

1. Economic and Social Development in Southern Sudan;
2. Legal and other professions and their associations;
3. Tertiary education, education policy and scientific research;
4. Health policy;
5. Urban development, planning and housing;
6. Trade, commerce, Industry and industrial development;
7. Delivery of public services;
8. Banking and insurance;
9. Bankruptcy and insolvency;
10. Manufacturing licenses;
11. Airports, only with respect to the Government of Southern Sudan in accordance with Civil Aviation standards and regulations;
12. River transport;
13. Disaster preparedness, management and relief and epidemics control;
14. Traffic regulations;
15. Electricity generation and water and waste management;
16. Information, Publications, Media, Broadcasting and Telecommunications;
17. Environmental management, conservation and protection;
18. Relief, Repatriation, Resettlement, Rehabilitation and Reconstruction;
19. Without prejudice to the National Regulation, and in the case of Southern states, the regulation of Government of Southern Sudan, the initiation, negotiation and conclusion of International and Regional Agreements on culture, sports, trade, investment, credit, loans, grants and technical assistance with foreign governments and foreign non-governmental organizations;
20. Financial and economic policies and planning;
21. Women's empowerment;
22. Gender policy;
23. Pastures, veterinary services, and animal and livestock diseases control;
24. Consumer safety and protection;
25. Residual powers, subject to schedule E;
26. Mother, Child protection and care;
27. Water Resources other than interstate waters;
28. Notwithstanding Schedules A, B and C, such matters relating to taxation, royalties and economic planning;
29. Southern Sudan and state Courts responsible for enforcing or applying National laws;
30. Such matters relating to taxation, royalties and economic planning as a matter or matters in regard to which the Government of Southern Sudan is accorded concurrent authority;
31. Human and animal drug quality control; and
32. Regulation of land tenure, usage and exercise of rights in land.

**Schedule (F): Resolution of Conflicts in Respect of Concurrent Powers**

If there is a contradiction between the provisions of Southern Sudan law and/or a state law and/or a National law, on the matters referred in Schedule D, the law of the level of government which shall prevail shall be that which most effectively deals with the subject matter of the law, having regard to:-

1. The need to recognize the sovereignty of the Nation while accommodating the autonomy of Southern Sudan or of the states;
2. Whether there is a need for National or Southern Sudan norms and standards;
3. The principle of subsidiarity; and
4. The need to promote the welfare of the people and to protect each person's human rights and fundamental freedoms.

## Appendix C

## Southern Sudan Grants to States, 2007, (USD)

	Education Grants						
	1 <sup>st</sup> Quarter	April	May	June	July	August	Year to date(a)
Central Equatoria	1 754 162	1 755 416	273 650	1 212 274	1 213 016		6 208 518
Eastern Equatoria	1 330 188	1 126 116	175 549	845 890	846 058		4 323 801
Western equatorial	261 494	910 829	141 988	951 556	951 745		3 217 612
Upper Nile	2 500 690	2 020 384	314 956	898 215	898 395		6 632 640
Jonglei	1 444 510	1 788 537	278 813	630 600	630 726		4 773 186
Unity	1 833 884	1 109 555	172 967	438 897	438 985		3 994 288
Western Bahr El Ghazal	1 972 042	678 981	105 846	488 313	488 410		3 733 592
Northern Bahr El Ghazal	0	1 192 358	185 876	1 099 467	1 099 687		3 577 388
Lakes	1 006 880	1 126 116	175 549	879 716	879 891		4 068 152
Warrap	2 277 028	1 308 281	203 946	681 210	681 346		5 151 811
	14 380 878	13 016 573	2 029 140	8 126 138	8 128 259		45 680 988

	Health Grants						
	1 <sup>st</sup> Quarter	April	May	June	July	August	Year to date
Central Equatoria	0	19 050	156 228	156 236	156 267	29 916	517 697
Eastern Equatoria	0	19 050	156 228	156 236	156 267	156 236	644 017
Western equatorial	0	19 050	156 228	156 236	156 267	156 236	644 017
Upper Nile	0	19 050	156 228	156 236	156 267	156 236	644 017
Jonglei	0	19 050	156 228	156 239	156 267	156 236	644 020
Unity	0	19 050	156 228	156 236	156 267	156 236	644 017
Western Bahr El Ghazal	0	19 050	156 228	156 236	156 267	156 236	644 017
Northern Bahr El Ghazal	0	19 050	156 228	156 237	0	156 236	487 751
Lakes	0	19 050	156 228	156 236	156 267	156 236	644 017
Warrap	0	19 050	156 228	156 236	156 267	156 238	644 019
	0	190 500	1 562 280	1 562 364	1 406 403	1 436 042	6 157 589

	<b>Animal Resources and Fisheries Grants</b>						
	1 <sup>st</sup> Quarter	April	May	June	July	August	Year to date
Central Equatoria	0	125 014	23 807	23 808	23 813	23 808	220 250
Eastern Equatoria	0	125 014	23 807	23 808	23 813	23 808	220 250
Western equatorial	0	125 014	23 807	23 808	23 813	23 808	220 250
Upper Nile	0	125 014	23 807	23 808	23 813	23 808	220 250
Jonglei	0	125 014	23 807	23 808	23 813	23 809	220 251
Unity	0	125 014	23 807	23 808	23 813	23 809	220251
Western Bahr El Ghazal	0	125 014	23 807	23 808	23 813	23 808	220 250
Northern Bahr El Ghazal	0	125 014	23 807	23 811	23 813	23 809	220 254
Lakes	0	125 014	23 807	23 808	23 813	23 808	220 250
Warrap	0	125 014	23 807	23 808	23 813	23 808	220 250
	0	1 250 140	238 070	238 083	238 130	238 083	2 202 506

	<b>Block Grants</b>						
	1 <sup>st</sup> Quarter	April	May	June	July	August	Year to date
Central Equatoria	2 074 369	1 234 556	1 509 587	1 509 662	1 648 491	1 274 899	9 251 564
Eastern Equatoria	3 272 812	1 464 444	1 786 575	1 786 664	1 787 020	1 450 640	11 548 155
Western equatorial	3 683 122	1 457 786	1 786 575	1 786 664	1 787 020	1 055 427	11 556 594
Upper Nile	2 628 693	1 356 344	1 623 152	1 623 233	1 623 556	1 972 467	10 827 445
Jonglei	2 841 005	1 484 932	1 786 575	1 786 663	1 787 020	1 843 824	11 530 019
Unity	2 017 565	1 353 109	1 648 081	1 648 163	1 648 494	2 434 357	10 749 769
Western Bahr El Ghazal	4 723 086	1 339 792	1 648 081	1 648 163	1 648 491	2 130 744	13 138 357
Northern Bahr El Ghazal	4 126 294	1 403 884	1 723 981	39 838	1 880 678	1 717 951	10 892 626
Lakes	3 355 974	1 353 621	1 648 081	1 648 163	1 648 491	1 234 661	10 888 991
Warrap	2 498 013	1 107 039	1 423 626	1 423 697	1 787 020	2 202 923	10 442 318
	31 220 933	13 555 507	16 584 314	14 900 910	17 246 281	17 317 893	110 825 838

(a) Data accumulated to July only.

Source; MoFEP data received by author, November 2007.