

# ***Winning the war, but losing the peace? The dilemma of SPLM/A civil administration and the tasks ahead***

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## ABSTRACT

The debate over peace in Sudan has centred on the ongoing talks in Naivasha, Kenya. This paper argues, however, that sustainable peace is not simply a function of the implementation of an agreement between the SPLA and Khartoum, but that other fracture lines will run through post-conflict Sudan. Here we draw attention to the rupture between the Dinka, dominant within the SPLA, and the Equatorian peoples of the far south, hundreds of thousands of whom were driven from their homes or faced with economic and political oppression under SPLA occupation. As these refugees return, it will be through local government structures that Equatorians will or will not be integrated into the SPLA political project for Southern Sudan. Thus, local government figures prominently in the possibility for sustainable peace. We describe the origins and structure of local government in Southern Sudan, situating it in the history of political tension between Dinka and Equatorians. We then describe the challenge of equitably distributing land and foreign aid to returnees in the context of ethnic politics and a massive NGO presence.

## INTRODUCTION

A number of different informants in Magwi County, South Sudan, related to us the same anecdote. A Madi man returning from Uganda goes to the land he farmed before being displaced, and finds a Dinka living in his house. He demands that the Dinka return his house and land. In response, the Dinka points to a date inscribed above the doorway. ‘On this date, I liberated this house from the Arabs’, he says. ‘Where were *you*?’

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The state-centric perspective of Africanist political science has led to a paucity of literature on political organisation in areas outside the formal control of the state. Instead, scholars have generally described the inability of the African state to meet even minimal criteria, depicting it as ‘failed’, ‘collapsed’, ‘shadow’, ‘weak’, ‘quasi’, or ‘inverted’ (see Callaghy 1985; Forrest 1998; Jackson 1990; Reno 2002; Zartman 1995). Such an approach often assumes a Hobbesian dilemma: if the state is not capable of exerting control, then chaos must ensue.

This assumption has limited our understanding of politics in conflict zones. Although attention has been paid to how rebel movements recruit their fighters (Kasfir 2002; Weinstein 2003) and finance their operations (Collier & Hoeffler 2000), little has been said about how rebels *govern* the territory they occupy. Considering the substantial duration of some of Africa’s conflicts and the extensive territory and populations that rebel movements have often wrested away from states, this is an unfortunate oversight.

Recent studies have begun to fill this gap, demonstrating that in the context of little or no formal state control, indigenous and external forces can cooperate – or compete – to govern and regulate populations in ways unaccounted for by much current political science work. Indeed, rebel movements, particularly when confronting protracted conflicts and controlling large territories, face the practical necessity of developing some sort of administrative structure to deal with the population under their command. Thus, studies have shown how, in the absence of a state, social leaderships can emerge, claim power, and effectively govern communities, deriving legitimacy from their position at the head of indigenous social networks of power (Longman 1998; Mamdani 1999; Sklar 1999). Moreover, like states, rebel movements can draw on transnational resources, including foreign governments, multinational corporations, and non-governmental organisations (NGOs) in addition to resources within the local population (Callaghy *et al.* 2001).

In this paper, we try to demonstrate the importance of rebel government as a topic of investigation; our case study is of SPLA local government structures in the southernmost Sudanese province of Equatoria.<sup>1</sup> We show that local government structures will be the stress point where the major challenge facing the SPLA in Equatoria – the integration of hundreds of thousands of returning refugees – will be expressed and either resolved or not resolved. Thus, the analysis of local government figures prominently in assessing the possibility for a sustainable peace in Southern Sudan. Before addressing the specific problems that the return of Equatorian refugees will present the SPLA, we describe first, the origins, and second, the

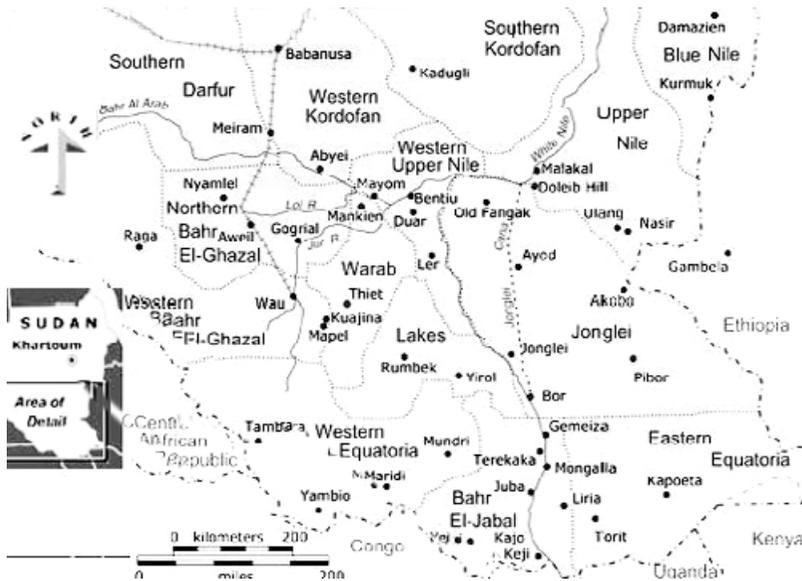


FIGURE I  
Map of Southern Sudan.

structure, of local government in Southern Sudan, situating it in the history of political tension between Dinka and non-Dinka Equatorian ethnic groups. We then provide accounts of what we see as the two major issues that will be faced by the SPLA when the refugees return: land redistribution to returnees, and the equitable distribution of development and reconstruction resources. We show that it will be at the level of local government that these issues will be addressed in post-conflict Sudan; thus, the ongoing process in Naivasha is only one step on the way to a comprehensive, sustainable peace. We seek to shift attention away from the peace talks and to argue that rebel government structures will be as important to the chances for peace as are the negotiations between the warring parties.

#### ORIGINS OF LOCAL GOVERNMENT IN SOUTHERN SUDAN

Western media reports typically portray the Sudanese conflict as between the Arab and Muslim North, which has controlled the central government since independence, and the African and Christian South, which has been subject to varying degrees of economic and social marginalisation and political and religious repression since before independence. Although it is true that the Khartoum-based government has consistently exploited the

South while brutally suppressing opposition to its rule, closer examination reveals that the North–South divide is only one of many political divisions in contemporary Sudan. Sudan is very large in size and includes dozens of ethnic groups speaking some 400 languages. There are a significant number of Africans – Christians, Muslims, and those adhering to traditional beliefs – in the North, and a significant number of Muslims in the South. Thus, while religion has been a language in which politics and violence have been expressed, it cannot be seen as the cause of the conflict or as its main reason for continuing.

Likewise, although race is often portrayed as the cause of the conflict, there are Arabs within both the SPLA and other rebel movements, just as there are Africans who support the regime.<sup>2</sup> The image of Arab slave raiders stalking Africans has generated sympathy in the United States and Europe, but is a relatively marginal phenomenon according to many accounts (de Waal 1997b). Recently, the emergence of a rebellion among the Muslim African population of Darfur in the west has further put into question the primacy of the North–South divide. Instead of being caused by racial or religious differences, many analysts of, and participants in, the struggles have made clear that the conflict in Sudan is anchored in unequal development and political exclusion taking place in the context of easily politicised racial and religious identities (Abdel Salam & de Waal 2001: 278). Indeed, the SPLA has, since its inception, tried to transcend the problems of polarised racial, religious, and ethnic identities, and has called for a ‘New Sudan’ based on national unity and equal development (Lesch 1998: 88–92).

Southern Sudan itself is a politically contested space with no unified Southern Sudanese identity; from our interviews, what common identity does exist seems to be based primarily on common repression by, and resistance to, the Khartoum regime.<sup>3</sup> But more prominent are the divisions between the many ethnic groups in the South. The conflict during the 1990s between the Dinka-dominated mainstream SPLA and various Nuer-dominated SPLA factions produced more bloodshed, and many more civilian deaths, than the battle against the Khartoum government (Jok & Hutchinson 1999). In addition, many of those who belong to the smaller Equatorial ethnic groups – the Bari, Zande, Acholi, Madi, Moru, Kuku, and others – view the SPLA as a vehicle of Dinka domination and complain bitterly about their treatment at the hands of the SPLA. While the Dinka–Nuer conflict has been addressed by scholars, the conflict between Dinka and Equatorial groups, especially the recent history of that conflict, has been sidelined; as it forms the background to our concern with local government, we will briefly address it here.

The Regional Self-Government Act for the Southern Provinces, emerging out of the 1972 Addis Ababa Accord which brought an end to the Anya Nya war against Khartoum, created a single region out of the South, with its own regional assembly, High Executive Council, and a significant degree of regional autonomy (Alier 1990: 89–99; Lesch 1998: 46–7). However, this arrangement was quickly challenged. Mobilising popular fear among Equatorians of Dinka domination of the unified Southern administration, and encouraged by Khartoum which wanted to foster factionalism in the South, during the 1970s Equatorian politicians promoted a ‘re-division’ of the South into its three constituent parts – a programme commonly known by the Bari word, *kokora*.<sup>4</sup> When the Southern High Executive Council consistently refused to re-divide the South, in June 1983 President Numairi did it himself by decree, assigning to the three new provinces a greatly reduced degree of autonomy (Lesch 1998: 51). This re-division was one of the triggers for the SPLA rebellion, as the *de facto* federal structure was, with re-division, replaced by one entailing increased central control from Khartoum.

Thus, the SPLA was fighting in part to preserve a *status quo ante* that many Equatorians did not want. From the beginning Equatorians lacked a prominent role in the SPLA, especially compared to their predominance in Anya Nya I. When the fighting spread to Equatoria in the 1990s, many Equatorians fled to Uganda, Zaire, and Kenya.<sup>5</sup> The SPLA did little to build support from the Equatorian populations; in fact, they treated Equatoria as occupied territory and moved large Dinka populations into the region where they would have better access to relief aid and avoid the worst fighting further north.<sup>6</sup> Equatorians were subject to atrocities at the hands of the SPLA (HRW 1994; SHRA 2003), and often characterise the SPLA as being as oppressive as the Khartoum government.<sup>7</sup> This massive, violent demographic shift has meant that at present, in parts of Equatoria, Dinka internally displaced persons (IDPs) outnumber remaining non-Dinka by three to one, and those who remain have found themselves subject to political and economic marginalisation in their own homes.

Recognising the explosive potential of the situation, the SPLA in the last few years has made attempts to address the conflict between Dinka and Equatorians, particularly through an ongoing South–South dialogue, culminating in the Equatorian Conference of 2001 and the Equatorian Convention of 2002. These proceedings led to a call by Equatorian political and civil society leaders for the decentralisation of government in the South, and constitutional and legal reforms that would guarantee the self-rule of Equatoria free from Dinka dominance. At present, a number of

different political trends are visible in Equatoria, ranging from regional solidarity amongst Equatorians based on anti-Dinka sentiment, to secessionism, anti-SPLA armed movements such as the Equatoria Defence Forces (EDF), and pro-SPLA armed factions.

Concomitant with these demands for genuine local self-government and ethnic inclusion from below, the National Democratic Alliance (NDA), an umbrella organisation that brought together the SPLA with the major Northern political parties, armed groups and trade unions, put pressure on the SPLA to respect demands for local autonomy. Encapsulated in the 1995 Asmara Declaration, the NDA acknowledged 'the fact that unity of the Sudan cannot be durably based on force or coercion but on justice and the free-consent of all the various groups in the Sudan' (Abdel Salam & de Waal 2001: 203).

The conflict between Southern ethnic groups led the SPLA leadership to recognise that decentralisation of the political apparatus was essential if they were to retain support from non-Dinka ethnic groups and were to build national and international legitimacy (Arop int). The SPLA had in fact begun to establish a civil authority structure in the mid-1990s, at that point mostly in response to an over-militarisation of life in the South. In 1994, a national conference of SPLM members met to discuss the establishment of a civil authority; this meeting led, in 1996, to the Conference on Civil Society and Civil Authority in Himman-New Cush, at which the Civil Authority of New Sudan (CANS) was initiated to rectify a situation characterised by one SPLA official as 'jungle law' (Wani int; see also SPLM 2000). Since then, the SPLA emphasis – at least in its rhetoric – on democratic, representative local government has increased. As the SPLM (2000: 10) writes in its 'Peace Through Development: Perspectives and Prospects in the Sudan', published in February 2000: 'From the perspective of the SPLM, a peaceful resolution of the conflict in the Sudan will be achieved through a comprehensive development strategy that depends on a sustainable system of participatory democracy and good governance. On the other hand, participatory democracy and good governance rely on the establishment of a broad-based civil authority, such as CANS.'

The CANS encompasses a civil authority formally independent of the SPLA, with its own civil police force, judicial system, and even Department of Wildlife. In theory, this local authority is institutionally distinct from the SPLA military command structure, and CANS and SPLA officials attest to the civil authority's autonomy. However, in confidential discussions, NGO workers and others who regularly deal with local government made it clear that they see the local government's autonomy from the SPLA as a project to be realised, rather than reality.

Among these informants, it was perceived that politically sensitive decisions are still made by the SPLA high command, and that the SPLA often intervenes in decision-making by the civil authority. Moreover, the fact that nearly all CANS officials are ex-SPLA soldiers has led to an intermeshing of civilian and military through personal ties and influence (Johnson 1998: 67). A military ethos inevitably permeates the civil authority as a result. Despite SPLA claims to the contrary, the military still holds exclusive power; there is a 'fusion' of powers in the SPLA, as one human rights lawyer put it to us (Lomo int), or as one analyst has written, 'the administrative structure is not democratically based, but rather reflects a militaristic top-down approach' (Riehl 2001: 11). At the same time, however, these same informants saw the SPLA as making a significant effort to demilitarise the local government, and have seen substantive changes in this direction in recent years. Local government in Equatoria is thus at present undergoing a difficult transition to a demilitarised civil authority.

The question of political equality has been imbued with the question of economic and social equality since the beginning of the conflict. As the above passage from 'Peace through Development' makes clear, decentralisation of local government is as much intended to promote inclusive economic development by decentralising service provision and development activities to local levels as it is intended to promote political inclusion. In the context of political and economic marginalisation, the SPLA intended CANS to respond to political and economic grievances of the Southern populations.<sup>8</sup> The autonomy of CANS in service provision and development activities has proceeded in step with the devolution of genuine political authority to CANS from the SPLA military structure; thus, CANS represents not only an evolution of local government, but an evolution of the SPLA service provision structure. Service provision had first been formalised in 1989 with the Sudan Relief and Rehabilitation Association (SRRA), designed to provide services to populations under SPLA control.<sup>9</sup> Since 1999, the SRRA (renamed the Sudan Relief and Rehabilitation Commission, or SRRC) has undergone significant reform in preparation for the flows of refugees expected to return to Southern Sudan. The SRRC has handed over some of the many responsibilities it had accrued over the last decade – education, health, agriculture, communications, economic development – to CANS, and has refocused its efforts on humanitarian relief (Arop int). The relationship between the two is, like most institutions in Southern Sudan, in transition, as many of the activities that are supposed to be under the auspices of CANS are still in the hands of the SRRC. When the refugees return, the SRRC will still be the key body coordinating the activities of the UNHCR and the NGOs

assisting with repatriation and will absorb the initial impact of the returnees, dealing with the technical problems of providing incentives to returnees and providing transitional relief – food, shelter, medicines – until they are re-settled and the first crop harvested. Thus, the ability of the SRRC to respond effectively to the needs of the returning populations will be the first test of the SPLM/A's political order in the South. But these immediate, technical problems are overshadowed by the longer-term threats to the successful consolidation of SPLM/A political order and the chances of lasting peace that will be expressed within and dealt with by CANS itself. These we address later.

#### THE STRUCTURE OF CIVIL AUTHORITY

The basic objective of decentralisation has been to devolve power to a hierarchy of local authorities, beginning at the village, or Boma, level. The Boma is to have a bifurcated command, split between a traditional chief and the Boma administrator. The traditional chief is chosen by the local village community, is advised by a council of elders, and primarily serves to resolve disputes between community members. The Boma administrator is appointed by the SPLM to serve as the SPLM's liaison to the village.

The Payam is next, comprising four to six Bomas. This has a more elaborate structure: a Payam administrator is the highest authority figure and liaison to the SPLM, and oversees legislative, executive and judicial bodies. Each Payam has a legislature composed mostly of elected members and some appointed members. The executive branch comprises the executive administrator, who is appointed by the SPLM with an eye towards selecting someone acceptable to the local population, often an indigene. This branch is responsible for the administration of the Payam. The judiciary is dual, comprising a set of criminal courts operated by the SPLM and also customary or 'tribal' courts to deal with the enforcement of customary law. Certain cases can be brought to the SPLM courts through appeal, but importantly for our paper, land disputes go to a body of elders or 'traditional leaders' on appeal. As one scholar has argued, the SPLA's formalisation of customary law is solidly in the context of Southern Sudanese legal history: 'Entrenching the position of customary law was one of the reforms enacted at the SPLA's first national convention at Chukdum in April 1994. A new hierarchy of customary courts from village to county level was recognized, strengthening the role of the chiefs in matters of appeal. This recognition of customary law as the basis of local law is in keeping with the legal history of the Southern Sudan and conforms to

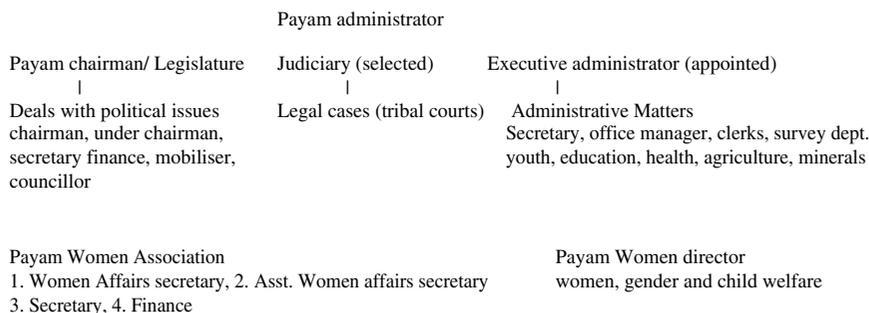


FIGURE 2

Structure of Payam Administration. (*Source*: Payam Administration Office, Nimule.)

established practice' (Johnson 1998: 69).<sup>10</sup> Much of our own analysis is based on the Payam level of government, which in our experience is the authority level of primary importance for the local population.

Above the Payam is the County, which can cover large areas and include relatively inaccessible regions – especially given the condition of Southern Sudanese roads. The County is led by the county commissioner, an appointed position drawn from SPLA ranks. The county is responsible for setting and collecting taxes, including a general 'poll tax' taken from all able-bodied adults and market fees, though the commissioner of Yei County assured us that taxation was primarily a token action (Lokule int). It is hard to discern the actual amount of tax taken by the civil administration, but considering the general poverty that prevails, it is doubtful whether much can be extracted from the population (*ibid.*).<sup>11</sup> However, the local authority is able to siphon off significant aid from locals through a 'personal tax' taken from relief supplies provided to them by NGOs (confidential int).

The county agency most relevant to our discussion is the County Development Committee (CDC). The CDC's purpose is to plan, coordinate, and evaluate development programmes in the county, and it serves as the mechanism through which the development activities of the SRRC are being transferred to the local authority (Khamis int). The CDC has only existed since 1999, and currently functions as a liaison between various NGOs and the local population. Though not particularly powerful now, CDCs are well aware that their role will increase exponentially when peace comes. They work closely with the SPLM Development Assistance Technical Office (SDAT), a national body based in Nairobi that receives funding from USAID to develop a viable model for promoting development

with extremely limited funds in SPLA held territory. In time, the model for the CDC is to be replicated at the Payam and Boma levels as well.

#### POST-CONFLICT ISSUES

##### *Introduction*

Most discussions of the possibility of, and obstacles to, peace in Sudan centre on the ongoing attempt to define the relationship between North and South, embodied in the peace agreement being hammered out between the SPLA and Khartoum. Thus the debate is generally limited in scope to issues of power sharing, oil revenue sharing, Sharia, geographical boundaries, and so on. We believe, however, that the possibility for successful, sustainable peace is not simply a function of the formalisation and implementation of an agreement between the SPLA and the Khartoum government, but that there are numerous other fracture lines within post-conflict Sudan that must be taken into account. We are not alone in making this point: some commentators have drawn attention to the problematic persistence of internal disputes that led to previous ruptures within the SPLA (Jok & Hutchinson 1999), and a few have pointed out the possibly destabilising role that could be played by 'Sudan's other wars' (ICG 2003).<sup>12</sup> The potential fracture line we draw attention to here runs within the South itself, specifically the rupture between the Dinka and Equatorian populations, and the ability of CANS to mitigate this tension (Johnson 1998: 65).<sup>13</sup>

Until now, serious conflict between the Dinka-dominated SPLA and the non-Dinka Equatorians has been deferred, as the SPLM/A has depended upon foreign states and especially the UNHCR to accept and take care of these exiled populations. In this way, the UNHCR has allowed the SPLM/A to put off dealing with its internal ethnic exclusivity for over a decade. As a result, the construction of a representative, inclusive, and autonomous civil authority has not been essential, nor has the SPLA made a significant effort to build such a local government. But now, with the return of refugees, the SPLA will have to address these issues, for if the current peace lasts, the mass repatriation of Equatorians to Dinka-occupied areas will produce a dramatic political challenge for the SPLM/A, as the returning refugees, and those Equatorians who remained, demand rectification of perceived injustices. In the near future, these demands will centre on two issues: first, the return of Dinka-occupied land to Equatorians; and second, equal access to foreign-provided development and reconstruction resources. It is our purpose here to demonstrate how these two stumbling blocks to peace in the South will, because of the trend

towards decentralisation and the emphasis on local government within the SPLA, be grappled with primarily at the level of the local authority. Thus, peace may be won or lost according to the ability of local administration to carry out these tasks.<sup>14</sup>

### *Land distribution and tribal courts*

The anecdote that begins this paper is symptomatic of what will probably be the most serious stumbling block on the way towards a successful political and social integration of returning Equatorians: the settlement of hundreds of thousands of Dinka on land claimed by returning refugees. SPLM officials and NGO workers alike recognise the severity of the issue, but all present the same solution: ‘Everyone will move back to their original places’, as the commissioner of Yei County put it to us (Lokule int).

Concretely, land redistribution will take place within the pattern of decentralisation chronicled above. The process will provide an important first test of the local government structure: if local government succeeds in redistributing land to the returning refugees in what the returnees consider to be a fair manner, it could see its authority and legitimacy consolidated significantly; but if it fails – either because of internal insufficiencies or because it submits to outside pressure from the SPLA and Dinka to leave land in the hands of the current occupants – this could rupture the SPLA political project in Equatoria and reproduce the conditions for further violent South–South conflict.

The institution that will be the focal point of land redistribution is the tribal court. As noted above, the civil authority revitalises the colonial-era policy of placing land tenure under customary law and giving the exclusive power to interpret that customary law to a tribally defined chief (Johnson 1998: 65–70; Kuol 1997). The local judiciary comprises a tribal court headed by a tribal chief; land is exclusively under the domain of these tribal courts, and appeal from the court on land issues is to a board of traditional leaders or elders (SPLM 2000: 16–20; Wani int). Thus, when the commissioner of Yei County told us that the internally displaced Dinka would leave the occupied land because ‘the land belongs to the community’, this ‘community’ is defined as a tribal unit, in which decisions as to the most important resource, land, are made exclusively by those seen as embodying that tribal custom – chiefs and elders. It is presumed that tribal chiefs will distribute land exclusively within their own ethnic group and in ways perceived as fair by the returning Equatorian communities, excluding displaced Dinka from permanent settlement in

Equatoria and re-establishing the pre-conflict land distribution. That is, people are defined first as members of tribes, and accountability and representativity of the tribal judiciary are seen as being ensured by the correspondence assumed between members of the tribe and the chief or tribal leaders as embodiments of tribal custom. What is perceived as Dinka ethnic dominance and privilege is rectified by giving power to those oppressed, also along ethnic lines, thus further politicising ethnicity as the privileged mode of compensating for historical injustice. As perhaps the most important determinant of the definition of ‘community’ – the allocation of land – is tribalised, we might expect communities in post-conflict Equatoria to take on highly tribal valences. Thereby, the formalisation within local government of tribally based chiefly power is put forth as the answer to the specific issue of land redistribution.

Of course, the ascription of power to these tribal authorities raises questions both of the internal democratic credentials of chiefs and of the possibility that seeds are being planted for intensified ethnic conflict in the future. Since ‘community’ is being described as the tribal community, this may very well lead to a further petrification of the very ethnic categories that have been so easily politicised for extremely destructive ends in the past. It could set the stage for the management of the Equatorian population through the manipulation of politicised ethnicities – either by the SPLA or by Khartoum – reproducing the mode of rule used by the Khartoum government for decades, and the British before them. Indeed, Southerners are highly aware of the issues surrounding ethnic-based political divisions, and the topic has been the subject of intense debate for decades amongst intellectuals and political leaders in the South (Badal 1994). We would ask whether there are other modes of institutionalising judicial authority that could address the immediate problem of Dinka occupation of land, but that would not further politicise ethnicity. In any case, the return of land by tribal courts and the possible escalation of ethnic tension as a result is an important issue to monitor in the coming years.

#### *NGOs, local authority, and development*

The vast majority of the health, education, infrastructure, and, in places, nutritional needs of the Southern Sudanese have for many years been fulfilled by foreign NGOs or foreign funding. The presence of NGOs is so overwhelming that one researcher has asked, ‘Is New Sudan actually the first NGO-istan?’ (Riehl 2001: 4). As reconstruction and development become the order of the day and international agencies such as the World

Bank that had been reluctant to intervene without a clear sovereign in control now enter Southern Sudan, the importance of foreign funds will increase even further. The potential outcomes of such a new influx of aid must be considered, as they may present threats to peace itself. A significant critical literature on NGO operations in Southern Sudan has developed, for the most part in response to Operation Lifeline Sudan,<sup>15</sup> and provides an important starting place for the consideration of the relation between local government and NGOs in post-conflict development.

The critiques that have been made of foreign-funded, NGO-implemented relief and humanitarian aid can be divided into two categories. The first category comprises critical assessments of the political and social problems that can result when NGOs have an unmediated relation with local populations: that is, when local civil or political institutions have little or no control over the distribution of foreign resources. This critique was most relevant in the 1990s and the first years of this decade. In brief, NGOs distribute aid according to their own institutional imperatives. No matter how far they try to involve the local population in participatory forms of aid provision, there will always be a gap between their imperatives and the imperatives that would emerge through democratic decision-making processes within the beneficiary community. One outcome can be inter-NGO competition, leading to high levels of waste and inefficiency (Kent 1987; de Waal 1997a: 65–85). If this outcome is avoided through coordination and participation by the beneficiaries, then the population may become habituated to making appeals to unaccountable international bodies for assistance, instead of making appeals to existing political authorities or creating inclusive, self-sustaining organisations that draw support from a popular constituency with which to effect their demands (Mamdani 1993; Tvedt 1994). This leads both to the evisceration of the legitimacy and capacity of local political authority and to the emergence of ‘civil society organisations’ that have no constituencies (African Rights 1995). Moreover, if NGOs unexpectedly pull out, there is no local administration capable of continuing these basic tasks.

The second category of critiques addresses situations where armed groups insert themselves between foreign resources and the local population, and mediate that relationship to their own advantage. Whereas five or ten years ago, with the war raging, the SPLA may have been unable to or uninterested in intervening between NGOs and the population except to divert some resources to itself (DeMars 1994; HRW 1994: 174–89; Karim *et al.* 1996), with the termination of open fighting in the South, the civil administration has been regularised, the administrative capacity of the CANS has increased, and the SPLA’s control over foreign NGOs has

improved to the point where it can effectively mediate between foreign NGOs and the civilian population. Thus, along with aid diversion, critics have pointed out the repercussions of the strategic distribution of aid (African Rights 1997; de Waal 1997a: 85–105; Keen 1994). Aid can drive the further militarisation of the SPLA by feeding the army, allow a politics of patronage to sustain the relation between the SPLA and the local population, and preclude the need for the SPLA to build an inclusive democratic constituency. As aid distribution is politicised, the relevance of the first set of critiques has diminished and the relevance of the second set of critiques has increased: that is, instead of local politics being subordinated to NGOs, as it was in the 1990s in South Sudan, now NGOs are subordinated to local politics, thanks to the strategic intervention of the SPLA in the process of aid distribution.<sup>16</sup>

The SPLA has managed to gain control of NGOs and the distribution of foreign funds through a number of strategies. The formal instrument of this control is the Memorandum of Understanding (MoU) that every NGO signs with the SPLM/A, and according to whose terms the NGO must abide at risk of expulsion.<sup>17</sup> As the executive director of Yei Town put it (Mukhtar int), ‘NGOs have to fit into our own programme.’ The result is that the random patchwork of neglect and over-provision of services commonly seen in areas of dense NGO activity is generally avoided.

Furthermore, there is a broad consciousness among SPLM/A officials of the pitfalls of dependence on foreign aid.<sup>18</sup> Officials frequently related to us their reluctance to accept foreign aid. They see themselves as trying to navigate a course between two contradictory imperatives: on the one hand, a recognition that a degree of foreign aid will be necessary if the SPLM/A local administration is not to lose support due to popular dissatisfaction with continued poverty and lack of services, and on the other, the understanding that a long-term dependence upon foreign aid will undermine the social and political coherence of the South, and put the SPLM/A political project at the mercy of the machinations, or apathy, of donor governments and foreign philanthropists (Mukhtar int).<sup>19</sup> As part of steering this course, the SPLM/A has put into place NGO programmes that can be transferred to the local administration. Furthermore, it has ensured that the distribution of NGO funds, resources, and services must go through its own structures; thereby, the population looks to CANS and petitions it for resources, instead of going directly to NGOs and by-passing the SPLM/A authority structure. Thus, the SPLM/A can build its own local authority through foreign funding instead of losing legitimacy and capacity.

A good example of how all these strategies work together is in a small loans programme to community-based organisations for income-generating activities run by Catholic Relief Services (CRS) (Androga int; see also SPLM 2000: 27–32). If not controlled, programmes of this type can lead to a fragmentation of communities into a multitude of competing ‘community-based organisations’ that have come together for the express purpose of accessing scarce foreign funds (Mamdani 1993). Thus, inclusive, expansive organisation for the purpose of demanding rights from the state is precluded by exclusive, competitive fragmentation for the purpose of appealing to an unaccountable ‘international community’ for funding that will benefit only the members of that small group. In the case of the SPLM/A, however, this programme is made part of a strategy of building, not destroying, political community. First, the community-based organisations must be approved by the Boma authorities and the County Development Committee. Approval is given based upon the perceived relevance of the project to the community and other informal criteria; the County Programme Officer of the CDC admitted that it was possible that a community-based organisation could be rejected if it was seen as being politically divisive or not in line with the SPLM/A general programme (Khamis int). Moreover, loan repayment goes not to CRS, but to the County Development Committee’s quickly growing development revolving fund. Finally, there are plans to expand the Development Committees downwards to all levels; responsibility for approving community-based organisations and giving loans will be thus decentralised to the most local levels. As the County Programme Officer said, the hierarchy of Development Committees will have the ‘greatest role in development after peace’, as the tasks that had been under the purview of the SRRC are passed onto the Development Committees.

As noted, since the SPLA has increasingly become the effective mediator between NGOs and the local population, the first set of critiques described above has lost its relevance. Since the SPLA has gained control of NGOs and put them at the service of its political project, the importance of the second set of critiques has increased, and we must examine government structures all the more closely as they are the key mediating link between NGOs and population.

Since foreign aid, when controlled by local political forces, is often used to fill in deficits of popular support, if the SPLA adheres to an exclusivist political project, the politicised distribution of foreign funds will only exacerbate that exclusion, creating an increasingly socially, economically, and politically dominant support base, while escalating resentment amongst those excluded from resource distribution. Considering that Southern

rebellions have identified economic and social marginalisation as one of their chief grievances against the Khartoum government, further economic and social marginalisation by CANS administrators at local levels would be met with serious protest. This polarisation could easily lead to the undermining of the chances for peace within the South, and even further violent conflict.

It is our central argument that local government is the key level for understanding the potential success or failure of post-conflict SPLA political consolidation, and, ultimately, peace itself in Equatoria, and the politics of post-conflict development and reconstruction make this clear. As noted above, the decentralisation of decision-making concerning the distribution of development funds and NGO services means that increasingly it is the most local of authorities, the County, Payam, and Boma levels, that will decide who gets resources for reconstruction and development, and who is excluded. The SPLA needs to eradicate what Equatorians see as Dinka dominance and privilege within the CANS political structures, so that development and reconstruction resources are distributed in what is perceived as an ethnically fair manner. Thus, the stress point will be at the composition of the Boma, Payam, and County Development Committees.

The essential aspect of these committees is that each has a majority of elected members. In this case, it is not through allotting power on an ethnic basis to tribal chiefs, but through establishing elected bodies that will control the distribution of resources, that the SPLM/A is ensuring the representativity and accountability of the local government and thus ensuring that these committees will redress what Equatorians see as Dinka domination. If this succeeds, then the SPLM/A can effect a consolidation of an ethnically inclusive and expansive political project through their careful management of foreign funds and NGO activities. But, if the development committees are unable to effect this reparation, and instead reproduce the problems that drove hundreds of thousands of Equatorians into exile in the first place by distributing funds to the Dinka minority that remain, or withholding funds from those who dissent from the SPLA political line, then a lasting intra-South peace may not be viable. In either case, this embodies a non-ethnic mode of ensuring that the interests of the returning refugees are taken into account by the CANS. However, it is only made possible by the prior ethnic exclusion of Dinka from the constituent 'communities': that is, if elections to the development committees were undertaken before the redistribution of land on ethnic lines, Dinka would dominate these residence-based elected bodies. Nonetheless, this demonstrates the complex intertwining of types of political institutions and

modes of constructing political identities that will coexist within the civil authority in Southern Sudan.



The rising expectations present within the population of Southern Sudan are both exciting and understandable, considering the horrendous costs of the war so far. Our intention here is not to play the role of doomsayer, but rather to point to ways of ensuring that the promise of a post-conflict peace between North and South does not degenerate into a new conflict between South and South. By addressing the issue of representation within the local governance structures already established by the SPLM/A, we believe the SPLM/A has a good chance of making the transition to a post-conflict era peacefully. For a number of reasons, the salience of ethnic identity amongst the inhabitants of SPLA-controlled territory remains high and may indeed increase, so it behooves the Dinka leadership of the movement to continue to make the necessary efforts to ensure broad political inclusion of the numerous ethnic constituents of Equatoria. This is clearly not an easy issue, but with the proper adjustments to the pre-existing civil authority structure, an effective resolution of these internal tensions is certainly possible.

#### NOTES

1. Our research is based on a two-week trip to the towns of Yei and Nimule in Equatoria, Southern Sudan, where we conducted numerous interviews with community members, the local authority, the SPLM/A, NGOs and aid agencies. Yei is a town of approximately half a million people, many of them internally displaced migrants from Dinka land. Nimule is smaller with a diverse population of 50,000 people. Southern Sudan is split between four administrative regions: Bahr-al-Ghazal, Upper Nile, Eastern Equatoria and Western Equatoria. Western Equatoria and Eastern Equatoria were divided from a single region known simply as Equatoria located in the southernmost part of the country and the most stable territory in SPLA control.

2. Johnson (2003) identifies multiple conflicts in the North and other parts of Sudan including the Nuba mountains and Darfur.

3. SPLA leaders and many academic authors imply that this identity forged through conflict is sufficiently coherent to prevent schisms in the post-conflict era. We disagree with this assertion and argue that it is along ethnic lines that the South is most likely to fractionalise. See Abdel Salam & de Waal (2001: 220). For the SPLA view, see Wondu (website).

4. For an account of the divisions that plagued Southern politics leading up to the SPLA rebellion, see Badal (1994). Badal relates the history of the resentment of Dinka hegemony within the South; he quotes Lt. General Lagu, the Madi leader of Anya Nya, as stating that 'It is time we cut the Dinka down to their original size. They must go home, they have nothing to do in Equatoria' (120). See also Lagu (1980). For a more recent account, see Johnson (1998).

5. Estimates of the refugee population put the number at about 500,000. See McLaughlin (2004).

6. A 1994 USAID estimate put the number of IDPs in SPLA-held territory at about 1.5 million; in Equatoria, there are probably about several hundred thousand, although in interviews we were confidently told by (mostly Equatorian) informants that the actual number is in the millions. For current statistics, see Global IDP Database (website).

7. As Johnson (1998: 70) writes, the inhabitants of Yei Town saw the SPLA as an 'army of occupation'.
8. In many of the offices we entered, we saw Mao's golden rules for guerrilla behaviour. As treatment of the peasantry is a central concern of Mao's rules, it is not surprising that this issue became central to the SPLA's own actions.
9. Most rebel movements are forced to deal with immediate humanitarian concerns and some such as the EPLF in Eritrea and the LTTE in Sri Lanka establish relief agencies to provide these services like the SRRA in Sudan.
10. Human Rights Watch (1994: 239) disagrees with the efficacy and adherence to the rule of law of this legal system: 'Despite an eleven-year history of controlling a large population and territory, the SPLA has not developed anything approaching a system of justice and due process.' Nevertheless, despite this negative normative judgement, HRW recognises that 'today customary Southern Sudanese law continues to be applied in SPLA areas' (241).
11. Interview Lokule. We were told by an NGO worker that the tax rate is 10% for those making over \$50 a month and 5% for those making less.
12. The destabilising impact of the Darfur conflict has, at time of writing, come to the attention of the US Congress; see 'Khartoum Support of Ethnic Cleansing in Darfur Jeopardizing Peace', US Department of State website (12.3.2004).
13. Tvedt (1994: 69–88) makes clear how control over local administration has been the terrain of inter-ethnic struggle within the South for decades; thus the future centrality of local government to political stability in the South fits squarely within this history.
14. Johnson (1998: 65) explains that local civil administration is the key factor in determining the success of the SPLA/M: 'I suggest that it is within the framework of a functioning civil administration throughout SPLA-controlled territory that one can find the answer to the overall success of the SPLA in securing and holding on to large sections of the rural civilian population (that is, maintaining a civilian base), despite the overwhelmingly military nature of the movement, and despite the political and military upheavals of the years after 1991.'
15. Tvedt (1994: 89) writes that 'in Southern Sudan the NGOs came to play a very important role already in the 1970s', calling Southern Sudan 'an early and natural place for NGO involvement'.
16. We thank an anonymous referee of our paper for pointing out the importance of this distinction.
17. Riehl (2001: 9) claims that the MoU have effected no fundamental change: 'A fully implemented and carried out MOU would in fact have been a serious coup d'état attempt in NGO-istan but it failed due to the underdeveloped administrative capacity of the SRRA to oversee, coordinate, re-direct, and sanction project implementations of INGOs ... In the case of South Sudan the political directive and development coordination remained widely in the hands of INGOs and their networks.'
18. Tvedt (1994: 91) argues that this was not always the case, and that from the mid-1970s to mid-1980s it was the very efficiency of NGOs operating in Southern Sudan that led them to undermine state authority. 'I will argue that, in Southern Sudan, the NGOs contributed unintentionally to the erosion of the authority of a very weak state. ... The NGOs put up their own administration and authority systems thereby undermining the state institutions without establishing viable alternative structures.' This provides a strong contrast with the strict control and emphasis on institution-building and sustainability that characterises the current relation between SPLM/A and NGOs. Riehl (2001: 8) similarly points out the 'anarchic situation' that characterised the operations of international NGOs in SPLA-controlled areas, which was only brought under control by the introduction of the Memoranda of Understanding between INGOs and the SRRA in 2000.
19. Interview Mukhtar. Riehl (2001: 13) points out this increased awareness of the threat posed by NGOs on the part of the SPLA, but he argues that nevertheless INGOs hold 'political domination ... in nearly all fields except for military defence' (15).

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