

# Talking to the other side

## Humanitarian negotiations in Southern Kordofan and Blue Nile, Sudan

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**HPG Working Paper**

July 2013

**HPG**

Humanitarian  
Policy Group



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## **Acknowledgements**

The authors would like to thank the many individuals who have contributed to this report. Their names are being withheld due to security concerns.

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ISBN: 978 1 909464 47 6

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Southern Kordofan and Blue Nile



- Country capital
- State capital
- International boundary
- Undetermined boundary
- State boundary
- Abyei region
- Access extremely restricted/denied
- Access possible but with restrictions
- Refugee camps in 2012

# Chapter 1

## Introduction

The humanitarian situation in Southern Kordofan and Blue Nile is dire, and getting worse. After renewed conflict in June 2011, humanitarian organisations have struggled to effectively engage with armed non-state actors and with the Government of Sudan (GoS) in pursuit of humanitarian objectives. While the need for humanitarian assistance within both states is enormous, aid agencies have been prevented by the GoS from accessing areas held by the Sudan People's Liberation Movement-North (SPLM-N). Many humanitarian agencies, particularly those with programmes elsewhere in Sudan, have been reluctant to respond to the crisis in the two states, with many fearing the consequences of engaging with the SPLM-N or violating the GoS ban. Even as protection and humanitarian needs continue to grow, humanitarian advocacy and engagement have been extremely limited.

This Working Paper examines humanitarian negotiations with armed non-state actors in Southern Kordofan and Blue Nile. It also illuminates the dire and dangerous conditions faced by conflict-affected populations within SPLM-N-controlled areas of Southern Kordofan and Blue Nile, and by populations displaced to refugee camps in South Sudan and Ethiopia. Through interviews with armed groups, aid workers, local and international experts and civilians, the study aims to improve understanding of the opportunities for, and obstacles to, engagement with the SPLM-N and the GoS for humanitarian access. The study highlights lessons learnt from the process of humanitarian engagement so far, and points to options and alternatives for negotiating access in the context of the current humanitarian crisis in Southern Kordofan and Blue Nile.

### 1.1 Overview of the project

Over the past two decades, humanitarian actors have expanded the geographic scope of their work to more challenging and dangerous environments. As a result, negotiations with non-state actors have become increasingly important in order to gain access to populations in need of assistance. Yet many humanitarian actors feel that negotiating with armed groups presents formidable challenges, including a lack of respect for international humanitarian law (IHL) among these groups, hostility to humanitarian principles and distrust and suspicion of humanitarian organisations.

In 2011, HPG initiated research on aid agency engagement with armed non-state actors, and how this engagement affects access to protection and assistance for vulnerable populations. The work seeks to illuminate this engagement through case studies in complex political and security environments, to learn from productive experiences of dialogue with armed non-state actors and to investigate the dangers and risks associated

with this engagement, including the moral dilemmas that often arise in negotiations and the compromises agencies make in order to gain access.

### 1.2 Methodology

An extensive desk review of relevant literature narrowed the focus of the research. Field research was carried out in South Sudan and on the border with Sudan in May and June 2012, involving structured discussions with humanitarian actors, ANSAs, local experts, civilians, diplomats and other relevant individuals. These interviews focused on obstacles to engagement, as well as gauging which approaches to dialogue have been most successful. The project devoted particular attention to understanding the perspectives and motivations of ANSAs with regard to humanitarian engagement. Follow-up interviews were conducted with experts and aid workers in or familiar with Sudan to further explore the attitudes and perspectives of the GoS and agencies working in GoS-controlled areas. Overall 65 interviews were conducted. Access issues to South Kordofan and the denial of a Sudanese visa to the lead researcher limited the number of interviews that could be conducted with individuals inside Sudan.

Due to access constraints and because of the intensification of ground attacks at the time of the field research, interviews were conducted with Sudanese People's Liberation Movement/Army-North (SPLM/A-N) leaders, cadres and lower-level officials of the political and humanitarian wings of the movement based outside Sudan. Command and control is highly centralised in the SPLA/M-N. Humanitarian negotiations generally occur at the leadership/cadre level, usually outside the two states, and local SPLA/M-N commanders on the ground are expected to comply, with little leeway for deviation. As a result, the perspectives of these more senior actors are privileged over those of military commanders on the ground. The analysis also draws on interviews from a previous field visit to SPLM/A-N-held areas of the Nuba Mountains by the lead researcher in August–September 2011, including interviews with local military commanders, representatives of the civil administration, aid workers and civilians. This information was used to triangulate accounts and provide context.

The geographic focus of the study is war-affected areas in Southern Kordofan and Blue Nile states. However, given the SPLA/M-N's military and political strength and presence in Southern Kordofan, levels of representation, in particular on the humanitarian side, are more developed in Southern Kordofan than in Blue Nile. Hence, more interviews were conducted with SPLA/M-N representatives from Southern Kordofan than from Blue Nile. Similarly, the limited territorial

control of the SPLA/M-N in Blue Nile, and the ensuing difficulties of accessing large areas within the state – even for local actors – mean that less information is available on the situation in Blue Nile than in Southern Kordofan. Where possible, this study includes information on both states, but is skewed towards Southern Kordofan.

Alternative approaches were also sought to ascertain the perspectives of affected populations, with numerous interviews conducted on the border of Southern Kordofan and in Yida refugee camp in South Sudan. Access to refugee camps on the border of Upper Nile State and Blue Nile State was not possible due to the camps' location on a flood plain at the start of the rainy season in June.

Given the highly precarious humanitarian situation on the ground in both states as well as continuous ground fighting and aerial bombardments, interviewees were sensitive about divulging information. Similarly, humanitarian actors were at times reluctant to talk about sensitive issues, particularly if they had ongoing programmes in Darfur or other areas of Sudan. Some were nervous about potential repercussions as a result of being seen to talk to the SPLM-N. Interviews were generally conducted on condition of anonymity.

### 1.3 Terminology and definitions

*Aid agencies* refers to humanitarian and multi-mandate (humanitarian and development) not-for-profit aid organisations, including UN agencies, the Red Cross/Red Crescent and international and national NGOs. These organisations espouse recognised humanitarian principles in that they aim to save lives, alleviate suffering and maintain human dignity during and in the aftermath of crises and disasters. These agencies should be guided by the principles of humanity (saving lives and alleviating suffering), impartiality (taking action solely on the basis of need, without discrimination between or among affected populations) and independence (autonomy from the political, economic, military and/or other objectives that any actor or party to a conflict may harbour with regard to the areas where humanitarian actors are working). Some, though not all, will be guided

by neutrality (not favouring any side in a conflict or other dispute).

*Humanitarian negotiations* refers to negotiations undertaken by aid actors or their representatives in situations of armed conflict with parties to that conflict. They are undertaken for humanitarian purposes, such as securing access, conducting assessments of humanitarian needs and providing assistance or protection, as set out in International Humanitarian Law (IHL) (see Mancini-Griffoli and Picot, 2004; see also McHugh and Bessler, 2006).

*Sudanese Armed Forces (SAF)* refers to the official military forces of the GoS.

*Paramilitary forces* refers to irregular/parallel security forces which operate in addition to and sometimes in collaboration with official military forces in Sudan. These include the Popular Defence Force (PDF) as well as Islamist militias known as mujahideen (see Gramizzi and Tubiana, 2012; Salmon, 2007).

*Sudanese People's Liberation Movement/Army North (SPLM/A-N)* refers to northern Sudanese soldiers who fought with the SPLM during the civil war and who reconstituted themselves as the SPLM-N after South Sudan's independence in 2011. SPLM-N is generally used for the political and humanitarian wing of the SPLA/M-N, whereas SPLA-N specifically refers to the military wing of the movement. However, in practice the political and the military wings are not completely separate at the leadership level and there is some overlap between the two. As such, SPLM/A-N is used to designate both the military and political wings of the movement.

*Sudan Revolutionary Front (SRF)* refers to the umbrella movement of rebel forces constituted in November 2011, which includes the SPLM/A-N as well as three Darfuri rebel groups: the Justice and Equality Movement (JEM) and the two main factions of the Sudan Liberation Movement led by Abdel Wahid Al-Nur (SLM-AW) and Minni Minawi (SLM-MM). The declared goal of this alliance is regime change in Khartoum through both military and political means in order to establish a more democratic, inclusive state in Sudan.

## Chapter 2

# The current conflict

Sudan has experienced near-perpetual armed conflict since gaining independence in 1956. The first civil war between north and south began in 1955. The conflict was resolved by the Addis Ababa agreements in 1972, but the settlement left its underlying causes unaddressed and fighting resumed in 1983. This second conflict lasted until the signing of the Comprehensive Peace Agreement (CPA) in 2005.

During the war, the Sudanese People's Liberation Movement/Army (SPLM/A), led by John Garang, emerged as the major anti-government opposition force in the south. His vision of a 'New Sudan', where marginalised peoples would have fair political and economic representation, and where their cultural and religious diversity would be acknowledged, attracted many followers outside the SPLA/M's primarily southern Sudanese constituency. Many Nuba<sup>1</sup> from what was then called South Kordofan<sup>2</sup> and people from Blue Nile<sup>3</sup> also joined the SPLM/A's cause. Common grievances and motivations included long-standing marginalisation and underdevelopment; exclusion from decision-making and inequitable power-sharing; competition over resources; and discrimination and active suppression of religious and cultural identity.

While the CPA aimed to address the drivers of conflict, the agreement was met with great dissatisfaction among the Nuba people, especially those supportive of the SPLM insurgency. Many felt that the Nuba Mountains had been sacrificed by the SPLM for the benefit of the south, and that the agreement neglected the Nubas' grievances and ignored their political aspirations. The Protocol on the Resolution of Conflict in Southern Kordofan/Nuba Mountains and Blue Nile States, signed by the GoS and the SPLM in 2004, promised elections, popular consultations on the CPA and a parliamentary commission to monitor implementation of the agreement. However, unlike South Sudan and Abyei Southern Kordofan and Blue Nile were not granted the right to a referendum on self-determination. The popular consultations promised by the protocol were repeatedly delayed; in Southern Kordofan the consultative process never even started, and in Blue Nile the process began in June 2010 but was never completed. In legislative elections in May 2011 in Southern Kordofan, the National Congress Party (NCP) won 33 seats against the SPLM's 21, and parallel gubernatorial elections were narrowly

<sup>1</sup> The Nuba are an agglomeration of over 50 distinct 'African' tribes with different languages and dialect clusters, but who also share a number of cultural beliefs.

<sup>2</sup> South Kordofan changed its name to Southern Kordofan after the signing of the CPA, when West Kordofan was merged with South Kordofan to create a new united Southern Kordofan State (SKS). In December 2012, the GoS announced plans to repartition SKS into two states and to re-establish a separate administration for West Kordofan.

<sup>3</sup> Support for the SPLA/M was heavily concentrated among the peoples of Southern Blue Nile, such as the Ingersana.

won by the NCP candidate, Ahmed Haroun. The SPLM-N rejected the results, alleging that the vote had been rigged. In Blue Nile, Malik Agar won the governorship in elections in April 2010.

While the CPA stipulated that the SPLA forces indigenous to the north should either be demobilised or redeployed to South Sudan, due to the lack of progress on the popular consultations and other crucial CPA commitments the SPLM-N demanded that new security arrangements be negotiated with a more gradual integration and demobilisation of its soldiers. The government responded with an ultimatum to the SPLA; on 6 June 2011 SAF forces attempted to forcefully disarm Nuba soldiers in the SPLA, and fighting erupted in Southern Kordofan. UN observers in and around Kadugli during the first days of the fighting documented human rights abuses including arbitrary arrests, targeted killings, summary executions, mass graves and the widespread destruction and looting of civilian property (OHCHR, 2011). Two weeks after the fighting started Agar, governor-elect of Blue Nile State, and NCP Deputy Chairman Nafie Ali Nafie attempted to defuse the conflict by negotiating a Framework Agreement on political and security arrangements for Southern Kordofan and Blue Nile. However, the agreement, signed under the auspices of the African Union High Level Implementation Panel (AUHIP), was rejected by Sudanese President Omar al-Bashir.

The conflict spread to Blue Nile in September 2011. A state of emergency was declared and Agar was replaced by a military commander. The GoS banned the SPLM as a political party and initiated a large-scale crackdown on its members, arresting and imprisoning a large number of opposition leaders and real or perceived supporters, many of whom disappeared and remain unaccounted for (HRW, 2011; Amnesty, 2011). Government forces have reportedly deliberately targeted food and water supplies, setting fire to grain depots, burning fields, looting cattle and destroying boreholes (HRW, 2012). Civilians in SPLM-N-held areas have also been subjected to indiscriminate aerial bombardments and shelling. The state of emergency declared in Blue Nile in September 2011 (and similar measures in several localities in Southern Kordofan in April 2012) means that anyone bringing food or trade items into rebel-held areas can be punished or killed.

The SPLA-N has captured much more territory in Southern Kordofan during the current conflict than it did in the last war. SPLA-N-controlled territory includes the Eastern Jebels (including Heiban, Buram, Um Durein and Delami localities and encircling Kadugli) southwards up to Jau, including a strategic road to South Sudan. It also controls areas in the Western Jebels around Julud (with significant parts of Dilling

and Lagawa localities), as well as a pocket south-east of Kalogi that provides access to an alternative road to South Sudan (Small Arms Survey, 2012b). In October 2012 the SPLM-N launched a number of attacks on Kadugli town, and since May 2013 ground fighting has increased in the Abu Kershola area of Rashad County (SKBN CU, 2013). For its part, the GoS controls the road connecting Kadugli with El Obeid, the capital of North Kordofan. The SRF mounted a major military attack on Um Ruwaba, North Kordofan, on 26–27 April 2013, highlighting its ability to strike areas beyond its traditional military strongholds (Small Arms Survey, 2013). In Blue Nile state the SPLA-N has suffered a number of military setbacks and reportedly now has no control of urban areas (Small Arms Survey, 2012a). Unlike in the previous conflict, indigenous Arab nomadic groups such as the Misseriya, who had in the last war aligned themselves with the NCP, have largely opted to stay out of the current conflict.

Although UNMIS peacekeepers were present for the first four months of the conflict, including in SPLM-N areas, the operation was in the process of withdrawing after its mandate came to an end with the independence of South Sudan on 9 July. Peacekeepers refused to patrol outside of their camps or reportedly take other steps to ensure the protection of civilians, including within a protection perimeter established around the UNMIS compound in Kadugli. UN flights continued to both GoS- and SPLM-N-held areas during this period, but only to evacuate UNMIS staff and assets. The UN and NGOs withdrew international staff and some national staff from SPLM-N areas (HRW and AI, 2011).

## 2.1 The humanitarian situation

Using figures provided by the Humanitarian Aid Commission (HAC) for government-controlled areas, and by the Sudan Relief and Rehabilitation Agency (SRRA) for SPLM-N areas, the UN Office for the Coordination of Humanitarian Affairs (OCHA) estimates that over one million people have been affected by the conflict, the vast majority of them (an estimated 790,000) in SPLM-N-controlled areas of Southern Kordofan and Blue Nile (UNOCHA, 2013a). Over 225,000 people have fled to neighbouring South Sudan and Ethiopia. Camps in Unity State (Yida, Nyeel, Pariang) now house some 73,000 people from Southern Kordofan, and refugee numbers in camps in Upper Nile State (Doro, Gendrassa, Yamam, Yusuf Batil) have reached more than 117,000 (UNHCR, 2013a). Around 35,000 people from Blue Nile have fled to Ethiopia (UNHCR, 2013b). Many new arrivals are highly vulnerable, exhausted from walking in some cases for weeks to reach the border, and many are malnourished. Up to 80% of refugees living in camps in Maban County are women, children and young people (Oxfam, 2013). In Yida camp in Unity State, two-thirds of new arrivals are minors and there are around 700 unaccompanied children (LWF/DWS, 2013).

Many of those who remain in Southern Kordofan and Blue Nile have sought protection from aerial bombardments in caves,

with limited access to food and water. In March 2013 FEWS NET (2013) predicted a likely emergency (IPC Phase 4) in SPLM-N-controlled areas of Southern Kordofan and Blue Nile during the July–September 2013 period. In October 2012, a rapid food security and nutrition assessment published by the Enough Project found that malnutrition among children in Southern Kordofan was ‘serious’ bordering on ‘critical’ according to World Health Organisation (WHO) malnutrition prevalence classifications (Enough Project, 2012). The assessment also found that some 80% of households were surviving on only one meal a day, compared to 10% the previous year and none two years earlier.

The population has also been deprived of medical supplies and access to basic medical and other services is insufficient. There are mounting fears that the dire conditions and lack of access to provide immunisation in SPLM-N-held areas could lead to the outbreak of infectious diseases. An independent assessment carried out in January 2012 found critical water, sanitation and health needs among displaced populations near the front lines of the fighting (SKBN CU, 2013a). Schooling for tens of thousands of children has been interrupted as the teachers who used to oversee the curriculum in SPLM-N areas have left due to the conflict.

Civilians interviewed for this study in Yida refugee camp in South Sudan recounted in detail the terrible conditions they faced in the Nuba Mountains before fleeing. Many talked about the continuous bombardments that forced them to seek refuge in the mountain caves, but for most it was hunger that ultimately forced them to flee to South Sudan. A woman fleeing Buram stated:

*We were bombed continuously in our place there. The hunger was too much. There was bombing even when we were hiding in the caves, at night. It took five days by foot to come here. We had to come slowly, there were no cars. We continued to fall down, we had no food, no water, no assistance, nothing. Many died on the way.<sup>4</sup>*

## 2.2 Humanitarian access

As during the previous conflict, humanitarian organisations again face a blockade on access to SPLM-N areas. After 1991, many Nuba in Southern Kordofan were forced to flee the mountains and resettle in so-called ‘peace villages’, where they were starved, indoctrinated and tortured (Flint, 2011). Aid provided by Operation Lifeline Sudan (OLS) in GoS areas contributed to the government-led depopulation of areas under SPLM/A control. Government soldiers and allied militia in the Popular Defence Force (PDF) harassed and killed civilians caught transporting medicines or food into SPLM areas (Rahhal, 2001). The very limited assistance that SPLM/A-controlled areas of

<sup>4</sup> Interview with two women from Buram locality, Yida refugee camp, May 2012.

South Kordofan received during this period was only possible after a group of agencies decided to violate the restrictions imposed by the GoS and launched small-scale, clandestine cross-border airlifts into the Nuba Mountains.

After several years of concerted advocacy by aid agencies and diplomats, the Nuba Mountains Ceasefire was signed in 2002 and coordinated cross-line programming began, primarily through the Nuba Mountains Programme Advancing Conflict Transformation (NMPACT). Principles of joint cooperation and coordination, the ‘principles of engagement’, were developed between programme partners and Nuba representatives, involving both SPLM and GoS actors in cross-line coordination and programming (Pantuliano, 2003). Learning from OLS, NMPACT sought to focus on sustainability and ‘do no harm’ programming, and tried to use humanitarian assistance to advance political and diplomatic action to resolve the conflict, including engagement with the Joint Military Commission (JMC) and Joint Monitoring Mission (JMM) mandated to monitor the ceasefire.

In the current conflict, the GoS has repeatedly stated that it will not allow any international aid organisations to operate in rebel-held areas of Southern Kordofan.<sup>5</sup> Agencies that have sought official GoS permission to conduct assessments or provide assistance in SPLM-N-held areas have had their requests consistently rejected. During the first few months of the conflict, the GoS promised that an inter-agency assessment would be allowed in both GoS and SPLM-N-controlled areas in Southern Kordofan. Public advocacy abated as aid agencies waited for the assessment to begin. When the assessment team eventually arrived in Kadugli, the capital of Southern Kordofan, in August 2011, it was denied access to any part of Southern Kordofan and was sent back to Khartoum.<sup>6</sup>

When access is not denied outright, the GoS employs delaying tactics to control the behaviour of aid agencies and prevent them from publicly criticising the government. The lack of outright rejection and the absence of specific justifications for denial of access is a source of concern and fear, leading to paralysis for some; others continue to hold out hope that the GoS can still be persuaded through private advocacy or ‘good behaviour’ on the part of the NGO. Delaying tactics eventually leading to project closures rather than outright expulsions predictably result in less pressure from the international community. While in 2008 the expulsions of NGOs from Darfur produced public outcry, the expulsion of seven NGOs from Eastern Sudan in June 2012 by the GoS went virtually unremarked.

No comprehensive needs assessment has been done by the UN or international aid agencies in SPLM-N-held areas since

<sup>5</sup> Ahmed Haroun has been quoted as saying that ‘no *Khawaja* [Westerner] will come to work for Save the Children or Care [in Southern Kordofan] as long as we are alive’. Cited in Sudantribune (2012).

<sup>6</sup> Interviews with international aid workers, May 2012; see also HRW & AI (2011).

the start of the conflict in June 2011. However, despite the access challenges, there has been increasingly systematic, professional and well-documented monitoring of the humanitarian situation on the ground by local humanitarian actors, supported by international donors and aid agencies. In addition, journalists and human rights organisations have conducted several fact-finding missions from South Sudan into SPLM-N-held areas in Southern Kordofan and Blue Nile. While available data on the humanitarian situation is necessarily incomplete, there is enough testimony and evidence to underscore the severity of the humanitarian crisis and the protection situation in SPLM-N-controlled areas.

A question that was repeatedly asked during the interviews with civilians fleeing the conflict was why there had been no assistance to Southern Kordofan. People struggled to understand why the ‘international community’ had failed to act. While some appreciated the access constraints aid agencies faced, others were less forgiving. People recalled the use of starvation as a means to induce displacement during the previous conflict and saw an immediate parallel with the current blockade on international assistance. A woman from Western Kadugli explained: ‘the GoS restricts food assistance because they want people to go to government areas’.<sup>7</sup>

In GoS-controlled areas of Southern Kordofan and Blue Nile access has been much easier, and the GoS has allowed – and even requested – aid to these areas. WFP and FAO reported providing food aid to 123,000 conflict-affected people and agricultural inputs to 64,250 families, respectively. Medical services were also reportedly provided to 1.3 million people through 250 health facilities with the support of the UN and international NGOs. UNICEF has continued to support the Ministry of Health with routine immunisation services in these areas (UNOCHA, 2012a).

There have also been difficulties with coordination and communication among humanitarian agencies. Even though this humanitarian crisis falls within the geographical realm of aid agencies based in Sudan, the consequences, such as growing numbers of refugees, are acutely visible in South Sudan as well. Southern Kordofan and Blue Nile were historically treated as an issue that straddles north and south, and consequently aid actors based in both north and south worked on programmes in the area. Limited coordination between actors and various coordination fora, including the Humanitarian Country Teams in Sudan and South Sudan, exacerbates the gulf between actors and approaches on both sides of the border. Despite recent attempts to improve matters, lack of trust inhibits joint planning.

Diplomatic and political efforts have been largely ineffectual. In response to the deteriorating humanitarian situation, the UN, the African Union and the League of Arab States (collectively

<sup>7</sup> Interview with women in Yida refugee camp recently arrived from Western Kadugli, May 2012.

known as the ‘Tripartite Partners’) presented a proposal for humanitarian access to the SPLM-N and GoS in February 2012. While the SPLM-N immediately offered to cease hostilities, the GoS only accepted the proposal five months later – and with conditions attached that rendered the agreement virtually impossible to implement.<sup>8</sup> In May 2012, UN Security Council Resolution 2046 ‘strongly urges the GoS and the SPLM-N to accept the tripartite proposal’ and ‘decides’ that the GoS and the SPLM-N should cooperate with the AU High Level Implementation Plan on Sudan (AUHIP) and the Chair of the Intergovernmental Authority on Development (IGAD) to reach a negotiated settlement (UNSC, 2012). A new proposal was submitted by the Tripartite Partners in September 2012, but this makes no reference to the original proposal, nor does it address or incorporate any of the comments on the original proposal previously submitted by the SPLM-N.<sup>9</sup> Both

<sup>8</sup> The UN Emergency Relief Coordinator noted shortly after the GoS announcement of the acceptance of the proposal that ‘the Government has laid out operational conditions that do not allow for the delivery of assistance by neutral parties in SPLM-N controlled areas’ (Amos, 2012).

<sup>9</sup> Interviews with SPLM-N cadres from the humanitarian wing, December 2012.

the SPLM-N and GoS have expressed reservations about the bilateral arrangements for the implementation of the tripartite proposal and have distanced themselves from the process.

In April 2013, the AUHIP hosted the first direct negotiations between the GoS and the SPLM-N in Addis Ababa since the outbreak of the conflict. Despite high expectations, no agreements were signed. However, indirect talks between the parties regarding humanitarian access continue (SKBN CU, 2013b). A one-week cessation of hostilities to allow a vaccination campaign of children in SPLM-N-controlled areas of Southern Kordofan and Blue Nile was also proposed during the talks in April, but the parties could not agree on conditions (*ibid.*). The SPLM-N has since called for resumed discussions around the conditions for carrying out such a vaccination campaign (Sudantribune, 2013a). While the GoS insisted that any campaign should be carried out from within Sudanese territory, the SPLM-N has stressed that it should be carried out from Ethiopia or Kenya and without the involvement of the HAC (*ibid.*).

# Chapter 3

## Motivations, perspectives and objectives of the SPLM-N

### 3.1 Overview of the structure, goals and strategies of the SPLM/A-N

The military component of the SPLM/A-N consists of soldiers in the SPLA originally from the north, but who fought alongside the southern Sudanese during the second civil war. While the SPLM is politically divided into a northern and a southern party, the fate of SPLA soldiers from the north has not been resolved as part of the CPA process. Since the outbreak of violence, soldiers of the former 9th and 10th divisions of the SPLA reconstituted themselves under the name of the SPLA-N, under Malik Agar as Chairman and Commander-in-Chief. Abdel Aziz al Hilu, who led the SPLA in the Nuba Mountains, is Deputy Chairman of the SPLM North and Chief of General Staff for the SPLA-N. Exact numbers are difficult to obtain, but according to estimates about 30,000 Nuba were enrolled in the SPLA, around 9,000 in the former 9th Division in Southern Kordofan (now the 1st Division of the SPLA-N) and about 20,000 elsewhere in the SPLA (Flint, 2011b). Current estimates put the strength of the former 10th Division of the SPLA-N in Blue Nile (now the 2nd Division of the SPLA-N) at between 2,500 and 4,000 soldiers (Small Arms Survey, 2012a). The SPLM-N has formally constituted separate military, political and humanitarian wings, though at the leadership level there is overlap between the political and military structures. The military structure is highly centralised and united behind Malik Agar and Abel Aziz-al-Hilu, and area commanders under them have little autonomy. Humanitarian negotiations generally occur at the leadership/cadre level, rather than with local SPLA/M-N commanders on the ground.

The SPLM-N enjoys wide popular support among the Nuba population in Southern Kordofan.<sup>10</sup> In Blue Nile, political support for the SPLM has traditionally been less strong than in Southern Kordofan and concentrated along the southern tip of the state in Kurmuk, Bao, Yabus and Ingessanna hills. Commanders in Blue Nile have in the previous conflict come from outside the state, unlike in Southern Kordofan, a there is less support.

Initially, the SPLM-N focused more on military objectives with little clear long-term political vision or strategy. However, this has changed: political goals and structures are now more clearly established and engagement has increased with other political opposition groups, alliances and civil society in Sudan. In addition to Malik Agar and Abdel-Aziz Adam al-  
10 There are internal political divisions among the Nuba in Southern Kordofan – notably around figures such as the former deputy governor Daniel Kodi – but most have rallied behind Abdel Aziz al Hilu since the start of the conflict.

Hilu, the political leadership of the SPLM-N consists of Yasir Saeed Arman, the Secretary General, who conducts most international high-level representation and led the SPLM-N negotiating team in Addis Ababa. There is also a 12-member Leadership Council, which includes two women, tasked with policy formulation and strategic decision-making. This council is an attempt to broaden the base of policy- and decision-making beyond the immediate leadership of the party. The SPLM-N maintains political representation in a number of countries, including the US, the UK, South Africa, Australia, Canada, the Netherlands, France, Kenya, Uganda and Egypt.

On 13 November 2011, the SPLM/A-N and three rebel factions from Darfur, the Justice and Equality Movement (JEM) and the two main factions of the Sudan Liberation Movement led by Abdel Wahid Al-Nur (SLM-AW) and Minni Minawi (SLM-MM), announced the formation of a new alliance, the Sudan Revolutionary Front (SRF). The declared goal of the alliance is regime change in Khartoum and the establishment of a democratic state. The alliance is actively seeking to expand to include new members, including Sudanese political forces, civil society groups, youth groups and trade unions, as well as seeking dialogue with regional and international actors (Arman, 2012). Since its formation, the SRF has integrated new members from other armed Darfur movements and from the Northern Sudanese political opposition.<sup>11</sup> Although, the main opposition parties, such as the National Umma Party (NUP) led by Sadiq al Mahdi, the Popular Congress Party (PCP) associated with Hassan al Turabi and the Sudanese Communist party, have not joined the SRF, they are reportedly open to dialogue with the movement (Small Arms Survey, 2013). The most recent attempt to strengthen cooperation with the main Sudanese political opposition – the National Consensus Forces (NCF) – was made in January 2013 in Kampala with the signature of the New Dawn Charter, though the process was ultimately unsuccessful (see Sudantribune, 2013b; Small Arms Survey, 2013).

There are fundamental differences in ideology and approach among the groups comprising the SRF. Negotiations over the formation of the group initially stalled due to the JEM's refusal to agree to the separation of religion and secular affairs in the groups' stated goals. There are also indications that the groups comprising the SRF continue to function unilaterally, both militarily and politically. The SPLM-N is in  
11 Ali al Haj of the Popular Congress Party (PCP), Al Tom Haju of the Democratic Unionist Party (DUP) and Nasr al Din al Hadi, a member of the National Umma Party (NUP), joined the SRF (though the latter two split from their parties, which are currently cooperating with the GoS) (Small Arms Survey, 2013).

a difficult position as negotiations under the AUHIP aegis only recognise the SPLM-N as interlocutor – not the SRF as a whole. Whereas the SPLM-N aspires to represent the wider national opposition as part of the SRF, it continues to be drawn into bilateral negotiations around humanitarian access and political solutions for the two areas under the aegis of the AUHIP (Small Arms Survey, 2013).

At the local level, as during the previous periods of conflict, significant attention is being given to the creation of governance structures. When the Nuba Mountains were cut off from the outside world between 1991 and 1995, the Nuba set up a civilian administration and organised an annual popular vote to decide whether to continue fighting or not (IKV PAX Christi, 2011). At the start of the current conflict, Abdul Aziz essentially reinstated this civilian administration. It consists of the Governor as the overall head, Director Generals responsible for each of the Regional Secretariats, Commissioners at each locality/county level and Administrative Officers at *payam*/Administrative Unit level.

The humanitarian wing of the movement functions separately from the military and political components, with the Sudan Relief and Rehabilitation Agency (SRRA) as its main coordinating body.<sup>12</sup> The SRRA was formed almost immediately after the outbreak of the conflict in June 2011. The agency is mandated by the movement to lead and coordinate all humanitarian activities in SPLM/A-N-controlled areas of Sudan, and was established as the counterpart to the GoS HAC in rebel-controlled areas. The national office is headed by Neroun Philip, with sub-divisions for Southern Kordofan and Blue Nile. The SRRA also includes focal points in some countries in the region. The SRRA furnishes a humanitarian access committee for the overall negotiation team, chaired by Neroun Philip and including other senior humanitarian officials of the SPLM-N. All humanitarian negotiations are conducted at the senior levels of the SRRA or by the negotiations team, rather than at local level. As such the SRRA is the main focal point any humanitarian organisation seeking to access SPLM-N-controlled areas must speak to to obtain permission. At the local level, even though the SRRA's charter envisages a decentralised structure with offices and staff in all counties, the agency faces significant challenges in terms of personnel and resources.

The SPLM-N's political and military leadership attempted to engage with the international community on the provision of humanitarian assistance almost immediately after the outbreak of conflict. The SPLM-N has repeatedly publicly stated that it welcomes humanitarian assistance to all conflict areas, and has offered security guarantees and unimpeded access to aid organisations seeking to operate in territory under its control. It has also repeatedly offered a

<sup>12</sup> During the last conflict, the SRRA was known as the Sudan Relief and Rehabilitation Commission (SRRC). The HAC and the SRRC jointly coordinated NMPACT with the UN during this period.

humanitarian ceasefire to allow aid agency access, including most recently the vaccination campaign of children in SPLM-N-controlled areas (Sudantribune, 2013a). While it prefers assistance to be delivered under a tripartite agreement between itself, the UN and the GoS, the SPLM-N has also called for the provision of unilateral assistance to areas under its control should the GoS continue to block access (Sudantribune, 2012b and 2012c).

### 3.2 SPLM/A-N's perceptions of the international community and aid agencies

Motivations to engage with the international community are heavily influenced by the experience of the 13-year aid blockade during the last civil war, as well as the legacy of OLS and the Nuba Mountains Ceasefire/NMPACT. Many SPLM-N members interviewed for this study expressed the hope that early engagement with the international community on humanitarian issues would avert a new crisis. Given that sustained diplomatic efforts from key Western countries, including the US, did eventually bring about the signature of the Nuba Mountains Ceasefire in 2002, there is a strong belief in the ability of the international community to influence the GoS, despite the fact that the circumstances surrounding Sudan's international engagement have changed dramatically. In engaging with the international community on humanitarian issues, the SPLM-N is also seeking recognition of its political grievances and international legitimacy as a movement. The GoS portrays the SPLM-N, like other rebel movements, as peripheral and insignificant and as such not an equal negotiating partner. One SPLM-N cadre from Blue Nile commented that UN Security Council Resolution 2046 is a positive step for the movement because it marks 'the first time that the SPLM-N is recognised and its role acknowledged comprehensively for Blue Nile and South Kordofan'.<sup>13</sup>

Despite initial expectations, there is increasing frustration with the international community among SPLM-N cadres. As one SPLM-N relief official commented:

*The UN is saying that they cannot work in any area without the consent of the government because it is a sovereignty issue. They see the need in GoS areas but if they try to balance there is a danger that they may be thrown out. This is against humanitarian principles – if they see need in SPLM-N areas and they don't address it then this is an imbalance.*<sup>14</sup>

Members of the SPLM-N at all levels believe that Khartoum will continue stalling negotiations, as in the past, for as long as possible in order to further its military objectives.

The role of UNMIS following the CPA and its failure to protect civilians in the early stages of the conflict has provoked

<sup>13</sup> Interview with SPLM-N cadre from Blue Nile, May 2012.

<sup>14</sup> Interview with SPLM-N cadre from the humanitarian wing, May 2012.

outright hostility from the SPLM-N and tainted its view of the UN as a whole. UNMIS's refusal to intervene to protect civilians seeking refuge in the perimeter of the UNMIS compound in Kadugli in June 2011 created anger and distrust. Perceptions of bias by UNMIS peacekeepers towards the GoS and accusations of passing sensitive information on to the GoS are levelled by SPLM-N and civilians alike. According to one SPLM-N official:

*We have a bad image of the UN – especially of the Egyptians of the UN. They support the NCP and use their access to the area to fight the civilians. Even when the civilians fled to the UN area [in Kadugli], they supported SAF and allowed them to come inside the UN compound to take people to be killed.<sup>15</sup>*

One SPLM-N official described UNMIS's inaction during heavy bombardments of Kauda in June and July 2011: 'UNMIS in Kauda don't even write a report about the bombings. They don't even send investigators ... You can't just keep silent, the blood of people has the same value all over the world'.<sup>16</sup> Even so, the SPLM-N and international NGOs strongly advocated for UNMIS to remain in the area, hoping that the presence of some international observers, regardless of their perceived partiality, would be better than none at all.

Insofar as its members distinguish between UNMIS and the rest of the UN, the SPLM-N is frustrated with UN agencies – despite many still holding out hope that the UN will ultimately be able to break the political deadlock and play a constructive role. But its perceived inaction has led many to see the UN as irrelevant and incapable of responding to the crisis. One SPLM-N official commented:

*How could such a large organisation like the UN which has access to everything just stand by and watch? The UN, they don't really care. When there is an agreement from the government they operate. If the government doesn't agree then they just wait ... We are now telling people not to be expecting anything of the UN. They should just rely on themselves – they will be much better off.<sup>17</sup>*

The fact that the UN immediately closed its offices and withdrew nearly all its staff from SPLM-N areas after the start of the conflict only reinforced these perceptions. UN agency programming through GoS line departments also makes it difficult for the SPLM-N to see agencies as neutral actors. According to one senior SPLM-N official:

*UNICEF is like a government body – the government seconded staff to them, they even pay the [government staff's] salary. Even the management of their pro-*

*grammes was based with the ministry. How can we trust them now?<sup>18</sup>*

Interviews suggest that there is little understanding among the SPLM-N of the position of multi-mandate organisations during conflict, in particular organisations that work through government departments. Those better informed highlighted the potential for confusion and distrust when organisations provide 'humanitarian' assistance during conflict, while at the same time continuing their development programmes with a government engaged in the conflict.

Additionally, questions were also raised about the UN's public statements and reporting regarding the conflict. In particular at the beginning of the conflict, OCHA and other actors based in Khartoum were seen to understate access restrictions. Even in April 2013, WFP spoke of a 'major breakthrough' in its ability to access conflict-affected populations in Blue Nile, while failing to highlight the constraints it continued to face in accessing SPLM-N areas (UN Newscentre, 2013). The SPLM-N subsequently issued a press release denying any breakthrough, pointing instead to the fact that no populations were accessed in areas under its control, and that GoS bombardments and displacement were intensifying (Arman, 2013). While UN agencies were reluctant to make negative statements for fear of upsetting the GoS, SPLM-N officials interviewed felt that reporting was disingenuous, unbalanced and damaging. The senior levels of the SRRA demonstrated detailed knowledge of UN reports. While statements and reports have become more balanced, the perception that the UN has not done enough to raise awareness of the humanitarian crisis persists, fuelling suspicion that other factors may be influencing the UN. Many believe that the UN has been infiltrated with GoS spies. One SPLM-N commented:

*The UN is influenced by the GoS and penetrated by security agents. They will only do what the GoS wants. They just delay without reason, so they are either scared or influenced.<sup>19</sup>*

UN and aid agencies with offices in Khartoum are often viewed with suspicion. SPLM-N cadres worry that any information passed to them is monitored and potentially shared with the GoS. This in turn affects the quality of information available to agencies based in Khartoum.

UN in-country engagement with the SPLM-N on access proposals and modalities has been minimal. For instance, when OCHA submitted proposals for cross-line inter-agency assessments to the GoS it did not check with the SPLM-N on potential assessment modalities, including access routes and locations of vulnerable populations. The only official cross-line delivery of vaccines and medicines to date into SPLM-N-held areas was negotiated by UNICEF staff based in Kadugli

<sup>15</sup> Interview with SPLM-N official, May 2012.

<sup>16</sup> Interview with SPLM-N official, May 2012.

<sup>17</sup> Interview with SPLM-N official, May 2012.

<sup>18</sup> Interview with senior SPLM-N official, May 2012.

<sup>19</sup> Interview with SPLM-N official, June 2012.

in September 2011. Following prolonged attempts to negotiate the use of UNMIS flights to transport the medicines (the aircraft being used at that point to transport assets for the withdrawing UN mission), UNICEF unexpectedly obtained flight clearance from the GoS to send vaccines and medicines to SPLM-N held areas. With little time to prepare for and execute the delivery, UNICEF contacted trusted SPLM-N interlocutors.<sup>20</sup> When the shipment arrived in Kauda, SPLM-N officials complained that the boxes had been opened and tampered with by GoS security officials in Kadugli. They also complained that the drugs had been exposed to sunlight, had arrived at such a high temperature that they were unusable and some had expired. The head of the Secretariat of Health of the SPLM-N wrote an official letter of complaint to UNICEF.<sup>21</sup> UNICEF investigated the matter and confirmed that some boxes had been briefly inspected at Kadugli airport, but claimed that nothing was tampered with and that UNICEF officials had accompanied the shipment at all times.<sup>22</sup> No evidence was found that the drugs had expired, though UNICEF did reportedly admit that some boxes may have been in a poor state given the conditions in which they had been stored and the limited time the agency had had to prepare the shipment.<sup>23</sup> Even so, what could have been a shining example of a locally negotiated access agreement turned into a fiasco. On the one hand, the incident shows what can be achieved by highly engaged, local negotiators with some room for manoeuvre. On the other, it shows how, in the absence of mutual trust and strategic, systematic engagement with the SPLM-N, poor planning and communication can lead to misunderstandings and further erode trust.

NGOs are generally perceived more positively than the UN, though there is disappointment that NGOs have discontinued programmes in SPLM-N-held areas. More positive perceptions of NGOs often relate to the fact that, in contrast to the UN, several national NGOs and some local staff of INGOs in SPLM-N areas continued working during the first months of the conflict. Stocks left behind in UN warehouses were distributed by local aid workers, and some INGOs have kept in contact with the SPLM-N and are seeking alternative ways of providing assistance, including working through churches, local NGOs and civil society groups on the ground, or through close coordination with the SPLM-N in the provision of assistance to refugees crossing into South Sudan. One SPLM-N official from the Nuba Mountains commented:

*NGOs are a bit better, they work in the field with the people ... The UN has done nothing. My family is under the caves ... At least some NGOs helped us. But we understand that they don't have much. People are dying – they need food, they don't need words. The UN has the authority to do this under Chapter 7 but they are not there.*

<sup>20</sup> Interviews with aid workers, June–July 2012.

<sup>21</sup> Interviews with SPLM-N officials, May 2012.

<sup>22</sup> Interviews with aid workers, June–July 2012; see also McClenaghan and McVeigh (2012).

<sup>23</sup> Interviews with aid workers, June–July 2012.

There is a historically informed perception among both cadres and lower-level officials that NGOs are more willing to provide assistance in the face of GoS restrictions, although they feel that most are intimidated by GoS pressure, especially those based in Sudan. Officials recall how a number of NGOs supported civilians in SPLM-controlled areas of the Nuba Mountains despite the GoS blockade during the last conflict, and wonder why this cannot be repeated now on a meaningful scale. While they acknowledge the severe consequences an aid agency is likely to face – including expulsion from Sudan – many feel betrayed:

*We are not happy with the INGOs – they just pulled out. We were begging them to stay and promised that we will guarantee their safety. We tried to tell [an aid agency] not to pull out but their Khartoum office was very rigid. They said we need to think of our Darfur programme. But how can you sacrifice the people of Southern Kordofan for the people of Darfur?*<sup>24</sup>

Another SPLM-N official expressed a similar sentiment:

*They didn't try to keep their programmes going. They had the wrong analysis of it being a short-term issue. Others have taken a very strict stance and invest a lot of time on advocacy to explain why they cannot assist. They use humanitarian principles to justify this.*<sup>25</sup>

Even if some were willing to challenge the GoS ban, most SPLM-N officials conceded that the significant levels of assistance required to meet current humanitarian needs cannot be delivered until the GoS agrees to unfettered access:

*Authorisation comes from the GoS in Khartoum – if people are caught, they will make a huge fuss. We do understand their dilemma ... The UN have the power and authority to do it but they don't.*<sup>26</sup>

There was an understanding of the importance of aid agencies continuing to work in GoS-controlled areas even if they did not provide assistance to SPLM-N areas. A senior SPLM-N official from the humanitarian wing in Blue Nile commented that 'NGOs are now working in GoS areas – this is good. People need to be assisted and they have a right to be assisted wherever they are'.<sup>27</sup> Another member of the SPLM-N humanitarian wing agreed, but emphasised the importance of continuing to advocate for access to SPLM-N-held areas:

*A few months ago [the GoS] allowed two international staff back to Kadugli but they could only stay in town.*

<sup>24</sup> Interview with senior humanitarian SPLM-N official, May 2012.

<sup>25</sup> Interview with SPLM-N cadre, May 2012.

<sup>26</sup> Interview with SPLM-N official, May 2012.

<sup>27</sup> Interview with senior SPLM-N official of the humanitarian wing from Blue Nile, May 2012.

*The internationals accepted and saw this as a welcome step. The UN said that ‘you should recognise any step for access while pushing for more’. That is fine but it needs a timeframe to go with it as this could go on for years.*<sup>28</sup>

Interviews with INGO representatives in GoS territory and in contact with the SPLM-N reported that working in GoS areas did not damage their relations with the SPLM-N.

Perceptions of national NGOs, particularly those associated with the north, are less positive. While some SPLM-N cadres are more open towards national NGOs – provided they are trusted and screened by the humanitarian office – lower-level SPLM-N officials, commanders and many civilians are suspicious of their political motivations.<sup>29</sup> Although the GoS would like the Sudanese Red Crescent (SRC) to assume a monitoring and delivery role in any future relief operation, the SRC is seen by the SPLM-N as allied with the GoS and effectively an extension of the HAC.<sup>30</sup> Distribution of relief by certain organisations closely associated with the GoS has been used in the past to devastating effect, and interviewees were concerned that the GoS would adopt similar tactics in the current conflict. Experiences of mistreatment, starvation and indoctrination of many Nuba forcefully displaced to the so-called ‘peace camps’ during the last war were evoked. One SPLM-N official commented: ‘When [GoS] say cross-line they don’t really mean it, they just want control. They will go and distribute food and force people to go to peace camps, like in the last war’.<sup>31</sup>

<sup>28</sup> Interview with senior SPLM-N official, May 2012.

<sup>29</sup> Interview with aid worker from Southern Kordofan, June 2012.

<sup>30</sup> Interviews with SPLM-N officials and civilians, May–June 2012; see also IKV Pax Christi (2011).

<sup>31</sup> Interview with SPLM-N cadre of the humanitarian wing, May 2012. 2.

The SPLM-N has repeatedly called for the delivery of aid through South Sudan and Ethiopia (see e.g. Sudantribune, 2012c). Many questioned why so many regarded this as ‘illegal’. Many SPLM-N officials felt that a cross-border operation would be feasible. As one SPLM-N cadre put it:

*Instead of restricting access, we could have both cross-border and cross-line access like during NMPACT. We can have clearance of flights just by notification, no need for approval by either side. Then joint monitoring at entry and respective authority approval at the destination.*<sup>32</sup>

All SPLM-N officials, including the leadership of the humanitarian wing, asserted that agencies willing to operate in their areas would have to register with the SRRA and obtain a permit – as during the last war. Access negotiations would then be conducted through SRRA officials. Several SPLM-N officials interviewed sought to highlight their ability to effectively manage aid. As one official explained:

*We have very strong policies that the SPLA will just punish you if you loot. Of course diversion could always happen but this is not the policy of the leadership. With Abdel Aziz you can always go and complain and things will be investigated and checked. For example, at the beginning of the conflict SPLA-N soldiers took some NGO cars. The captain got punished and taken to Headquarters to be lashed.*

An aid worker from the Nuba Mountains confirmed this account and recounted another case where a commissioner was punished for extorting food from IDPs.<sup>33</sup>

<sup>32</sup> Interview with SPLM-N cadre, May 2012.

<sup>33</sup> Interview with local aid worker from Southern Kordofan, May 2012.



# Chapter 4

## Perspectives of the international community

### 4.1 Donor and aid agency perspectives

Donor governments are largely preoccupied with the broader unresolved political negotiations between Sudan and South Sudan, and the humanitarian situation in Southern Kordofan and Blue Nile is seen as a subsidiary concern. Analysis of the situation in the two areas as a conflict in its own right is lacking. There are concerns among donors that the disintegration of Sudan could lead to broader instability, and there are fears that engaging with the SPLM-N, either directly or through organisations they fund, could jeopardise their standing with the GoS and their ability to play a role in wider negotiations.

There are significant differences in political (and, subservient to that, humanitarian) positions among donor governments. Unlike during the last conflict, where strong political engagement with both sides by a number of key donor governments ultimately led to a ceasefire agreement, engagement has been much less consistent. Some donors have taken a very conservative stance, often referring to legal constraints to explain their inability to mount a humanitarian response. Others have been more open to finding ways to provide support, including through creative and non-traditional responses to the humanitarian crisis. There are arguably strong incentives to engage with the SPLM-N. Given that it controls much of the still-undemarcated borderline, the movement could potentially serve as a bridge between the two countries.

Aid agency positions are more complicated, but can broadly be categorised into two main strands: those who believe that dialogue – however limited – with the GoS will eventually lead to some sort of agreed cross-line mechanism for aid delivery to SPLM-N areas; and those who advocate for alternative approaches to the delivery of aid, including non-consensual cross-border operations into SPLM-N-held areas from South Sudan or Ethiopia. Even within these two schools of thought, approaches and strategies vary. As such, the discussions and strategies outlined here should not be considered exhaustive descriptions, but rather a snapshot of the key issues and debates.

Many aid agencies are very risk averse and anxious about their relationship with the GoS. These actors generally keep a low profile and put strong emphasis on transparency with the GoS about their operations. Many have operations in other parts of Sudan and are fearful of expulsion, so either avoid talking to the SPLM-N or do so only covertly at individual level. Several INGO representatives felt that the GoS's negative perception of 'Western' agencies and 'humanitarianism', in particular given

its previous experiences with aid agencies in Darfur, limits their influence. Others, such as non-Western INGOs and associations of Arab or African origin, were seen as better placed to negotiate with the GoS.<sup>34</sup> Coordination and engagement with these actors is increasing, including through OCHA's newly established liaison unit in Khartoum. However, given the lack of consultation with the SPLM-N it is not clear whether the movement would accept these groups as aid partners.

Agencies avoid activities that they believe the GoS may see as suspicious or offensive; some have even chosen not to provide aid in refugee camps for people from Southern Kordofan and Blue Nile in South Sudan for fear of being perceived by the GoS as supporting the SPLM-N. Some agencies have spoken publicly about the kinds of operations they will *not* undertake. The Steering Committee of the Northern INGO Forum circulated a position paper at the end of 2011 highlighting its opposition to cross-border operations. Many NGOs involved were convinced that the GoS would react positively to the declaration: in the words of one, 'we sincerely thought at the time that the GoS would appreciate such a position'.<sup>35</sup> However, the same representative acknowledged that many involved have since reconsidered their position. Several interviewees felt that, instead of focusing purely on access to SPLM-N areas, there should be more emphasis on the benefits of aid for everyone affected by the conflict, including people in GoS areas.

There has been much debate among agencies about the ethics of providing assistance only in GoS-controlled areas while access to SPLM-N areas remains blocked. WFP was initially adamant that it would not provide food aid in GoS areas unless access to SPLM-N areas was granted. However, the agency ultimately met formal GoS requests for assistance in areas under its control.<sup>36</sup> Some believed that supporting the GoS provided them with a degree of 'protection', and several UN agencies and INGOs have continued to respond to GoS demands for assistance without being able to independently verify needs or access areas where assistance was to be provided.<sup>37</sup> Given the severe limitations that have been placed on the movement of international staff in GoS areas of Southern Kordofan and Blue Nile, most activities are carried out by the national staff of international organisations or, increasingly, by local NGOs.

<sup>34</sup> Organisations mentioned included the Qatari Red Cross and Turkish and Malaysian NGOs.

<sup>35</sup> Interview with INGO representative, July 2012.

<sup>36</sup> Interviews with aid agency representatives, May–June 2012.

<sup>37</sup> Interviews with INGO representatives, July–August 2012.

Several aid agencies highlighted that there were ‘red lines’ that could not be crossed – for example meeting GoS demands for food aid without independently verifying need – but it is unclear whether agencies have actually adhered to them. Definitions of acceptable operating conditions also varied widely among aid actors, meaning that there were no commonly held ‘red lines’. While agencies said that they were ‘operational’ in certain areas despite extreme restrictions – though in effect being ‘operational’ meant no more than being able to access their office – others were more forthcoming about the obstacles they faced. Still others have closed operations in the face of what they saw as insurmountable challenges.

The majority of aid agencies felt that it was important to pursue opportunities for engagement with the GoS as these openings present themselves. One international NGO director explained his organisation’s strategy to push things forward at the local level, including cross-line access, while also trying to influence policy at the higher level through the HCT and engagement with the GoS at the federal level. While complete withdrawal from Sudan was an option for some, the majority felt that this would do little to influence the GoS, or make it more difficult to reopen operations once conditions improved.

Engagement with the HAC at local level was seen as more productive than at national level. The state and local governments were often seen by aid actors as much more amenable to compromise and often more driven by genuine concern for affected populations. Aid agencies with a long-term presence and pre-existing relationships appeared generally more successful in such endeavours. However, the transfer of authority for humanitarian issues from the HAC to military and intelligence actors is likely to pose new challenges. While most aid agencies operating in Sudan would previously engage with the HAC on humanitarian issues, the GoS has since instituted a High Level Committee – composed of Military Intelligence (MI) and the National Intelligence and Security Services (NISS) and supported by a technical committee – that in effect has taken charge of all humanitarian issues, relegating the HAC to the sidelines. Several agencies reported that engaging with these actors presented formidable challenges.

Some INGOs and UN agencies maintain direct or indirect contact with the SPLM-N. Most high-level contact tends to take place in capitals outside of Sudan and South Sudan through official representatives of the political or humanitarian wing of the SPLM-N, with UN agencies and INGOs engaging at different levels and with varying degrees of openness. OCHA officially only engages with the SPLM-N out of country and manages its engagement in New York as it feels that in-country engagement would jeopardise its relations with the GoS. Aid agency interviewees pointed out that a stronger OCHA could have helped in ensuring a more strategic and sustained engagement with the government as well as with the SPLM-N. OCHA was seen by some as not having enough backing from the Resident/Humanitarian Coordinator (RC/HC) and from its

headquarters, constraining its ability to act. However, OCHA deployed an access focal point in Khartoum in 2012 and established an access working group. While there is limited capacity to engage in negotiations at the country level, the unit is meant to support humanitarian actors with analysis and data collection more broadly.

Even actors that engage with the SPLM-N have sought to distance themselves from any direct contact and instead work through local staff or subcontract operations to national NGOs as a way to gain access to restricted areas – a tactic also adopted in Darfur after the expulsions of aid agencies in 2009. While such an approach could still result in punitive action from the GoS, many agencies see this as a potentially viable option, and preferable to direct involvement. More work could also be done through civil society or church organisations. While technically still cross-border, such approaches are relatively low profile and, while not without risk, less likely to prompt a negative reaction from the GoS.

#### 4.2 Alternatives to GoS-sanctioned access

Many aid organisations have become increasingly frustrated with the lack of progress in political and humanitarian negotiations with the GoS. Some are seeking alternatives, including clandestine cross-border operations. This has hardened divisions within the humanitarian community between those who consider non-consensual cross-border operations in the current context both dangerous and impractical, and those who believe that the dire humanitarian conditions in Southern Kordofan and Blue Nile, and the continued ban on aid as a military tactic, justify cross-border operations. The former primarily comprise, unsurprisingly, agencies with programmes elsewhere in Sudan; those of the latter persuasion tend not to have other programmes in Sudan and thus have much less to lose.

Several interviewees, including some donor representatives, pointed out that such operations had been done before and had invited much less heated debate in the past.<sup>38</sup> As one senior diplomat put it:

*I find it very surprising that people don’t engage. They are pre-occupied with other things ... Cross-border operations have been done before. In the ‘80s there was a cross-border operation from Sudan into Eritrea/Tigray even though the government in Addis objected. And they had representatives in Khartoum and in Addis but nobody cared.<sup>39</sup>*

Donors’ and aid agencies’ positions vary from context to context, as can be seen by more positive attitudes towards

<sup>38</sup> For example, cross-border operations took place in the 1980s from Pakistan into Afghanistan, after 1979 from Thailand into Cambodia and in the 1980s from Sudan into Ethiopia/Eritrea.

<sup>39</sup> Interview with senior diplomat, May 2012.

cross-border operations in Syria and Libya. Nonetheless, few agencies are willing to act outside the law or in isolation from the UN. Several aid actors felt that, in the past, a much broader range of agencies would have been involved, including agencies able to act more quickly and on a more independent platform. The UN cluster system was also seen as leaving many organisations with the crude choice of being either in or out of the system. Most choose to be in, for security reasons and other bureaucratic constraints.

Implementation of cross-border or cross-line approaches would necessitate much closer coordination and engagement with the SPLM-N. Current discussions with the SPLM-N, limited as they are, often revolve around requests for more information on the humanitarian situation, rather than discussions of concrete access proposals. Those local organisations still active on the ground have been consistently trying to improve assessment and reporting standards, at times with the help of international experts. More consistent and professional reporting of needs in SPLM-N-controlled areas is now increasingly available. Despite these efforts many international aid actors continue to insist that there is too little information to assess the severity of the crisis.<sup>40</sup> Local organisations are increasingly frustrated as they feel that the information available is sufficient to establish that there are critical humanitarian needs.<sup>41</sup>

Cross-border operations are logistically feasible and support to local organisations could be pursued indirectly, even if such operations are unlikely to meet the full extent of the needs of affected populations. However, most discussions among

<sup>40</sup> Interview with donor agency representative, May 2012.

<sup>41</sup> Interview with local aid worker from Southern Kordofan, May 2012.

humanitarian actors have focused on the highly divisive issue of legality. Many interviewees felt that this has distracted attention from a wider discussion of alternative and innovative modes of engagement. Given the preoccupation of many in the international community with broader Sudan–South Sudan negotiations and relations, one alternative could be to work through the mechanism for border monitoring provided for in 27 September 2012 Cooperation Agreements negotiated under the auspices of the AUHIP and backed by the UN Security Council. For example, the joint border verification and monitoring mechanism that is already being established could serve as a humanitarian assistance monitoring mechanism. An inspection mechanism similar to the one established during NMPACT could monitor goods going into Southern Kordofan or Blue Nile and ensure that they are indeed humanitarian. Another option could be to work through the joint military mechanism tasked to manage the Safe Demilitarised Zone (SDBZ) agreed by Sudan and South Sudan. The advantage of such proposals is that humanitarian access is more closely tied to the UN Security Council resolution – including its tight timelines for setting up these mechanisms – and would address GoS concerns about monitoring.

Many are sceptical about such collective approaches. Most actors interviewed for this study concurred that the UN – which would undoubtedly have to play a major role in any collective negotiations – is either unwilling or unable to effectively negotiate with the GoS or the SPLM-N. Even where it does engage in negotiations with the GoS, the UN is seen as prioritising UN agency access and neglecting NGOs. Until recently INGOs were not invited to participate in meetings between the UN and the HAC on humanitarian issues in Southern Kordofan and Blue Nile.



# Chapter 5

## Conclusion and recommendations

Despite attempts to consult with the SPLM-N, the continued lack of sustained and transparent engagement and follow-up with the SPLM-N in particular has shaped SPLM-N perceptions and eroded trust both between the SPLM-N and the international community. The longer there is no credible engagement with both parties to the conflict, the more likely it is that this will lead to a hardening of positions and disengagement from the negotiation process. Lack of engagement with the SPLM-N is also likely to strengthen the belief that non-negotiated arrangements can achieve more quickly what sustained engagement in formal negotiations cannot.

The experience of Southern Kordofan and Blue Nile raises questions about the applicability of humanitarian principles and how they are interpreted and used by different actors. Agencies, particularly those who work elsewhere in Sudan, struggle with the choice of maintaining an operational presence and affirming the principles of impartiality and independence. The ongoing debate and division among agencies on which approaches work best in persuading the GoS to grant humanitarian access often appears based on little more than anecdotal evidence and rumours around what might have given particular aid agencies more or less room for manoeuvre in negotiations with various levels of the GoS. In sum, there is little evidence to support any particular strategies or learning from best practice for engagement with the GoS.

Given the apparent lack of respect for humanitarian principles by the GoS, many aid actors increasingly feel that they are irrelevant in the Sudanese context. As one aid actor said: 'It's not about neutrality in this context but about being perceived as neutral. There is no space for neutrality as for the GoS it doesn't work like that. You cannot be seen as neutral'.<sup>42</sup> While some continue to try to appear as neutral as possible, in

<sup>42</sup> Interview with aid worker, May 2012.

particular in the messages they send to the GoS, the ensuing challenge for actors is how to deal with such a situation, and, rather than discard principles altogether, interpret and use them constructively to address the humanitarian crisis, rather than as a justification for inaction.

Many aid agencies in Khartoum, including the HC/OCHA/cluster leads, currently have extremely limited information and analysis on needs in SPLM-N-controlled areas. Even if they judge it too risky for their relationship with the GoS to engage with the SPLM-N, there are ample opportunities to engage with independent humanitarian actors working to document needs in SPLM-N-controlled areas.

As GoS consent to humanitarian access continues to be withheld, there is a need to develop alternative and innovative ways of addressing the humanitarian crisis in Southern Kordofan and Blue Nile. Humanitarian needs in the areas under SPLM-N control are increasingly well documented by independent humanitarian actors, and are clearly severe. Alternative and innovative approaches to addressing humanitarian needs could include working through locally led initiatives by civil society and community-based organisations (CBOs) already operating on the ground. Other non-traditional actors, including African and Arab NGOs and churches, could also be considered. There is a functioning civilian administration in place in SPLM-N areas, a structure which could be supported to address the needs of the civilian population. Indirect approaches which strengthen people's longer-term resilience, such as interventions to support local markets and traders, are another option. Humanitarian engagement in this context will need to be innovative and flexible, and cannot end with access. Instead, sustained engagement with both sides to the conflict, including trust-building measures to sustain access and cooperation agreements, will be vital to address humanitarian needs.



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