

EFFICIENT AND EQUITABLE NATURAL RESOURCE MANAGEMENT: USING TRANSPARENCY TO AVOID THE RESOURCE CURSE

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Framing the Issue

On its official website, the Government of South Sudan (GoSS) acknowledges its significant endowments of natural resource wealth. The new nation, nevertheless, admits that this abundance is one of the primary causes of the many years of violent confrontation experienced with the Republic of Sudan. The independence and emergence of a sovereign South Sudan in July 2011, a byproduct of the 2005 Comprehensive Peace Agreement (CPA), occurred before many key issues between the two countries had been conclusively resolved.

A significant amount of South Sudan's natural resources, especially oil deposits, are located along the disputed border with the Republic of Sudan. Hence, foremost among policy issues critical to effective natural resource management in South Sudan is the demarcation of a permanent border between the two countries, a process that should help determine ownership of these resources and allow both countries to proceed with their development plans. Thus, until the boundary problem is definitively resolved, policy initiatives in South Sudan will continue to be held hostage by the conflict over the border and ownership of the resources located in the region.

The key natural resource policy initiatives created by the GoSS thus far are focused on oil extraction, water and land. Most of the natural resource management policy was created in the interim period before independence from 2007–2011, which has caused some difficult challenges for property rights in the new nation. Current natural resource management in South Sudan requires some finesse and polishing to avoid further conflict and the so-called “resource curse.” These countries often focus all their policy efforts on

the development of the abundant non-renewable resource (e.g., oil) and neglect all the other sectors that are critical for balanced and sustainable economic development.

What's at Stake?

Oil is garnering much attention because it was, before the January oil shutdown, the source of a majority of South Sudan's public revenue, a primary contributor to the country's gross domestic product, and nearly the entire basis of the current struggle with the Republic of Sudan. To avoid becoming trapped by the resource curse, South Sudan must manage its oil resources as part of a comprehensive plan to develop a well-integrated national economy. In such an economy, oil will be only one of several well-developed sectors (e.g., manufacturing, agriculture, transportation, finance, retailing, etc.) and not the entire focus.

The overarching policy recommendation for managing extractive resources has been for South Sudan to commit to the Extractive Industries Transparency Initiative (EITI), which is the global standard for openness and transparency in the management of natural resource revenues. On December 21, 2011, President Salva Kiir Mayardit announced that the GoSS will implement the EITI. However, this announcement was recently opposed by the actions of the parliament of South Sudan, which voted in April 2012 against allowing the public to have access to contracts and other information related to the country's oil industry.

While oil production in South Sudan has earned significant attention, effective water resource management is also paramount to regional security. The GoSS created its Water Policy Framework in 2007 and stated that a more clearly defined version would be produced by the end of the first

quarter of 2011 (GoSS 2009). South Sudan announced its intention to join the Nile Basin Initiative (NBI) in September 2011, only two months after independence. This swift announcement indicates the priority granted to water, especially that from the Nile River, in the new country's development plans. The NBI is a coalition of riparian states that have been working for nearly 10 years toward a more equitable allocation of Nile waters. The NBI has had little success getting Cairo and Khartoum to accept its framework for equitable allocation of Nile waters. Despite an uncertain legal environment, South Sudan has also announced plans to construct a hydroelectric power dam at Wau in Western Bahr el Ghazal State. The status of South Sudan's membership in the NBI, as well as that of the Wau hydroelectric dam is unclear and no press statements have been made since September 2011 to clarify the situation. The design and implementation of a comprehensive water policy is critical, not only for water governance, but also for regional security and the effective management of other sectors of the economy that depend on water such as agriculture, sanitation and transportation.

In order to reach agricultural development targets, the GoSS intends for land management to be governed by the Land Act of 2009. The Land Act explicitly outlines the types of community consultations that are legally required before any land can be leased or sold (Heegde, Martijn, Hilhorst, and Porchet 2011). Shortly after independence, however, the transitional government of the autonomous Southern Sudan region initiated and implemented a policy that encouraged and promoted foreign direct investment. The policy resulted in so-called "land grabs" or sale of land by political elites without using the consultative and participatory approach expressly required by the 2009 Land Act (Deng and Mittal 2011). In fact, since independence, there has been an unusual interest in land acquisition, especially by foreign companies and investors and the GoSS is now actively trying to reverse these "land grabs" (BBC 2011).

This July, South Sudan will reach its one year anniversary as a sovereign nation. In order for the government to provide citizens with the efficient and equitable management of the country's huge endowments of natural resources, the administration needs to adjudicate South Sudan's borders with the Republic of Sudan and create clear and transparent processes for the internal management of resources,

which must include making certain that its rights as a riparian state to the Nile River are respected.

Due to sour relations with the Republic of Sudan, parliamentarians have been reluctant to disclose revenues from the extractive industries. They claim that openness and transparency will create significant challenges for the young country. However, as South Sudan's civil society has already recognized an opaque approach does not augur well for efficient and equitable management of the country's oil revenue. Conducting government operations in an open and transparent manner also improves the likelihood that government activities will foster policies that reflect the values, interests and aspirations of the country's relevant stakeholder groups. Perhaps more important is the fact that openness and transparency in government activities significantly improves how citizens judge the respectability and legitimacy of their government. It is only through an open and transparent process that the government can hope to achieve an allocation of oil revenues that will be judged and accepted by citizens as socially equitable.

While the battle over the border oil fields rages, the demands on South Sudan's water infrastructure continue to rise. According to rough estimates by Issac Liabwel, undersecretary at the Ministry of Water and Irrigation in Juba, "...about 47 percent of people outside the main towns have access to clean water supply, and only 6 to 7 percent have sanitation. Including the towns, it's probably a bit higher—about 50 percent for water supply and 10 percent for sanitation" (Nield 2011). South Sudan has many rivers, but water is unequally distributed throughout the country. To make matters worse, internally displaced persons from the war for independence and other conflicts with the Republic of Sudan have added significant strain to the country's existing water supply sources. In fact, some of the violent ethnic mobilizations that are currently occurring in the country are related to competition for access to water, not only for use in domestic activities, but also in agriculture and cattle grazing.

Meanwhile, the GoSS has not abandoned its plan for national self-sufficiency in foodstuff production and its desire to turn South Sudan into the breadbasket of the region. The type of large-scale farming that is envisaged by the GoSS requires adequate access to water as well as well-specified

and enforced land tenure rights. In regards to water use in the Nile region, South Sudan has the potential to play a very influential role in the management of the entire Nile River Basin. Although the Nile has 10 riparian states, only two, the Republic of Sudan and Egypt, have legislative control over water use. These legislative agreements are the 1929 Anglo-Egyptian Agreement and the 1959 Bilateral Agreement between Egypt and Sudan, which are collectively referred to as the Nile Waters Agreements. The 1959 Bilateral Agreement between Egypt and Sudan was not designed with the consultation or participation of the other riparian states and left only 10 percent of the Nile Water unallocated. Until this legislation is clarified, the construction of the hydroelectric facility at Wau directly conflicts with the language of the 1959 Bilateral Agreement to “do no harm” to the Nile’s water flows.

In regards to land tenure rights in South Sudan, the 2009 Land Act has failed to clearly establish an effective property rights scheme. Now, the GoSS wants to reverse land purchases that were either undertaken without its approval or without full and effective local consultation and participation, and return these real properties to customary possession. Because the austerity budget has significantly reduced funding to subnational governments, it is difficult for these governing bodies to develop and implement local land use policies as well as assist in enforcing the provisions of the 2009 Land Act.

Policy Recommendations

For the coming year, the following policy recommendations would help to strengthen existing structures for effective and equitable management of natural resource endowments in South Sudan:

- **Comply with the Extractive Industries Transparency Initiative.** Contrary to the current approach, which calls for oil revenues to be allocated in secret, public availability of oil contracts and transparent allocation of oil revenues will minimize corruption and public financial malfeasance. This latter strategy will significantly improve the efficient allocation of public revenue, helping the economy as well. Hence, in the area of natural resource management—especially the allocation of oil revenue—the government should strictly comply with the Extractive Industries Transparency Initiative.

- **Increase civil society participation in governance.** Many Africans do not trust their governments and feel that their leaders conduct their operations in secret, do not provide civil society with information about public activities, and impose policies on local communities that are irrelevant to the problems that they face daily. Transparency enhances the ability of stakeholder individuals or groups to understand how public policies regarding the management of natural resources are made and why certain conclusions are reached. This is a viable way for South Sudan to minimize the likelihood that ethnic and religious groups who feel marginalized by any specific allocation of resources (e.g., water) will resort to violent or destructive mobilization. Unfortunately, South Sudan’s once vibrant civil society has undergone a brain drain as members have left their organizations to fill roles in the GoSS administration. A concerted rebuilding of civil society organizations is needed to place appropriate checks on the GoSS.
- **Join the Nile Basin Initiative and reject all colonial-era Nile agreements.** The decision by the GoSS to promote self-sufficiency in foodstuff production and turn the country into the breadbasket of the east and central Africa region is a good policy strategy for creating a diverse economy. However, that policy cannot be accomplished by relying entirely on rain-fed agriculture. A comprehensive water policy that includes improved access to the waters of the Nile River is needed for self-sufficiency in agriculture and must be achieved through collaborative, equitable cooperation with all riparian states. The most effective way for South Sudan to manage access to the waters of the Nile River is for the GoSS to expressly reject, as soon as possible, the Nile Waters Agreements as colonial-era anachronisms that do not belong to modern international watercourse law. If South Sudan joins the Nile Basin Initiative it should insist on increased cooperation between all Nile river basin states, including the free flow of data and information. South Sudan would strengthen the Nile Basin Initiative if it insisted on negotiations through a democratic process to produce a regionally-based legal and institutional framework for Nile governance.
- **Clarify and strengthen current legislation with participatory processes.** Likewise, South Sudan land rights policy must allow the participation of current

small-holder farmers in designing land use legislation to prevent exploitative land grabs on behalf of political elites. The GoSS needs to engage its people in a community-based reform process to review the interim “land grabs” and produce property rights schemes that reflect all of the country’s relevant stakeholders’ objectives for the long-term equitable use of their resources.

While it is true that South Sudan has a huge endowment of natural resources, effectively translating these resources into the wealth that it needs to deal with poverty and deprivation demands that both the government and the people work together to provide themselves with necessary laws and institutional structures. These institutions must guarantee the just rule of law—the existence of such a governance system would ensure that no one, even individuals who serve in the government, is above the law. Adherence to such a system would significantly minimize the ability of those in power to engage in corruption, rent seeking and other growth-inhibiting behaviors, as well as help the country avoid the natural resource curse.

References

- BBC 2011. “South Sudan’s President Salva Kiir to fight corruption,” September 21, 2011
- Deng, D. and A. Mittal. 2011. *Understanding Land Investment Deals in Africa Country Report: South Sudan*. Oakland Institute, accessed May 17, 2012, http://www.oaklandinstitute.org/sites/oaklandinstitute.org/files/OI_country_report_south_sudan_1.pdf
- GoSS 2009. *Government of Southern Sudan Water Policy: Summary Document*. Presented by the Ministry of Water Resources and Irrigation to the GoSS WASH Policy Dissemination Workshop, June 16-18, 2009.
- Heegde, Martijn, Hilhorst, and Porchet 2011. *Land Governance for Equitable and Sustainable Development: South Sudan Food and Security and Land Governance Factsheet* (Maastricht: IS Academie), <http://www.landgovernance.org/system/files/Sudan%20%20Factsheet%20landac%20april%202011.pdf>.
- Nield, R. 2011. “South Sudan Faces up to its Water Challenge,” *Global Water Intelligence* 12:3. Assessed May 23, 2012, <http://www.globalwaterintel.com/archive/12/3/general/south-sudan-faces-its-water-challenge.html>.