



European Commission

Cross-Border Relations Beyond the Referendum Challenges and Opportunities

State Workshop Report, Unity State, Sudan, March 29th-31st 2010



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Participants and facilitators

1. Introduction

The security situation along the border between Northern and Southern Sudan is extremely tense. Local and national security actors are in frequent confrontation. Further and greater conflicts are brewing, but may yet be prevented. How should communities, policy makers, and development practitioners ensure that the North-South border is managed in a way that contributes to a sustainable peace?

There are two distinct parts to any possible answer. First, *where* is the border going to be? (This relates to *delimitation* and *demarcation*.) Second, *what* will the border be? *How* will it be managed? (This relates to *governance*.) The first question is always raised when borders are discussed. Rightly so, the answer can spell the difference between peace and war. Competing land claims and the presence of resources combined with multiple interests makes delimitation and demarcation of borders hugely complex.

Yet a hard-won agreement on demarcation may not guarantee peace and security. It also matters what the line means for border communities and national elites, as well those in-between. This 'what is the border?' question also determines the impact of a border on communities, and helps inform economic, political and security incentives and disincentives, which can influence

whether or not violence breaks out in the border areas.

The nature of the border regime will impact on *inter alia* the economy and trade, movement of peoples, access to services, rights, and security.

Whether unity or secession is the result of the 2011 referendum on Southern Sudanese self-determination, and wherever the border is drawn, communities will live on either side. None are likely to disappear; all have needs and aspirations. Agreements on how the border is governed should reflect the interests of these communities. Furthermore, the border regime must also work for state elites and state institutions. If either condition fails, sources of violence and instability may outweigh those of peace and cooperation.

The workshop on 'Cross-Border Relations beyond the Referendum: Challenges and Opportunities' held in Bentiu on 29th-31st March 2010 was one part of an incremental process aiming to support border communities to develop principles and proposals to help inform what the border becomes; and help ensure that it works in the interests of a sustainable Sudanese peace.

This report documents the discussions and conclusions of the border communities of Unity state who attended that meeting.

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Furthermore, the views and information contained in this report do not reflect positions or views of Concordis International or the Centre for Peace and Development Studies. The contents of the report reflect as closely as possible consensus generated at the workshop as expressed by participants. Attempts have been made to reflect in the text any disagreements expressed. Historical references are presented as recorded in the meeting. Some of the information presented in text box 3 and 6 has been supplemented with information recorded by Concordis staff in interviews with participants which took place outside of workshop activities.

Text Box 1: About The Cross-Border Relations Project

The *Cross-Border Relations Project (CBRP)* is a partnership between Concordis International and the Centre for Peace and Development Studies (CPDS) at the University of Juba (based in Juba and Khartoum). Four CPDS researchers bring expertise to the project, each specializing in a different region or set of dynamics along the North-South border. The team engaged in the project also includes experts advisors the African Union Border Programme as well as individuals with direct experience of supporting cross-border cooperation in Africa at the inter-governmental and grass-roots level.

Workshops and research facilitated by Concordis and CPDS represent an opportunity for border populations to deepen and promote peace by building consensus on principles and proposals regarding North-South border arrangements and development initiatives in the post-referendum period.

Aims and Objectives of Unity State Workshop

- ◆ A strategic aim of the Unity State workshop was to *build trust and understanding between the communities within Unity State living along the North-South border*. This is a necessary condition to ensure that forthcoming cross-border workshops be constructive and fruitful.
- ◆ The Unity State workshop aimed to *develop consensus on principles for how the border be governed and managed*. These will inform discussions in forthcoming workshops, which will bring together communities from either side of the border.
- ◆ The Unity State workshop aimed to *develop proposals for development initiatives* which could improve the economic, social, and security situation of populations along the North-South border. Concordis aims to mobilise interest and resources from Sudanese institutions and international donors to support the implementation of such proposals.

Incremental Process

The Unity State workshop is one part of a broader, incremental process. Concordis and CPDS are preparing similar workshops in other border states including South Kordofan, White Nile, Blue Nile, Upper Nile, and the Abyei Area.

Participants from these States will meet together in a second series of workshops, bringing communities from adjacent states together. These consultations aim to see communities from both sides of the border develop consensus on principles and proposals to inform post-referendum arrangements and development policies.

Following the cross-border brokering exercise, and after a period of consolidation, conferences will bring participants from along and across the border together with policy makers and donors. The conferences should increase the visibility of the principles and proposals generated through the project and provide opportunities for national and international policy makers to engage with border communities and project experts.

2. Opening Remarks

The Unity State workshop brought together traditional authorities and administrators from the border payams of Mayom, Abiemnom, Pariang, and Rubkhona Counties, relevant State Commissions, Ministries, and civil leaders, including representatives of women and youth associations as well as faith leaders. The workshop format will be replicated in other States along Sudan's North-South border. This process aims to play a role in ensuring that mechanisms are developed for governing and developing the border and border areas which reflect the needs of border communities and work in the interest of peace across Sudan.

Statements of participants and official guests made during the meeting's opening session are summarized here:

Peacebuilding and political settlement depend upon constructive state-society Relations, and the capacity of the State to provide security. The first requires continual dialogue to resolve tensions where they exist. The second dictates the generation of adequate revenues and successful management of resources in order that security and services can be delivered by the State.

The people of Southern Sudan won key rights through the CPA. These give Southern Sudanese control over the direction of governance within South Sudan and the right to self determination through a referendum. However, without a responsive

and responsible governance that respects the human and political rights of all the Sudanese people, the enabling conditions for lasting peace will be absent.

There remains an urgent need to find comprehensive solutions to address the economic and social tensions inherent in the Sudanese state. Whether Sudan remains a unified country or the South secedes, this will require peace building and reconciliation in northern Sudan, southern Sudan, and across the North-South border. The development of functioning institutions to protect rights, support the economy, and ensure harmonious social relations are central to this process.

The roles and responsibilities of all levels of government must be considered when designing institutions that could work in support of peace and development. Traditional authorities play an important role, and should be included in discussions around how best to manage social and economic relations: They possess a unique bank of knowledge and experience about local context and the practical challenges of administration and conflict resolution.

3. Aspirations and Challenges

“In the words of the ancestors, you take the good and leave the bad, because that is the nature of life” [Border Chief, April 2010]

Participants expressed their aspirations for how they would like the North-South border region to look in the post referendum period. They also identified a number of challenges threatening these aspirations. This section summarizes the aspirations and anticipated challenges as expressed by the participants:

Aspiration: The North South border will be clearly demarcated before the referendum. The demarcation will accurately reflect the 1/1/1956 border. All parties will respect the findings of the Technical ad hoc Border Committee. A national level agreement on oil sharing will precede border demarcation. Demarcation of the border represents the most significant concern to border communities. The biggest challenge facing resolution of this issue is the presence of oil, and the related settlement of nomadic communities in their areas.

Aspiration: Insecurity will not persist along the North-South border regions.

A set of agreed regulations will govern the border which will be policed by joint security apparatus and a joint police force. Law enforcement agencies will be endowed with clear authorities, responsibilities, and will be jointly administered. Disarmament will be completed on both sides of the border.

Peaceful, if forced, disarmament will be a source of stability. Peacekeeping forces will be present and their mandate clear. Political forces will no longer mobilize, or otherwise exploit local peoples, including no-

mads into armed activity. The border will be demilitarized along its length, especially in places of heavy buildup such as Heglig. The precise role of different security actors in sustaining this vision differed between participants. For some participants, the Sudan Armed Forces (SAF) and the SPLA should oversee a self-administered a buffer zone. For others, such a task should be taken up by the international community.

The challenges facing this vision are manifold. Exploitation of local conflicts by national actors was accelerated after the discovery of oil and continues to the present day. There is subsequently an almost complete breakdown of trust between many communities across the border, exacerbated by the settling of Baggara nomads in areas previously perceived to be in South Sudan.

Aspiration: The South will peacefully secede and become an independent country. The referendum exercise will be monitored and observed by an international body which is also tasked to provide protection. There is no hope for peace between populations of South Kordofan and Unity States unless the Comprehensive Peace Agreement is followed through to its conclusion, and secession is the outcome. Before the event, agreements will have been made between the two to-be countries to settle key outstanding questions.

Aspiration: There will be a clear set of regulations to allow cross-border trade to flourish. The regulatory framework will be clear and mechanisms will exist to ensure implementation. Trade will flourish across the border, including at jointly governed cross-border markets. Trade will benefit communities on both sides of the border and represents a significant source of stability.

Land will be available for cultivation. The hunger currently experienced will be concluded as populations are able to return to agricultural activity.

One particular challenge in trade policy relates to the transparency and efficiency of tax regimes, itself linked to insecurity. Taxation along the Khartoum-Rubkona road is collected by a large number of groups and agents on behalf of various authorities. This is confusing and increases the price of commodities and the risk for traders – and is a source of insecurity as many checkpoints appear to be quasi official in nature. The result is high prices on consumer goods and increased suspicion and tension between traders and consumers.

Aspiration: There will be a clear set of regulations which allow cross-border movements to be free. The regulatory framework will be clear and mechanisms will exist to ensure implementation. Constitutional border laws will be adopted and implemented to ensure that there is free movement without fear. In the case of unity or secession, Southerners will continue to travel to northern Sudan to trade, and vice versa. Tax systems will balance the twin aims of promoting cross-border cooperation and revenue generation.

Aspiration: Water and basic services will be accessible to border communities on both sides of the border.

Southern pastoralists and migrating northern groups will have access to water points in South Sudan. Individuals will be free to move across the border to access essential services where they exist. Service provision will increase along the border until there is no need to move long distances to obtain access to basic services. Water resources

and basic services along the border will be shared in order to benefit all communities most efficiently.

Aspiration: Communities on each side of the border will live in mutual respect, be respected by the authorities, and have their rights upheld. The rights of southerners in the North, and northerners in the South will have been made clear and accepted before the referendum. This is currently not the case. Social relations have largely broken down. The institution of inter-marriage is no longer active. Employment rights are not perceived to be equal with regards existing industry., especially the oil sector.

Aspiration: Progress will have been made to reconcile communities. Ongoing reconciliation activities will be in action. This will be a long-term process and will be supported by international actors.

In 2011, there will have been a successful period of local initiatives and international interventions focusing on reconciliation between border communities. These will have focused on intra-southern relations as well as cross-border relations. Peacebuilding actors will be engaged in facilitating a continuous and ongoing process of dialogue between parties on either side of the border. The public and private use of media, including radio, will complement this process. Improved social interactions will serve as a stabilizing factor.

Aspiration: Resettlement of displaced people will have taken place

In the post referendum period, communities displaced since 1964 will have returned to their territories. These include dozens of villages, claimed to be south of the 1/1/56 border, which were devastated in fighting.

The settlement of Baggara nomads in these areas poses a significant challenge. Participants argue that at independence they shared their border with Nuba people alone. Only after independence, and with support of the Government of Sudan, did Baggara groups settle in the border regions from which participants had been displaced. Negotiating the land issue will be extremely problematic whatever the result of the border demarcation. By 2011, participants hope that successful navigation of this issue will have played a central role in building trust between and across

communities and in facilitating reconciliation.

Aspiration: Roads, infrastructure and other development initiatives will support livelihoods and peaceful coexistence.

Trade, access to services, social interactions, and cross-border governance will all be improved with better infrastructure. Currently, transport links across the border are few, whilst GOSS lacks capacity to support its administrators or traditional authorities



A large herd of Nuer cattle on the Bentiu-Mayom road

Text Box 2: Summary of challenges cited by Participants

- ◆ Disarmament (ongoing in southern Sudan and disarmament of migrating communities entering into southern Sudan);
- ◆ Violence associated with migration;
- ◆ Direct and indirect state interventions and activity leading to population movements;
- ◆ Insecurity on roads; affects price of goods;
- ◆ Abuse and misuse of natural resources by migrating communities, including gum Arabic/Africa, deforestation, and game hunting;
- ◆ Discrimination in employment practice by industry; lack of cooperation between communities and oil companies;
- ◆ Cattle rustling between counties in Unity state;
- ◆ Displacement and associated livelihood challenges;
- ◆ Breakdown of social relations with communities across the border;
- ◆ Lack of clarity and transparency in tax regimes leading to high costs and breakdown in trust between traders and communities;
- ◆ Child abduction associated with cattle raiding;

3.1 Perceived needs of populations on the Northern side of the border

Participants were asked what they thought the needs and aspirations were of the populations on the northern side of the border in Southern Kordofan. Their response is summarized here:

Southern communities have lived long with the Baggara and Nuba and know their challenges. Participants recognized that these northern border communities also have a number of needs, challenges, and aspirations. Despite consensus that it was for the northern communities to establish their own needs and challenges, and bring them to the next (cross-border) workshop, some preliminary comments were made.

Access to water and grazing land is the primary concern of the majority of Baggara/Misseriya who come to southern Sudan.

However, some elements are also perceived to be interested in taking control of agricultural land due to its scarcity in the northern areas. This is a primary source of displacement in the South.

The need for agricultural land is perceived to be one lever by which state actors have mobilised Baggara/Misseriya communities in a bid to gain control of resource rich territories. This activity is linked to strategies to gain control of oil.

The needs of communities on the other side of the border as expressed by workshop participants can be summarized as:

- Grazing land for cattle
- Water for cattle
- Forests for gum Arabic/Africa, honey, and charcoal
- Fishing grounds
- Protection from cattle rustling

Text Box 3: Summary of a County: Challenges in Pariang County (a.k.a. Ruweng)

The following summary looks at the specific challenges raised by the Dinka communities of from border payams in Pariang County: traditional authorities, county and state authorities, and civil leaders . This text reports what they expressed to Concordis and CPDS:

The original name for Pariang County is “Ruweng”. The county has a border with Southern Kordofan and the Nuba Mountains. The border runs from Karasana to Zwiger, passing just north of the Jao lakes.

Aliny Payam: Aliny is Pariang’s westernmost payam where populations now border with Misseriya. Traditionally a desert area, oil companies’ digging hafiirs has attracted Misseriya, particularly to the west. Misseriya have now settled in much of the territory. Oil companies control other land, protected by associated security services. Grassland has been damaged by chemical contamination related to the oil activity and there is a high level of cattle rustling by all communities. Cross-border compensation mechanisms and negotiations have broken down. Misseriya groups will meet, negotiate, but fail to implement resolutions. There is a significant and increasing build up of national armed forces, and the road to Heglig is extremely dangerous.

Panyang Payam: Panyang payam sits in the north of Pariang county and borders with the same Misseriya as Aliny payam. The Misseriya currently inhabit a large and growing part of the former territory, and have done since the first major wave of displacement in 1964. This area has good agricultural lands, and Pariang populations are now unable to cultivate crops.

Payeeda Payam: Payeeda payam borders Lodi County in southern Nuba Mountains. There are less settled Misseriya here. But the border villages, such as Poquem, are nevertheless unoccupied. Cattle rustling across the border is a major problem and populations fear groups of Misseriya with camels, *Shennabula*, who have a worse reputation than Misseriya to the west. Shennabula refuse to even enter negotiations.

Gumreah Payam: Gumreah has fertile soils like Aliny payam. There is no police or social services at all. Misseriya cattle damage crops, and dominate water sources. GoSS is basically not present to support the population. Umbororo/Fellata groups have come to the area in the last three years but do not pose a problem, except joining in unsustainable hunting of wild animals. The Shennabula are armed and prevent local populations from hunting in the forest.

Jamjong Payam: Misseriya, Shennabula, and Umbororo migrate into Jamjong payam in order to benefit from the river which flows through the payam. The southern populations raid their cattle, and retaliatory attacks occur. The Misseriya and Shennabula are deforesting and burning bush in their areas to create grasslands and produce charcoal.

Cumcur Payam: Comcur is the westernmost payam of Pariang County to share a border with Southern Kordofan. Displaced southerners began returning to the area from Leer in 2008 and are attempting to set up farms and build villages. But the Shennabula, who control much of the territory are disrupting their activities. Second, the returning communities have had a number of clashes with Tonga from the Shilluk Kingdom, who have built a small village along the border. A negotiated agreement has not been implemented.



Dinka chiefs from Abiemnom highlight significant challenges ahead



Women, youth and faith leaders from the border counties of Unity State brainstorm possible solutions

4. Scenarios

In distinction to their aspirations, workshop participants were also asked what scenarios they expected would actually transpire. Their response is recorded here:

4.1 Political/Security scenario

Communities on either side of the North-South border have enjoyed periods of peaceful coexistence, even during wartime. However, relations are currently extremely strained. The peace agreement signed by national actors in Naivasha, has not been translated into peace in the border areas. Despite efforts made in recent years, atrocities are still going on and the perception is that communities migrating into southern Sudan have no interest in peace. Participants reported that there had been over one thousand violent deaths in their areas since 9th January 2005.

The borderland is therefore plagued by insecurity. Conflict over land, resources, and state power will intensify. Indeed, increased conflict is the most likely scenario for border populations in Unity State. Some participants stressed that it is the only scenario. Conflict triggers include: 1) Border demarcation; 2) accessibility to water and pastures; 3) cross-border cattle raiding; 4) restriction of trade movements; 5) Government of South Sudan stopping oil flows; 6) criminality at the borders, and; 7) the issue of treatment of Southerners in the North.

Border demarcation is a key conflict flash-point: Only an agreed and respected agreement on post referendum oil sharing arrangements can avert a border war. This is a necessary but not sufficient condition for maintaining the peace. Even with a high level agreement on border demarcation and oil sharing, local level border community conflict could escalate into wider conflict: Local or national elements within both

North and South could seek to destabilize any agreement. The border demarcation decision must reflect national and local interests in land ownership if a broader conflict is to be prevented.

Inadequate implementation of border demarcation decisions will also lead to conflict, if southern populations remain alienated from what they perceive to be their land and resources. Implementation of an oil sharing agreement must work and be seen to work. The people of southern Sudan must be brought on board. Participants did not think that the southern population, if they had their own country, would be willing to share oil with their former foe.

Similarly, without the presence of a well planned, and clearly mandated, international force in the region, there is little chance of avoiding conflict. In the face of destabilizing elements, and in a bid to ameliorate what they may see as deficiencies in border demarcation, local communities will organize to defend their positions and livelihoods, and seek a more suitable outcome; thereby escalating conflict.

The conflict will start in the border areas of Unity State. It will not likely engulf the whole South as before. The SPLA and SAF will move their resources to the border and fight there. It will most likely be a short war followed by a long stalemate, with SAF and SPLA facing off at the border in new positions. The international community will not be immediately able to contain the conflict; it will fail to prevent the initial outbreak of conflict but will eventually use pressure to get a peace process on track.

Less likely, but possibly, the war could persist and spread. The border from East to West is long. There will be opportunities for military victories against, or to divide, opposing forces by opening new fronts.

These kind of strategies could spell protracted conflict. Similarly, participants stressed that a war with northern forces, even if it begins in Pariang, will be perceived as a war by the rest of southern Sudan. It will be hard to keep that genie in the bottle.

4.2 Economic scenario

Conflict over resources and land in the border areas and/or poor relations between governments will restrict the cross-border movement of people and goods, including cattle. Access to commodities will be severely restricted. Prices will increase. Governments in Juba and Khartoum may implement tit for tat on prohibitive tax regimes on the border. Over 95% of goods traded in Unity States derive from northern Sudan: Border communities will be adversely affected.

There are examples since the CPA of insecurity affecting cross-border trade. A disagreement at the border of Renk regarding deployment of SPLA forces led to the restriction of barges moving to Malakal. Movement of goods to the South was curtailed. Movements of charcoal from the South to the North was restricted. It was a situation that was economically damaging for both sides.

Traditional livelihoods will also be disrupted as militarization of the area increases. Migratory corridors will close, at least temporarily. Border communities will accept arms to protect themselves and their livelihoods.

Before or after the referendum the GoSS will restrict oil production in an attempt to gain a bargaining chip to ensure the remaining provisions of the CPA are implemented. The economy of South Sudan relies on oil for 97% of its revenue. This will lead to a

financial crisis at the national and local levels.

The restriction in trade, movement, or revenues could either follow from renewed conflict, or trigger conflict itself.



A woman leaves the market in Old Bentiu

4.3 Social scenario

The relationship between northern communities in southern Sudan and southern communities will be increasingly strained without suitable implementation of the remaining provisions in the CPA. On the surface, relations are positive in Bentiu town. Under the surface, they are fragile. The likelihood of problems in the post-referendum period lead some participants to argue it best for northerners to be repatriated before the referendum takes place. Many southerners in the North are displaced. Participants strongly expressed the view that they be resettled in the South, before the referendum if their safety could not be guaranteed.

In the urban centers, the delicate balance will be disrupted should anything untoward happen to southerners residing in northern Sudan. If southerners in the North are perceived to be mistreated, then southerners will respond in turn within the South. Participants argued that southerners in the North are not like northerners in the South. Northerners in the South are traders and therefore less problematic to resettle. They are mobile. They can pick up and go.

In rural areas good relations with the majority of migrating groups depends upon disarmament of Misseriya; border demarcation facilitating peaceful returns; and border demarcation recognising the perceived southern lands at 1/1/56.

In the case of unity or secession, it was deemed that the border authorities will treat communities crossing the border with extra suspicion, including the use of interrogation and intimidation. This will serve to further drive a wedge between peoples. In addition, the local and national wrangling

over land and resources will lead to further displacement, and leave little room for rebuilding cultural ties across the border. For example, participants held few hopes that the institution of inter-marriage would be revived. Nevertheless, in theory, such cross-community linkages could be a source of stability in post-2011 Sudan.



The management of the major oil fields lying along the border in Unity state will be significant both for national and local level scenarios

Text Box 4: Stabilizing Factors

"We want an open border, but the government must do certain things to make it viable" [Participant]

According to workshop participants, reconciliation and achieving peaceful coexistence at the border will require dedicated efforts to have any chance of success. Local peacebuilding must be accompanied by national agreements, and vice versa. If border demarcation and oil sharing can be arranged, the possibility for peaceful coexistence at the border will be improved. National level agreements are therefore necessary, but not sufficient conditions for border peace. Repatriation, access to resources and land, implementation of border demarcation, and questions of compensation must also be addressed at the borders by border communities. Further, a national deal is unlikely to manage all potential spoilers. Communities will remain open to mobilization in a bid to secure their rights and livelihoods.

The CPA does not offer guidelines as to how post-2011 arrangements could be managed in the case of secession of unity. It could not. But consensus on some of possible sources of stability emerged from consideration of visions, challenges, and scenarios:

- ◆ National level agreement on oil revenue sharing;
- ◆ Political will from political and security forces at all levels;
- ◆ Border demarcation together with implementation which takes into account the interests of border communities (for example, in negotiating the impact of demarcation on contested settlement zones);
- ◆ Establishment of cross-border security cooperation, including joint policing and border police;
- ◆ Joint access to services along the border;
- ◆ Promotion of cross-border trade, border markets, and other economic activity;
- ◆ Possible sharing of resources at the border, including water.



Sharing resources at the border could help all communities and help stabilise the North-South border

Text Box 5: Border demarcation, displacement, settlement

“Any attempt to make a viable peace and to revive and enhance our earlier relationships requires clear demarcation of the border.” [Participant, Unity State]

The CPA stipulates that South Sudan shall be the three regions/provinces of Bahr el Ghazal, Upper Nile, and Equatoria as they stood in 1/1/1956. Despite the clear mandate, border demarcation is a daunting task. It is difficult to see how diverse interests will be managed, local and national. The history of displacement and settlement in the region, which we briefly look at here, adds a distinct complication.

Participants outlined a cycle of displacement and settlement which has been ongoing since 1964. Since then, participants said hundreds of villages have been displaced in fighting, and in many instances Baggara/Misseriya groups have settled in their place. The current border is therefore further South than 1/1/56.

Participants gave examples of villages displaced. These included: 1) Bongwot; 2) Panyang; 3) Barjak; 4) Akol Akoch; 5) Mayan; 6) Dak Jut; 7) Awarfin; 8) Juang Kwech; 9) all villages in northern Abiemnom; and 10) ‘hundreds’ in Malorweir, near Mayom. In some areas, such as Karasana and Kellak, the Baggara/Misseriya have settled, built markets, and changed names. For example, participant said, before 1964, Pariang county communities only had borders with Nuba populations. Karasana is now a contested area. Oil police are reportedly operating in the area, reporting directly to the presidency. Rumours are circulating among the communities that it is no longer part of the ceasefire zone.



Sunset over Nuer settlements in Mayom County

Text Box 5 continued: Participants proposed that an accurate reflection of the 1/1/56 border would return these territories to southern Sudan. If implemented, and populations were able to return, this would go a long way towards relieving grievances. If not, anger will continue to rise and communities are willing to fight for what they still see as their territory.

Many of Sudan's major oil fields are also in these contested areas, and are a major factor in explaining the displacement that has taken place. An agreement which turned large areas to the South Sudan would be difficult to stomach for Northern Sudanese. Traditional authorities, elders, and other community members on both sides of the border know the historical borders (some worked with the British administration). Yet they said they have never been consulted on its location. Participants also maintained that cross-border community level dialogue could come to an accurate agreement upon the location of the 1/1/56 border.

Participants wanted to see two clear outcomes: Communities able to return to their ancestral territories; and acknowledgement by all parties of land ownership by southern communities.

5. Historical Arrangements

Participants were asked what historical and ongoing arrangements existed to manage cross-border relations. A summary of their response follows:

5.1 Cross-Border Relations: Attempts at Dialogue

There have been killings, abductions, cattle raiding, displacement and settling/occupation in Unity State for over 50 years. Attempts at dialogue between Dinka/Nuer and Misseriya have been practiced for just as long. For example, meetings in Abyei in the late sixties between Babu Nimr and Deng Kuol resulted in negotiated settlements, which have guided until recently compensation processes. Other major meetings have taken place in Abiemnom and Jao, but always in Dinka territories. Attempts have been made at State, county, and payam levels. A recent high level conference held in Bentiu in March 2010 involved the Governors of Unity, South Kordofan, Warrap together with the Administrator of Abyei, but participants pointed to a deterioration in the

situation since this took place, including a serious incident in Abiemnom involving heavily armed Misseriya travelling without cattle. There have been no significant successes since the outbreak of war in 1983, when the southern population went to Ethiopia to bring arms to the border.

The attempts to manage the situation are deemed to have failed because the Baggara themselves are used as proxy actors, working to destabilize the border, displace local populations, and facilitate control of territory. They are tools not craftsmen. Potential breakthroughs between communities have often been thwarted at the last. In one case, a member of a delegation of southern chiefs was killed by SAF to stall progress. Dialogues fail because underlying agendas are not reconciled. The situation is worse still because border demarcation remains unclear.

Border chiefs know the history of dialogue in detail. Despite the shortcomings of dialogue to date, they maintain that the situation could be improved with continuous workshops; and joint security organization.

5.2 Trade

There have been a number of cross-border markets. The most recent was constructed at kilo 23, 23 kilometres south of Karasana. This was a charcoal and timber market, selling goods for household consumption and wood for construction. The market was built before the CPA was signed and was jointly administered by Fula and Dinka. The market was destroyed by fighting in Karasana in June 2008, when a group of Baggara attacked. SAF barracks occupy the former local government station. The market brought substantial economic and social benefits.

Unity State also had a market called Rubh Ngai which was founded by Riek Machar in the early 1990s. The market encouraged Baggara to mix and trade whilst they left their weapons behind, bringing significant advantages to all communities. It was destroyed after the Khartoum Peace Agreement was signed in 1997, as fighting intensified between Paulino Matip and Riek Machar.

5.3 Employment

Southern communities perceive that Baggara disproportionately benefit from the oil industry, gaining employment in good numbers. The Baggara are also treated with better conditions, for example, they sleep in company compounds whilst workers from Pariang must return to their homes each day.

Recently, 300 workers from Pariang were dismissed from Heglig area. Pariang communities think the jobs will go to northern communities. (It was also perceived that the Nuba peoples also benefit from the oil industry in a similar way. Participants were not aware of any

similar frustrations among Baggara and Nuba communities towards the oil industry.)

There has never been a formal mechanism by which workers or chiefs have engaged with the government on oil related issues. Problems have been dealt with, or pursued, on an ad hoc basis through contact with the governors office, through the county commissioners. Chiefs have approached the government several times on the issue of employment rights but there has never been any changes in policy.

5.4 Provision of Water Points

Water points have increased in number as a result of road building. This is positive and reduces tension in proportion to the increased water supply. However, this mechanism has also been a tool for increasing conflict over water. There is lack of clarity as to who has rights to which water source, and water sources attract more groups to convene in an area, especially if water points are not also dug north of the border too.



Umbororo-Fellata nomads seeking water and grasslands In Pariang County,

Text Box 6: Mayom County: Growing distrust and the Breakdown of Dialogue

The population of Mayom County perceive themselves to have been squeezed southwards in a series of ongoing displacements. The result has been the accelerated breakdown of traditional dialogue mechanisms across the border communities since the CPA.

Until 2006, and even after successive waves of displacement from Kuak to Mankien, Mayom communities had water sharing agreements with the Misseriya. At one point, this permitted the Misseriya to move to Madiir in the extreme limit of Mayom County. Indeed, Mayom communities and Misseriya chiefs know each other well and by name. Relevant leaders on the other side of the border were given as Abd al-Rahman Bagi, Jamah Yousif, Jiddit Amark, and Curr (the son of a Nuer mother).

However, participants say Misseriya groups now claim land up to the river Kiir/Naam at Mayom, refuse to recognize the land rights of the Nuer communities, and see themselves as superior/civilized human beings. 2006 saw a meeting in Ruwa, organised by the State authorities, comprising communities of Mayom, Rubkhona, and Misseriya. Resolutions were not implemented. Now there has been no direct contact between the communities at the border for over a year.

Since then, relationships have deteriorated further. In 2009, a group of Misseriya captured and burned three youths in Wankai. Mayom chiefs were attempting to organize meetings in February 2010, but the surprise attack on February 4th in Awerfin and Awillin in Abeimnom, which reportedly displaced 800 families and killed 39 people, foiled the initiative. Misseriya have been settling in large numbers in these areas, building villages and schools.

Mayom community leaders expressed a genuine confusion over the source and motivation of the insecurity. The violence does not fit the historical pattern of cattle rustling and compensation. They point to attacks on women and children as a new conflict dynamic; and suggest that the attacks can only be understood as part of the growing militarisation at the border.

Participants said that the collapse in the relationship has gone beyond access to water and the need to rejuvenate traditional resolution mechanisms. There has been a complete breakdown of trust between communities. Compensation is outstanding for events going back to 1965, which adds to the intractability of the conflict: Southern youth committing cattle raiding have in mind the aim of recovering compensation which has accumulated unpaid over many years.

Nevertheless, participants want to hear from the Misseriya communities how they wish to approach peaceful coexistence, and the market at Mayom remains a locus for cross-border trade. However, for southern communities it is essential that Misseriya groups acknowledge that the land belongs to the Nuer. Border demarcation is critical to achieving this aim. At the same time, the southern State should guarantee security for migrating communities, in return for grazing fees.

6. Mechanisms to mediate the Situation: Principles and Proposals

The following section sets out the resolutions and proposals, reached by participants at the conclusion of the workshop, for how they would like to see cross-border relations managed in future:

6.1. Joint Border Policing and Disarmament *Joint border policing and disarmament would improve community security along the border*

Disarmament at the border is necessary. This requires the removal of guns from civilians. A joint border police force is needed to establish rule of law, and increase confidence in security arrangements.

6.2. Cross-Border Courts *Establishing cross-border courts would promote security, support rule of law, and peaceful coexistence.*

What?

A cross-border court should be established by the governments of Southern Kordofan and Unity States. The institution will try cases relating to criminal acts and maintain law and order, leading to effective citizen protection. The court will also impose fines for people conducting illegal activity.

More broadly, the border court should deal with issues of resource conflict; enforce the constitution at the border; ensure equality of opportunity and rights at the border; investigate abduction and kidnapping; protection of fishing rights; cattle raiding; illegal or irresponsible cutting of trees; land disputes; the elopement of daughters; tax evasion and smuggling.

Where?

A Main Court and a number of border stations are required. The border stations from Payam to County level should feed into the Main Court. Citizens would go to their local court in their county. Then the cases could be referred to the Main Court if necessary. The Main Court judges should be qualified Judges and courts could be established at 1) Nyame in Rubkona-Mayom; 2) Ajaj in Abiemnom; 3) Pachuol in Mayom; and 4) Kodelek in Pariang. Jau or Kurajiith (border between Nuba mountains and Pariang) is also an alternative – 50 kilometres from Kellak. The main court would ideally sit at Nyame.

It may not be possible to say where the border court should be placed without consultation with communities on the other side of the border. The location should be agreed by all concerned. This is because the courts must be respected by communities from both sides of the border. If necessary, there could be a temporary location until demarcation takes place.

Roles and Responsibilities

The court should be formed of representatives from both Unity State and Southern Kordofan. There should be a joint integrated community committee administering the running of the court. This would be comprised of chiefs and magistrates. After forming the committee, the committee will decide itself where to sit. The chiefs will judge certain cases, but Local Government and NGOs should be involved in administration and monitoring respectively. The secretariat should be composed of a joint committee, primarily of chiefs. A rotational system would ensure representativeness, with different individuals taking prominent positions over time – or the chairmanship could rotate from southern side to northern side.

There is a need for prison facilities and continual training of the police force. Any individual would be dealt with appropriately by the police, or the army. Game Reserve forces would also be established and a joint integrated police force would also work to implement the decisions of the court.

Infrastructure

The court will need appropriate buildings in which to work: 1) for security reasons; 2) to have the status of a respected institution.

6.3 Economic Activity

6.3.1 Trade

Free movement of trade and traders has a positive impact on border communities

Free movement of trade and traders benefits all communities, promoting economic and social gains: a) It brings job opportunities; b) improves relationships; c) gives access to goods and supplies; d) it is easy to

get basic needs; e) it brings small investment; f) markets bring development; g) Youth will interact with each other; h) it increases local revenues.

6.3.2 Border Markets

Development of border markets supports reconciliation and development

What?

The market/s will be used by communities from both sides of the border and managed by a Steering Committee, which will include some nominees from the Government. Southerners will sell charcoal, timber, cutting poles, bamboos, cattle. Northerners will trade clothes, hygiene products, sugar and other goods. Karasana market was a positive example of a border market which empowered traders and a number of communities interacted there. There was investment and the government benefited from the revenue.



Participants present their ideas in plenary session at the Cross-Border Relations Workshop

Where?

The market should be in Nyame. Other markets can be developed according to consensus. The markets could be established at 1) Nyame in Rubkona-Mayom; 2) Ajaj in Abiemnom; 3) Pachuol in Mayom; and 4) Kodelek in Pariang. Jau or Kurajiith (border between Nuba mountains and Pariang) is also an alternative, 50 kilometres from Kellak. They should be located by discussion across State, county and payam level.

Roles and Responsibilities

Market traders will pay small fees to the government to support development and assist the management of the market. They will receive a license for a specific period of time and the license could be used as identification for special status regarding border tax and movement regulations. The revenue should be paid to the payam and a percentage then will reach the county and the State.

National and local authorities should put a reduced rate on taxation of goods across the border destined to the cross-border market. National and State authorities should consider ways to subsidize traders in cross-border markets to encourage their success. For example, traders could receive loans and reasonable/discounted rates.

The Government should control the security environment and ensure that goods can reach the market safely. The town chief may be the appropriate head chief covering the market. Religious leaders can provide spiritual guidance. A cross-border trade union and chamber of commerce could be established to represent the interests of the traders from both communities.

Taxation policies should also be transparent in order that pricing can be too. This will help reduce tensions between traders and consumers. Police will monitor criminal activities.

6.4 Free Movement of Goods and Traders ***Appropriate taxation and permit systems can support border communities to pursue development and build peace***

Keep taxation low

If goods cannot move across the border or taxes are particularly restrictive, then the border is not operating in the interests of the populations. At the extreme, there would be a financial crisis. National level policy makers should ensure that taxation is kept low. However, it is recognized that some taxation is necessary to fund administration and development.

Special Provisions for the Border Zone

There should be a tax and movement concession border zone in which taxes are further reduced on local trade between border communities, and in which – regardless of wider national policies (for example, the possible introduction of passports and visas in the event of secession) – border communities can cross either freely or freely for a certain limited time.

Permits could be set up to assist in identification of people at the border. The permits could be obtained as an individual registers/purchases a license to be a trader in a cross border market, although this mechanism may be too restrictive. Ideally, the permit system must apply to all border communities so they can cross the border to see relatives and maintain social relations. The question remains, what criteria define a border community?

There should be immigration offices and customs duty offices along the border. The location of these should follow from the demarcation process and involve State and traditional authorities.

6.5 Infrastructure and Services

A. Improved transport networks would facilitate better trade, social relations, and return of displaced communities

B. Improved service provision at the border will improve livelihoods and enhance mutual respect across border communities

C. Cross-border radio stations will promote reconciliation

6.5.1 Roads

Improved transport links will facilitate free and smooth movement of goods and services, as well as necessary movements by security and law enforcement actors. There should be a road to connect all the border areas to the seat of the Joint Border Court.

6.5.2 Schools

This will bring better education and opportunities to citizens. Schools should be available to communities on both sides of

the border. Joint schools along certain borders should be considered. This might be an optimal way to organize schooling to promote efficient service provision and peaceful coexistence.

6.5.3 Health

There should be hospitals at the border. Hospitals and schools should be built by the Government in partnership with NGOs and CBOs. Investment in health care is extremely important. Communities need to be able to cross the border to access the nearest health facilities.

6.5.4 Peace Radio

There should be a peace radio for the border communities to air out their views and assist reconciliation. It should broadcast programs with messages of peace.

D. Once functioning cross-border security and justice mechanisms are in place, once the border is demarcated, and once the rule of law prevails, then services in the border areas such as health and education should be available to all communities in the border areas, including nomadic pastoralists from the north.



Cars drive by night along the only piece of tarmac road in Unity State: Citizens of the borderlands want better transport infrastructure



Text Box 7: General Recommendations of Principles to Inform Debate on Cross Border Relations and Post-2011 Arrangements

The following recommendations are the summary of the three days deliberations and they should be implemented to support peaceful relations in the border areas beyond 2011.

- ◆ ***Joint border policing and disarmament would improve community security along the border.***
- ◆ ***Establishing cross-border courts is necessary to promote security, support the rule of law, and facilitate peaceful coexistence between border communities.***
- ◆ ***Free movement of goods and traders across the border has a positive impact on border communities.***
- ◆ ***Appropriate taxation and permit systems, should facilitate cross border trade and movements which support border communities to interact and pursue development and peaceful coexistence. Special laws which apply specifically to border communities should be considered.***
- ◆ ***Development of border markets would support reconciliation and development.***
- ◆ ***Roads connecting border areas and improved transport infrastructure for borderland communities would facilitate better trade, access to services, social relations, necessary access for security forces, and the return of displaced communities.***
- ◆ ***Improved service provision especially health and education in border areas will enable displaced communities to return to their home.***
- ◆ ***Once functioning cross-border security and justice mechanisms are in place, once the border is demarcated, and once the rule of law prevails, then services in the border areas such as health and education should be available to all communities in the border areas, including nomadic pastoralists from the north.***
- ◆ ***Community communications initiatives such as cross-border radio stations could support mutual understanding and peaceful relations between border communities.***

Text Box 8: A note on Methodology

A combination of Open Space Technology and more traditional pedagogic techniques were employed throughout the workshop. The workshop proceeded on the basis that participants best understand the challenges which they are facing and are best able to prioritize between different issues. However, lack of existing debate on border governance and the implication of the referendum for border communities also mandated the use of targeted inputs. These took the form of presentations of key concepts and ways about thinking about borders as well as key relevant – or potentially relevant – lessons and experiences from the comparative perspective.

Open Invitation and Working Groups

The workshop offered an open invitation to discuss challenges and opportunities related to cross-border relations. It used a combination of plenary sessions and smaller working groups to refine the agenda and facilitate focus discussions.

The use of working groups reflected the nature of the participants and issues, which can be summarized as:

- ◆ A high level of complexity, such that no single participant or small group could fully understand or solve the issue.
- ◆ A high level of diversity, in terms of the skills and experience present (administrators and state authorities, traditional authorities, and community representatives and faith leaders).
- ◆ The presence of conflict and therefore a genuine motivation among participants to engage with issues.
- ◆ A high level of urgency. Time is short to develop arrangements for a post-referendum period.

Working groups took the form of focus group discussions. Participants formed three groups made up of: 1) administrators and state officials; 2) traditional authorities (chiefs); and 3) civil leaders (primarily women, youth and faith groups) . Plenary sessions offered an opportunity for presentation of working group discussions, and exchange and dialogue across groups.

Targeted inputs

Concordis International and the Center for Peace and Development Studies (CPDS) offered key inputs to plenary sessions in the form of concepts and lessons from comparative perspectives.

7. Comparative and contextual examples of other border experiences presented during the workshop by the Concordis/CPDS team

7.1 The Value of Comparative Examples

The workshop discussed the value of comparative examples to dealing with Sudanese border questions.

Different states and communities around the world have experience of facing extremely difficult border situations. Each has approached border governance with different ideas and models, with differing degrees of success.

Participants in the workshop raised many issues related to *where* the border should be, *who* should cross the border, and *who* should live where along the border. From doing so, it became clear that the interests of communities and the interests of States can differ. This is true of situations elsewhere, even if the details may differ in almost every other respect.

The situation in Sudan is unique, but some of the issues, as well as attitudes and emotions involved might be comparable to those of elsewhere. People learn from teachers because the experience of the teacher is different to that of the student.

Communities who have experienced war sometimes possess a “conflict memory”. This focuses the mind on the uniqueness of local experience, and makes it difficult to consider or compare what is happening in other parts of the world. This is justified in order to recognize and cope with suffering, but it can also lead to missed opportunities to learn from elsewhere.

7.2 Borders affect people: Berlin

The division of Germany was discussed as an extreme example of how a change in the

border regime can affect economic, social, and security relationships between communities. The division took place in 1945 but it took 16 years before the gun towers and barbed wire signaled, in 1961, the coming of the wall and people were prevented from crossing the city.

The wall was not expected by communities. Ministers of East Germany publicly announced that ‘no one has the intention to erect a wall’ just three weeks before construction began. The surprise decision was announced without consultation with communities and immediately before its implementation. There was no time to plan. The decision had a huge impact on the livelihoods and social relations of communities on either side. Families were affected; employees were separated from their jobs; trade relations were cut off; and rights were changed.

7.3 Institutions Matter: Examples

The impact of a border on social relations, trade relations, and rights depend upon how the border is governed. A number of examples were presented from around the world. These included:

Cameroon and Nigeria agreed at the diplomatic level to resolve competing territorial claims on the Bokassi Peninsula. Cameroon took the territory but both countries would jointly manage and benefit from the oil revenues. These arrangements were made before the transfer of territory and demarcation of the border. They ensured that there were fewer clashes at the elite level over the demarcation decision. However, citizenship arrangements were not so clearly arranged prior to the border demarcation. Nigerians in Cameroon became “second-class” citizens, without adequate protection from the State.

The European Union: has achieved a zone in which goods and people can move freely, just 60 years after total war.

Tunisia and Algeria: negotiated a special trade agreement for border communities which was integrated into national treaties.

Finland and Russia: set up pastoralist parliaments to negotiate and to secure their livelihoods after insecurity related to pastoralist migrations.

Israel-Palestine: Israel constructed a wall between Israel and the Palestinian territories. The reason given for the wall is to prevent violent elements crossing into Israel. The wall has separated many Palestinians from their farmlands, which sit on the other side of the wall. The result is serious economic problems, amongst others, for border populations.

Eritrea and Ethiopia: The lack of agreement and guarantees on the status of people of Eritrean descent in Ethiopia led to massive population movement.

Sudan: Closed District Ordinances were adopted in the 1920s. The stated aims included the control of slavery and protection of cultural and religious differences. Northern traders were prohibited from traveling to the South. It also restricted employment of Southerners in the North and the movement of ordinary citizens around the country. The border regime had long term repercussions. The policy isolated southern Sudan and restricted trade and development.

Other initiatives discussed in the meeting included the East African Community (Uganda/Kenya/Tanzania/Burundi/Rwanda), the Southern African Development Community (SADC), and the Economic Community of West African States (ECOWAS): Three regional organizations promoting socio-economic and security cooperation and integration.



Dr Leben Nelson Moro, Associate Professor at University of Juba, presents a comparative example



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