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# **Effective Humanitarian Assistance to Southern Sudan: The Legal, Political and Economic Constraints**

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### **Summary**

Although the civil war in Sudan is one of the longest ongoing conflicts in Africa it has not attracted much international attention. During the course of the war many lives have been lost and many people have been in need of humanitarian aid. Humanitarian assistance to southern Sudan, however, has always been insufficient.

This paper analyses the legal, political and economic constraints to effective humanitarian assistance. The legal obstacles seem to be the facts that there are no adequate international regulations regarding internally displaced persons, as the bulk of IDPs comes from Sudan, and that the Sudan is a sovereign state and the Sudanese fundamentalist government as legitimate and legal authority is entitled to full control of the actions of the humanitarian actors. The main political constraints are the policies of the government and of the rebel groups towards civilian populations and aid agencies, resulting in the prolongation of the violent conflict and the limitation of access to the people in need. However, the political involvement of humanitarian organisations and badly-designed development strategies are also to be blamed. The issues of ethnicity and ethnic tensions also seem to be crucial. The economic constraints are twofold: the inadequate level of funds and the existence of 'the economy of war'.

## **1. Introduction**

The civil war in Sudan is one of the longest ongoing conflicts in the post-colonial era in Africa. It has cost many lives and has caused much suffering. In this paper I will examine the legal, political and economic constraints to effective assistance in Southern Sudan. It is extremely difficult to distinguish whether a constraint is legal, political or economic as ‘the undertaking of humanitarian relief is a political decision, which must be backed by political will if it is to succeed’ (Johnson 1994:131) and therefore all kinds of constraints to effective humanitarian assistance classified as legal, economic or others can be seen as political and will undoubtedly have clear political inclinations. The purpose of this paper is to examine the main obstacles to assistance rather than divide them into various categories. Therefore this classification (which I have purposefully created) may well be perceived as inadequate and inaccurate. However, my division of constraints is based on the need for clarity of presentation and aims at the most suitable classification for the situation in Southern Sudan.

The paper begins with a short introduction to the country and its history since gaining independence. The second part contains a presentation of the main “actors” of humanitarian assistance. In the third section I examine legal constraints to assistance in Southern Sudan analysing the concept of sovereignty and the legal conditions of internally displaced persons. In the fourth part, I analyse a wide range of political constraints. I start by referring to the major theoretical causes of the political tensions and conflicts, and present main political powers of the region. I then discuss the difficulties aid agencies have in reaching people in need and examine the concept of ethnicity and its misuse by political centres. I also analyse the policies of the Sudanese government and of the rebel groups towards relief agencies and local populations. Finally, I examine different aspects of political involvement of humanitarian actors. In the fifth section I analyse economic constraints to effective assistance. In the case of Sudan this seems to be based on the reluctance of donors followed by shortage of funds and the establishing of the ‘economy of war’ as well as the spreading poverty.

## **2. Facts about Sudan**

Sudan is Africa’s largest country with a territory of 2,5 million square kilometres and a population of around 30 million. This vast country is home to approximately 300 ethnic groups who speak over 100 languages. The North is inhabited predominantly by Arabs whose religion is Islam whereas the South by Christian and Animist Africans. Generally speaking the conflict in Sudan is considered to be a confrontation between the North and the South,

where Arabs are trying to dominate the Africans imposing Muslim religion and culture.<sup>1</sup> Southern Sudan where the war takes place comprises ten states in three provinces: Upper Nile (Upper Nile, Jonglei, and Unity States), Bahr el Ghazal (West Bahr el Ghazal, North Bahr el Ghazal, El Buheirat, and Warab states), and Equatoria (Bahr el Jebel, East Equatoria, and Western Equatoria states). In my paper, I do not concentrate on specific provinces for two reasons. First, the war has spread to other provinces such as Darfur, Kordofan and Blue Nile, which are considered to be northern. Second, the idea of this paper is to analyse particular issues, rather than give a geographically focused presentation.

Sudan has an eventful history. ‘Once considered to be among Africa’s most promising nations, with the agricultural potential to serve as “Africa’s breadbasket”, Sudan descended into disaster after decades of war, several droughts, badly-designed development strategies, corruption and mismanagement’ (Sorenson 1995:131). The state gained independence in 1956. The first armed struggles developed a few months earlier. Repression and the Islamisation efforts of the military regime of Abboud (1958-1964) led to the establishment of Anyanya the separatist guerrilla army in 1962 and to full-fledged armed conflict. The era of colonel Jaafar Nimeiri from 1969 until 1983 was free from major military activities. At that time the South gained autonomy (the Addis Ababa Agreement of 1972) with its own assembly in Juba, the capital of Equatoria. In 1983 Nimeiri terminated southern autonomy abolishing the legally elected regional government, and a few months later imposed Shari’a law in the entire country. Those acts triggered another war in the South which has lasted since then. Sadig al-Mahdi, who after democratic elections took power in 1986 was not able to end the conflict and was ousted in the military coup of Omar al-Bashir on 30 June 1989. The al-Bashir regime characterises strong policy of Islamisation in the South. In my paper I focus on the issues and their related events during Bashir’s era which continues to the present day.

### **3. Humanitarian assistance**

Humanitarian assistance is a form of aid provided to people affected by famine, war, natural disaster. Famine itself is usually a result of political unrest or deteriorating economic or environmental conditions. Aid as such can be defined very broadly. Military intervention and financial help seem to be the main international response to poverty in Africa. However, when we speak about humanitarian assistance we usually mean action, during which we supply the people in need with necessary stocks and offer them protection to some extent.

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<sup>1</sup> It is certainly not that simple. However, the thorough explanation of the issue comes along with the analysis later in this paper.

According to Giorgio Ausenda (1997), the main actors of humanitarian assistance can be categorised as either internal or external. Among the external are: the agencies of the United Nations; governments; non-governmental organisations (NGO) and the International Committee of the Red Cross. Among the UN agencies participating in humanitarian actions are: UNHCR, UNDP, UNICEF, World Bank's International Development Association, World Food Programme (WFP), as well as UN Department of Humanitarian Assistance. Traditionally the most active governments are those of the United States, the United Kingdom, France, and the Netherlands. Although 'the flow of aid from certain countries, notably the USA, has in fact shrunk, this has been offset by increased flows from Scandinavia, Japan and Italy' (O'Connor 1991:143). The Overseas Development Administration (ODA) of the British Government and the United States Agency for International Development (USAID) belong to main donor agencies. NGOs such as Medecins Sans Frontieres, Oxfam, but also ICRC have been known for their involvement in assistance.

According to Minear and Weiss the "internal actors" include: local governments and military authorities; insurgent political and military forces; and local NGOs (Ausenda 1997). Sudan is ruled by a fundamentalist government of Arabic majority composed predominantly of the National Islamic Front (NIF). There are several insurgent political and military forces, but the main one is the Sudanese People's Liberation Movement (SPLM) and its armed wing the Sudanese People's Liberation Army (SPLA) led by Dinka - John Garang. The main local aid agencies are the Relief and Rehabilitation Commission (RRC) in the North and the Sudan Relief and Rehabilitation Association (SRRA) in the South. However, all the rebel groups tend to have their own quasi-agencies. The RRC was created in 1986 by the Sudanese government in order to deal with various aspects of relief, but the organisation which purports to concentrate more specifically on the issues of displaced people, is the Commission of the Displaced. The SRRA, solely dependent on SPLA, has a wide scope of activities. They try to assist in many different areas of social life such as education, health services, transport and sanitation.

There are many theories concerning strategies of assistance. An interesting view is presented by F.C. Cuny who divides 'famine operation during conflicts' into several categories among which the case of Sudan seems to reflect the 'cross border relief strategy' based on the 'open roads programmes' where the relief agencies negotiate an agreement with both sides of the conflict (Cuny 1999). Omer Elmugly (1995) argues that management of relief can be in a form of 'management by process' and 'management by results'. The first gives priority to rules and regulations, sometimes irrespective of the final outcome whereas

the second, clearly preferred by the author, requires a dynamic, flexible structure to cope with a volatile and rapidly changing task environment.

Recently humanitarian interventions seem to be based on the principle that the UN obtains access and provides co-ordination while the NGOs implement the relief programmes. However, criticism of assistance seems to be increasing. NGOs are blamed for actually prolonging the conflicts themselves, whereas UN agencies are usually criticised for their inefficiency. 'Critics [also] regularly object to the orientation of aid towards large scale, capital-intensive, high-technology projects, and against its support of repressive regimes. Last but not least, aid is blamed for tolerating a high level of the misappropriation of aid funds and corruption' (Tomasevski 1989:12). Therefore it is wise to conclude that criticism concerns not only humanitarian assistance itself but also other sectors of aid. On the other hand, however, it is not clear what effective assistance is supposed to mean and how in fact it should be measured. Nobody can say, or even forward a realistic guess, how many people have died from famine in Sudan and certainly nobody is able to count how many lives have been saved.

#### **4. Legal constraints**

In analysing the legal constraints to effective assistance to Southern Sudan I will limit my discourse to two issues. First, I will analyse the concept of sovereignty. Second I will examine the legal position and conditions of internally displaced persons as Sudan is the main producer of IDPs in the world. One can insist when discussing the legal constraints it is necessary to include the decisions made by the Sudanese government, which surely should be perceived as laws introduced by the legitimate authorities in the sovereign state. However, the political motives and implications of those decisions are obvious, and in that sense, they should, in my opinion, be seen as political limitations.

The concept of sovereignty seems to be currently a fundamental element of an international law determining independent state. States' authorities have a right to exercise power over their territory and to protect their borders. Moreover, each state, according to international law, has a duty of non-intervention into the affairs of other states. 'Non-interference in domestic matters and respect for nation-state sovereignty was a cornerstone in international relations' (Duffield 1997:209). Luban (1980) points out that the concept itself served as a basis for developing doctrine that sovereign states are de facto above the law. Therefore one of the major obstacles in delivering assistance is the fact that Sudan is a sovereign state and international institutions are severely limited in acting on its territory and against its government. However it can be argued whether Sudan is a sovereign state or rather

a “quasi-state”. ‘Quasi-states are states which are recognised as sovereign and independent units by other states within the international systems, but which cannot meet demands of “empirical” statehood, which requires the capacity to exercise effective power within their own territories, and be able to defend themselves against external attack. Such states have “negative” sovereignty [...] ascribed to them by other states but do not possess the “positive” sovereignty which derives from effective control’ (Clapham 1998:15). The concept of a ‘negative sovereignty’ however is not a matter of legal concern, but rather of a political one. Consequently, although Sudan might not meet the criteria for legitimate statehood, nonetheless in legal terms it is a sovereign state and the Sudanese government is a legitimate authority within the state’s borders. The concept of sovereignty and its international recognition within the international legal norms, caused a major nuisance in effective humanitarian assistance conducted by the UN. The UN was created by, and is accountable to, nation-states and is not authorised to intervene in matters which are essentially within the jurisdiction of the state. Therefore ‘the problems for the UN with regard to [i.e.] OLS<sup>2</sup> were basically that Sudan was a UN-recognised sovereign state and itself a member of the UN so there was a reluctance to take action that could be construed as contrary to the regime’s wishes’ (Woodward 1996:181). Even when it is quite obvious that the Sudanese government is unable to control its entire juridical territory ‘in situations of disputed sovereignty where major emergencies may exist in areas beyond the control of the nominal state authorities, the UN has repeatedly found itself bound and gagged by its interstate mandate in the many sided realities of intrastate conflicts’ (Slim 1994:196). Moreover ‘the fact that the UN centres on the notion of national sovereignty, represented by its member states, means that in recent years humanitarian needs are often greatest at the point at which the international community has the least clear mandate to respond. The inability to adapt and respond to intrastate dynamics of conflict in many of today’s emergencies has rendered UN an unwieldy and often paralysed player in complex emergencies’ (Slim 1994:196).

Most of the Sudanese displaced population are not refugees, covered by a great deal of international norms, regulations and laws, but internally displaced persons. It is estimated that over 4 million people can be considered internally displaced in the southern provinces of Sudan, however accurate data is not available, as the on-going violent conflict produces new forced migrants constantly and there is no institution which would be in a position to deliver adequate information from the war affected areas. As effective humanitarian assistance to

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<sup>2</sup> The Operation Lifeline Sudan.

refugees is in legal terms relatively easy, simply because the host states welcome help from the international institutions, it does not concern the internally displaced. Therefore one of the major legal constraints to humanitarian assistance to Southern Sudan is the lack of effective legal and institutional background for internally displaced persons. The limitation to assistance seems to be the fact that the internally displaced are still on the jurisdictional territory of the persecutor (if the persecution is conducted by the state's authorities). Moreover, they would certainly become refugees if they only could flee their country of residence. Following the Carens (1992) statement that the most desperate, vulnerable and threatened are stuck in camps and shelters in the states next to the lands from which they fled, I would like to point out that those who have not managed to flee their country at all are very often in worse conditions. Whereas those who have fled to the neighbouring countries receive help and some degree of security from international humanitarian organisations, those internally displaced southern civilian populations of Sudan continue to endure untold suffering at the hands of their own government. Although the Oslo Conference in 1988 and the appointment of the Representative of the UN Secretary General on Internally Displaced Persons in July 1992 are considered as first significant steps towards international recognition of the problem, it is still insufficient. Moreover for the time being there is no generally accepted definition of internally displaced persons or a specific agency with an overall mandate for them. It is indisputable that the essential legal requirement for effective humanitarian assistance is a creation of an organisation with a clear mandate. The debate on who should be responsible for IDPs has taken place for several years. Richard Holbrooke, the former US ambassador to the UN wishes to see the expansion of the UNHCR mandate. Indeed UNHCR itself has on several occasions been called upon to provide protection and assistance to IDPs. However, it is strongly opposed by some<sup>3</sup>, as UNHCR carrying this task 'will strengthen the impression that it is an organisation mainly dealing with migration questions' (Kjaerum 1992:111).

More important, however, seems to be the question of the implementation of existing legal regulations and introducing new ones as those already introduced seems to be insufficient. The lack of the adequate legal norms undoubtedly can be seen as a constraint to assistance. Currently the principal sources of the standards for protection of IDPs as well as foundation for further protections are found in international human rights law, specifically the

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<sup>3</sup> James Hathaway (University of Michigan) supports the idea that the International Commission for Human Rights should deal with internally displaced persons, whereas Guy Goodwin-Gill (Oxford University), that the most suitable organisation would be the International Committee of the Red Cross.

Universal Declaration of Human Rights, the 1966 International Covenant on Civil and Political Rights, the 1966 International Covenant on Economic, Social and Cultural Rights and in Africa - the 1981 African Charter on Human and Peoples' Rights; humanitarian law which comprises the four Geneva Conventions of 1949 and the two Additional Protocols of 1977; and refugee law embodied in the 1951 Convention relating to the Status of Refugees and the 1967 Protocol. In Sudan, where there is a non-international armed conflict, it is clear that international human rights law and humanitarian law provide a framework for the protection of internally displaced persons.

Moreover the notion that non-state actors should be internationally responsible for human rights abuses has gained ground in recent years (UNHCR 1996). However, the law imposes legal obligations only on the parties of the conflict, and there is no clear rule who and how should intervene in the situation of emergency. Therefore I disagree with Francis M. Deng<sup>4</sup>, who claims that already existing legal regulations are sufficient and the problem lies in their implementation. In my opinion, the issue of sovereignty once again surfaces. As long as we do not give up some part of sovereignty in order to secure human rights and then create mechanisms to protect them, humanitarian assistance will not be effective. In addition, there are no strict legal regulations concerning relief actions themselves as the international humanitarian law was not set up to deal with such a situation. The Geneva Conventions also bestow primary responsibility for meeting relief needs on the host authority and with this responsibility goes the power to regulate relief activities. Therefore 'legal grounds for sustaining such programmes are uncertain, faced with Sudan government objections founded on sovereignty' (African Rights 1997:361).

## **5. Political constraints**

It is extremely difficult to qualify which constraints to humanitarian assistance are political due to a rather blurred definition of what 'political' actually means. It is also difficult to group different political constraints. For the purposes of this paper I have divided political constraints taking into consideration the actual situation in Southern Sudan rather than theoretical concepts. Therefore this part of the paper is orientated much more towards the political situation in this part of Africa, contrary to the previous one, where legal constraints were analysed theoretically rather than practically as they seem to be similar for most of the crises.

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<sup>4</sup> The UN Secretary General Representative on the Internally Displaced Persons.

It is said that the major political constraint to effective humanitarian assistance is war itself. Indeed it is quite a convincing argument that all other aspects of political limitations derive from a violent conflict. In 1992 Timour Dmitrichev listed 29 major causes of potential tensions and conflicts (Furley 1995). Olivier Furley (1995) suggests that they can be summarised in four points, from which at least three can be used for describing the conflict in southern Sudan. First, the situation there can undoubtedly be described as a domestic power struggle between hostile groups and ethnic violence related to religious and cultural issues. Second, ideological and political campaign featured with a strong religious expansionism, is one of the major issues of the war in southern Sudan. Third, the persecutions and violation of human rights are very common.

It is a general impression that the conflict in Sudan takes place between Sudanese Arabs from the North and Sudanese Africans from the South. For a long time it was true, now, however, the situation has changed diametrically. First, there is the Sudanese government on one side with several rebel movements which decided to sign a peace agreement with the authorities. Second, there is John Garang's SPLA-Mainstream with democratic Arab parties such as the Democratic Unionist Party, the Sudan Democratic Alliance, the Sudan Alliance Forces, the Beja Congress Forces, and the Legitimate Command of Sudanese Army, forming the National Democratic Alliance - NDA. Third, there are al-Mahdi's Umma Party which opted out of the NDA and Hassan al-Turabi's Popular National Congress, whose political position is not very clear at the moment, and fourth there are warlords and independent rebel groups, which in majority tend to be concerned with their own welfare.

In Bahr el Ghazal Arab Murahleen militias raid Dinka. In Upper Nile, inhabited predominantly by Nuer, rebel militias fight each other. In Equatoria Dinka's dominance is challenged by local tribes whereas some towns are still in possession of governmental forces.

One of the main aspects of effective humanitarian assistance in the situation of armed conflict is the problem of access. Although it can be argued whether we should discuss this technical rather than political constraint, I would only like to point out that war itself is a political issue. Consequently the concept of 'negotiated access' plays an important role in effective assistance. 'Within the UN, the chief policy instrument for "negotiated access operations" has been the development of formal rule-based physical security and delivery systems' (Duffield 1997:211). I believe that in the case of Sudan the 'corridors of tranquillity' can be seen as good examples.

Access to the people in need is severely limited due to military activities. Unrest and raids also have slowed relief work and even forced the evacuation of aid workers. Many aid agencies employees are forced to leave places where they provide assistance to the local population, due to the increase of violence. In 1997 and 1998 alone the workers of MSF were forced to evacuate, relocate or entirely abandon several areas where assistance projects took place. Six of them: Ajak, Bararud, Ajiép, Thiekthou, Pakor and Panthou, were situated in Bahr el Ghazar, whereas five of them: Duar, Gumriak, Nhial Dhu, Leer and Quoich – in western Upper Nile. MSF very often indicated that security threats to the staff on the field obstruct the activities of all relief agencies and strongly limit the medical and nutritional assistance that can be delivered. Moreover ensuring effective targeting (determining the people in need of assistance) requires a field presence that cannot be systematically sustained in areas of conflict. MSF (1998) warned that there are numerous areas where the conflict continued to take place, and access to populations in need of humanitarian assistance was restricted or limited. The WFP urges that more famine zones emerge as the continued political insecurity worsens the food shortages. Famines induced by war result in great mobility of the people who require humanitarian assistance. Moreover, in many areas where people could previously manage without food assistance now need help. Therefore effectiveness of assistance is strongly affected as the amount of assistance varies infrequently and the physical place of assistance must be changed often.

It is claimed that ethnicity can be blamed for conflict between representatives of different tribes. Indeed, in the case of Sudan, major divisions are drawn along ethnic lines. However, the concept of ethnicity has been misused by politicians in order to achieve their goals. ‘In latter part of the twentieth century [there] has been unexpected emergence of ethnic identity as an idiom for the expression of political and economic interest’ (Turton 1997:81). Closer study of ethnicity reveals that in no way can it be seen as a means to justify a violent conflict. It is said that ‘ethnicity [can not] serve as a casual explanation of war, because it is not a thing in itself, even though its power to influence behaviour is largely the result of it being seen as “natural” property of a group. It is rather, a relational concept: it refers to the way cultural differences are communicated and it is therefore created and maintained by contact not by isolation’ (Turton 1997:78). John Garang himself admits that ‘Arab culture is our [Southern Sudanese] culture and Arabic is our language, and they are there to stay’ (Khalid 1987:12).

However, the multiethnic societies can cause constraints to effective assistance. The region inhabited by Nilotic peoples such as the Dinka, Nuer and Shilluk, the Nilo-Hamitic

peoples such as the Bari, Latuko, Toposa, and Murle, and the Sudanic peoples such as the Madi, Belanda, and Azande is extremely vulnerable to ethnic unrest. The Nuer groups have routinely attacked, looted, and burned civilian villages mainly the Dinka, killing civilians, wiping out their cattle and grain, and sparking a need for emergency relief (Human Rights Watch 1996). On the other hand many southern tribes, especially those in the province of Equatoria, have long-held hostilities and suspicions toward the Dinka. Nevertheless the major atrocities are committed by the Baggara and Riziyat, who raid southern villages looting their belongings, killing men and enslaving women and children. Ethnic conflicts within the region can be seen as a major obstacle in delivering aid, as it is difficult to reach those in need and a significant part of the aid is likely to be overtaken by militias. Another aspect of the situation when it must be dealt with various ethnic groups is that aid agencies and aid workers are blamed for favouring one particular population over another. This issue, however, I will examine later in this paper together with the political involvement of relief agencies.

The most significant political constraints to effective humanitarian assistance to Southern Sudan are undoubtedly the government's and the rebel groups' policies towards aid agencies as well as to the local populations.

The main relief operation in the region is the Operation Lifeline Sudan. The OLS is made up of 40 relief organisations ( with UNICEF as an "umbrella organisation") and is authorised by the rebels, the United Nations and the Sudanese government. It is responsible for roughly two-thirds of aid to Southern Sudan. The OLS was originally created to provide neutral humanitarian assistance to war-affected populations throughout Sudan, regardless of their location. It was conceived as an innovative means of providing assistance and protection to the Sudanese in need. In the last thirteen years it has constantly provided aid in a situation of ongoing conflict. Initially it was designed as an *ad hoc* operation which finally took form of constant action. The OLS started when Sudan was still ruled by the government of Sadiq al-Mahdi. However most of the operation up until now has been conducted while the state has had an Islamic fundamentalist government of lieutenant-general Omar Hassan Ahmed al-Bashir. Since then the OLS as well as independent relief organisations encountered many difficulties and obstacles imposed by the government. Although al-Bashir gave a positive response and firm commitment to the Operation Lifeline soon thereafter it was clear that his intentions were diametrically opposite. He also promised to continue peace talks not excluding a possibility of secession of the South, but he never fulfilled his promises. Very soon after seizure of power, Hassan al-Turabi, the leader of the National Islamic Front, started playing a significant role in Sudanese politics and became de facto the second most important

person in the state<sup>5</sup>. It also became obvious that ‘NIF’s [and government’s] claim to legitimacy resides in its adoption of Islamic principles, and its goal is a theocratic rather than a democratic state’ (DeWaal 1997:98).

Many limitations imposed by the Sudanese government on the aid agencies can clearly be seen as political constraints. First of all we can discuss various limitations imposed on aid workers. Second, we can analyse the governmental policy and actions in regard to peace talks, military operations and general hostility to the South and/or relief providers. Some limitations are in the form of travel restrictions combined with complicating formal procedures to deal with authorities. The ban on all flights except military ones was introduced shortly after al-Bashir expressed his commitment to relief operations. Since then flight permission has been a matter of negotiation and the situation has changed frequently. In 1998 as soon as the OLS announced it was making emergency deliveries of relief food to approximately 100,000 civilians who had escaped the Wau slaughter, the government on the 4<sup>th</sup> February banned all relief flights into the entire rural area Bahr el Ghazal (Human Rights Watch 1999). Moreover, they imposed restrictions on other means of transportation. The military authorities started blocking shipment on the Nile, as well as truck convoys and trains demanding shares in humanitarian aid goods transported.<sup>6</sup> At the same time ‘all the expatriate permits were nullified, and diplomatic and UN personnel could only travel in an emergency and after receiving approval from military security’ (Burr 1995:220). Even an official protest by the British ambassador regarding ODA operation was ignored. Moreover, valid truck contracts were nullified. The imposition of various limitations and its random character throughout the time of Bashir’s regime has been and still is a significant political obstacle to effective assistance. The lack of Bashir’s government’s will to introduce peace into the region can also be seen as a political constraint. ‘The regime continues to capitalise on the popular yearning and international sentiment for peace talks, as long as they remain just talk. Once discussions move to substantive issues, and negotiations are about to begin, the process comes to a halt’ (Ali 1999:214). Also internally, the government was very reluctant to solve problems without introducing what John Garang describes as ‘Arabism as political and religious supremacy based on racial heredity’ (Khalid 1987:12). The hostility towards the OLS and other relief efforts was clear. Al-Bashir tried to discredit the operation by claiming the existence of ‘ignored malpractices’ (Burr 1995) within the structure of the action.

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<sup>5</sup> He was the al-Bashir ally until December 1999, but since February 2001 has been under house arrest.

<sup>6</sup> I.e. in August 1989 National Salvation Revolution Command Council (NSRCC) refused to realise a train in Aweil unless two-thirds of the food went to government towns and villages (Burr 1995).

The government policy towards the civilian population in the South can be seen as a significant basis for creating political obstacles. In order to extend its control over Sudanese people the 'popular defence forces law' was promulgated, creating the Popular Defence Force (PDF). In effect, it legalised the existence of tribal militias that has brought such destruction and death to the South. The Sudanese government can also be accused of causing famines such as in Wau or Jabelin, where by direct military action against the local population many people were killed or forced to flee, adding to the number requiring humanitarian assistance. The regime supports several militias such as Baggara Arabs, who as Muslims of the same nation are considered natural potential allies, but also different groups of Nuer, who in Upper Nile province fight against each other, or some of the Southern allies from the 1996 peace agreement. 'The government has manipulated differences between different southern peoples and financed several ethnic breakaway rebel factions to serve as its proxies in attacks on the main rebel group SPLM/A- Mainstream' (Human Rights Watch 1996:13).

It is not only the government who is responsible for creating constraints to humanitarian assistance to the population of Southern Sudan, but also several rebel groups. John Garang's SPLM/A-Mainstream, which undoubtedly is the most important southern force controlling large areas in Equatoria, Bahr el Ghazal and Upper Nile, has imposed several limitations on aid agencies. The most significant took place when in January 2000 SPLM leadership announced that a new system of taxes and operating fees would be imposed on all humanitarian agencies, except the UN. The agencies, however, objected to the conditions in the document which would give rebels more control over their operations and would allow the SPLM authorities to charge for activities such as aircraft landings and movement within rebel-held territory. Therefore 11 agencies, among them MSF, World Vision, Oxfam, Care International and Save The Children, refused to sign the document. Even though the project was heavily criticised by both international organisations and the Sudanese government, SPLM decided not to negotiate the issue and ordered the organisations which had not agreed to the new tax scheme, out of the area. At the same time Elijah Malok, the SPLA commander responsible for negotiating the agreement, accused the agencies of failing to respect SPLA sovereignty (Reuters Africa 2000).

The rebel forces are also responsible for several abuses and acts which caused displacement of the populations. SPLA has been involved in looting, killing civilians, confiscating food, which unarguably led to an increase in the number of people who required humanitarian assistance. SPLA forces are believed to have destroyed thirty-five villages, killing over 100 children and 50 women in Ganyliel in June 1995 (Human Rights Watch

1996). Moreover 'during its existence, the SPLM/A has acted more like a military organisation and less like liberation movement, and has not been able to bring any semblance of order to the so-called liberated areas, let alone build political and social institutions that overshadow tribal allegiance' (Kebbede 1999:56).

The limitations imposed as well as the general policy are concentrated around the competition for one of the scarcest goods in the region – food. Food plays an important role in internal conflict. In Sudan both sides have used food as a political weapon, even though they have aggressively denied applying such a stratagem. The government has prevented relief food from reaching the starving civilians in the South whom it accuses of being sympathetic to the SPLA. The authorities have also constantly tried to monitor closely the food distribution, imposing more and more obligations on the aid agencies and significantly reducing the effectiveness of help, as it should be based on a real assessment of the need and not on political judgement. Not only did the government interfere in the movement of food, it prohibited support to projects such as school-feeding programmes in the rebel-held areas which it considered of strategic value to the SPLA. The government also withdrew flight permission after WFP announced that it had reached its target at the end of 1989, and in 1990 objected to the food convoys during the dry season (Johnson 1994). Alex DeWall (1997) claims that the famine of 1990/91 could have been prevented, if the reserves of grain which had been exported, would have been released into the market.

In such a long conflict as in southern Sudan, the political involvement of aid agencies, seems unavoidable. It can be seen, however, as an important political constraint to humanitarian assistance. The political affiliation of local relief agencies is unquestionable. SRRA has unarguably strong connections with SPLA. Therefore many NGOs together with USAID were accusing the organisation of 'diverting relief food to non-relief activities and perhaps even to SPLA itself' (Burr 1995:238). Nonetheless nobody has been able to determine how the agency could establish some autonomy from its military partner.

It is claimed that because of the weakness of OLS structures, the UN agencies failed to implement their relief programmes with the full degree of balance, impartiality, and transparency they pledged. Even though the OLS officials expressed desire to keep humanitarian operations clear of political interests and its chief Phillip O'Brien having taken office at the end of 1992 remained immune against the pressure of the Sudanese government, the OLS has been constantly accused of sympathising with one or another side of the conflict. This has led to hostilities between aid workers and allegedly not favoured populations. One of the Nuer commanders after the Bor Massacre explained that 'all the assistance donated by

foreign governments was converted by Garang to particular benefit [of his own tribe]' (African Rights 1997:276). The OLS was also accused of favouring the Relief Association of Southern Sudan – RASS, after having recognised the agency created by Riek Machar. Undoubtedly the overall judgement of the OLS's political involvement was based on the fact that its northern sector has been co-opted and manipulated by the Sudan government and the southern sector has found itself drawn into a vacuum of quasi-governmental responsibility, that it cannot adequately fill. It was claimed that the relief agencies were trying to 'place real power into the hands of the officials responsible for delivering food' (African Rights 1997:280). This theory can be supported by the fact that in Juba NGOs have actually gained very strong infra-structural power as compared to the state and were able to impose factual economic control therein.

Many international agencies, especially those of the UN have established networks in the Northern Sudan co-operating with the Sudanese government in various development projects or relief activities and in order not to upset their partner and strengthen their political position were not particularly interested in the South. 'The WFP office in Khartoum in 1990-91 appeared to have very little interest in the OLS – Southern Sector, but showed considerable interest in securing for itself a leading role in organising famine relief in Northern Sudan' (Johnson 1994:132).

Political involvement can also have a form of 'multiple loyalties'. Although everybody is likely to admit that aid agencies should consider the needs of the local population as a priority, it is hardly possible for the aid workers to act independently and not take into consideration the advice or more likely orders from headquarters. Headquarters' decisions are likely to be politically and financially orientated.

In the developing world many relief operations have been built on an *ad hoc* basis without an element of feasibility. This can be seen as a political constraint. Operating on the *ad hoc* basis is certainly insufficient in the so long ongoing conflict in Sudan. It is claimed that with no overall priorities established, there has been no systematic approach to the relief problems in the entire region (Johnson 1994). Moreover, Mark Duffield is convinced that 'relief programmes are built from series of short-term assumptions and institutional arrangements. Funding and personnel structures are *ad hoc*. Some programmes, such as that in Southern Sudan, have been operating in some form or other for a decade. Nevertheless, they are still supported by periodic "emergency appeals" ' (Duffield 1997:212).

## 6. Economic constraints

In my opinion it is extremely difficult to distinguish economic from political constraints. One can argue that the economic obstacles, I shall refer to, are in fact political. Indeed all economic constraints are undoubtedly politically motivated. Nevertheless their political foundations does not necessarily mean that they are not in the main of an economic character.

I believe that in the case of Sudan we can discuss two main groups of economic constraints. The first one represents a shortage of funds from the donors and is usually based on their political preferences. The second one is caused by widespread poverty in the region and the dominance of the 'economy of war'. Sudan is one of the poorest countries in the world and therefore a great part of the population is actually in need of humanitarian assistance. It is hardly possible to judge who should be provided with aid and who should not as the overall situation seems dramatic.

'The main fuel of humanitarian action is, of course, funding' (Ausenda 1997:238). Giorgio Ausenda mentions 'outside resources' as the first element of the 'chain' of humanitarian response. International institutions or governments which provide necessary funds for humanitarian assistance are the first element of this chain. The primacy of these donors has always been criticised as they have very often imposed pressure on aid agencies suggesting how the funds provided should be used. Ausenda claims, however, that 'despite their primacy, donors are not absolute in determining the aims and recipients of their humanitarian help, because quite often they operate through humanitarian actors, generally NGOs, whose policies are of necessity well defined and do not always coincide with those of the donors' (Ausenda 1997:237). He also seems to be optimistic when it comes to the evolution of donors' attitudes and broadening their programmes. I, however, do not tend to agree with Ausenda's view and believe that my analysis of the political involvement and dependency of NGOs elaborated earlier in this paper can serve as a counter argument.

In the case of Sudan it has been observed that the donors are in particular more reluctant to provide funds than in other crises. It is undoubtedly politically motivated as major donors are developed countries' governments seeking influence. Sudan does not seem to be considered of a special strategic value. During the time of al-Bashir's regime there has been other serious crises in the world, which required humanitarian assistance and were considered more important. Bosnia, Somalia, Kuwait and finally Kosovo attracted much more international attention and consequently donors. Especially, when the Sudanese government officially backed Saddam Hussein in the Gulf War, the donors became more reluctant to

assist. 'Any US participation in the OLS III seemed moot once the NSRCC gave its support to Iraq following the August 1990 invasion, conquest and assimilation of Kuwait' (Burr 1995:285). Moreover the UN actively involved in the operation Desert Storm neglected the pledge of 313,000 tons of food aid by humanitarian agencies (Burr 1995). Earlier the donors having received the information about the commencement of OLS II expressed little enthusiasm. The situation of reluctance of assistance seems to last until now and is not only based on the lack of sufficient interest, but also on the lack of adequate co-operation between donors and aid agencies. The situation in 1998 became critical as 'many donors initially chose to disbelieve early reports of the OLS and NGOs warning of impending disaster. Time was wasted in debates on terminology ("was it a famine," "pre-famine", "food crisis") and opportunities [for effective assistance] were lost' (Human Rights Watch 1999:171). Officials of western governments very often question the need for assistance, and therefore aid agencies suffer from insufficiency of means. Clare Short, the United Kingdom's minister for international development seemed to share the common opinion, that assistance can serve as a preserver of war itself. Ms. Short claimed in May 1998 that 'the public emergency appeal which raised millions of pounds for the private charities to feed the starving in the southern Sudan was unnecessary' (Human Rights Watch 1999:171). Due to this attitude the UN's appeal for funds in 1998 raised only half of the sum required. The overall view that there are certain links between provision of aid and the continuation of the war has been preventing deliveries of necessary goods to the areas which require assistance. In 1995, only 19 percent of the assessed need was delivered to Bahr el Ghazal (Human Rights Watch 1999), the most populated region which so far received the least attention relative to its populace.

Another economic constraint to effective humanitarian assistance is the military model of economy. The 'economy of war' has several characteristic elements. First of all the proportion of national resources diverted to the military is overwhelmingly high compared to other areas of governmental duties. In Sudan a significant amount of money is spent on purchasing weapons and supporting governmental allies. It is estimated that the Sudanese government allocates 16 percent of its budget to the military, most of which goes towards financing a war against its own people in the southern part of the country (Watkins 1996). However, in this case, Sudan is not an exception as the militarisation of the African states in the post-colonial era was a very common process. It was once seen as a force for progress in developing countries, principally on the ground that armies were "modern" organisations, rationally managed, relatively efficient and industrious in discharge of their functions, and imbued with national aspirations (Rimmer 1995). This approach to military dominance failed

to be true. Second, the entire economy is likely to be controlled by the government and there is no space for free market competition. In Sudan this control worsened the situation and deepened the economic crisis allowing poverty to expand among Sudanese people. At present the country is financially bankrupt. The war costs US\$2 million a day. The total value of imports in 1995 nearly doubled that of exports and in 1997 the total external debts stood at 268 percent of GDP, estimated at \$1,7 billion (Kebbede 1999). An overwhelming part of the society live below the poverty line by any standards. There are no reasons for applying international methods of measuring average incomes, expenditures, etc. in order to determine the social situation of the local population, as the country is ravaged by war and the numbers are likely to be far from accurate.

## **7. Conclusion**

Since independence Sudan has witnessed much political unrest. The current fundamentalist regime of general al-Bashir has actively contributed to spreading the civil war. The conflict is seen as a confrontation between Arabs from the North and Africans from the South. Currently, however, it should be seen as a fight between the government and its allies, and the National Democratic Alliance -NDA.

Neither external nor internal actors of humanitarian assistance are able to provide sufficient aid to the people of Southern Sudan. There are many constraints, which successfully prevent relief or significantly decrease its effectiveness. Many organisations, especially those affiliated with the United Nations, are limited in their actions as Sudan is a sovereign state and its government is legitimised to exercise power within the borders of the country. Forced migrants of Southern Sudan, being predominantly internally displaced, lack the necessary protection. It is because they are still in the juridical territory of persecutor, but also due to the fact that international legal regulations concerning IDPs are either insufficient or impossible to be implemented.

The war in Sudan can be described as a domestic struggle with a political, religious, ethnic and cultural background. The ethnic diversity of the region is perceived as a limitation to effective assistance. However, the concept of ethnicity is very often misused by the political centres to justify their military actions. As a consequence, it is extremely difficult for aid agencies to reach people in need and to maintain assistance. The Sudanese government, which is reluctant to co-operate effectively with the international relief agencies, causes a great deal of obstacles. Al-Bashir not only imposes various limitations such as transport bans and tries to monitor the assistance, but also actively supports several militias and rebel groups.

It has constantly created obstacles for the Operation Lifeline Sudan - OLS, the biggest ever operation to provide assistance to the Sudanese people. The SPLA, which is in control of a part of three southern provinces, tries to take charge and preside over humanitarian assistance. Both sides attempt to control distribution of the most desirable good - food.

The political involvement of aid agencies is also to be blamed for failure in effective assistance. Some of the humanitarian organisations are more powerful than local authorities and several ethnic groups accuse them of sympathising with their enemies and of close co-operation with the government. Moreover they have not managed to implement any long-term policy, even though the *ad hoc* model of operation failed completely. At the same time poverty is spreading and the Sudanese government implements the 'economy of war' model where a great part of the state's budget is spent on the military. This can be seen as an important economic constraint to effective relief. The reluctance of donors to financially assist the Sudanese crises is another major obstacle. There are several reasons for this. First of all, during the course of the struggle there have been at least a few violent conflicts which have attracted the international community's attention. Second, western politicians believe that providing assistance is, in reality, prolonging the war.

There are a great number of constraints to effective humanitarian assistance to southern Sudan. All sides of the conflict and of the relief are to be blamed. Without the consent of the belligerent parties and without more intensive involvement of international "actors" the assistance will be far from successful.

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