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Accountability and Transparency as a Basis for Good Governance in the Post-Conflict in the Sudan

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Introduction:
After different phases of a conflict the multiple strategies of conflict management respond to barriers in the process in different ways. Peacekeeping missions are often required to halt violence and preserve peace once it is obtained. If successful, those missions can strengthen the opportunity for Post-Conflict Peace-building, which should function to prevent the recurrence of violence, by addressing the root causes of conflict and creating a stable and durable peace. Finally, state building, is the process of reconstructing weak or collapsed infrastructure and institutions of a society. This will facilitate return of the displaced to their homes, security, governance and accountability, transport of food and supplies and production and commerce to begin rebuilding the economy. The transition to normal security conditions, with an adequate police force, if vital, and a functioning judiciary is needed to enforce the rule of law. Governance has to be reestablished, and government services must begin to function again. Democratization can be thought of as an integral part of institution building because of its importance within the process. The government of the affected country like Sudan is subject as well as object of accountability and make possible legitimate and transparent government revenue collecting and expenditure capabilities.

The Phenomenon of Administrative Power
Before we proceed to discuss patterns or accountability measures imposed on career administration, it is important to define the term accountability, which is most commonly used to refer to measures, take to deal with problems posed by the phenomenon of administrative power. Without attempting to discuss phenomenon in
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detail, the basic idea is that the body of permanent officials who operate the modern state bureaucracies of Sudan are in a position of power.

First, career administrators derive power from the permanence of their tenure. Practically envy modern state accepts the dictum according to which governments come and go but the administration remains.

Second, during the past fifty years the modern state has ceased to be a night watchman " and instead became a welfare or service state. The consequent expansion in the size and functions of states bureaucracies has strength the power position of the career administrator.

Third, to enable the administrators to perform their duties efficiently and effectively in the context of an explosion in scientific and technical knowledge, they have had to be equipped with adequate and up-to-date knowledge as well as relevant appropriate skills and techniques, the expertise that career administrators acquire in the process constitutes a source of power, especially as they interact in most states with political leaders and legislators who are essentially layman.

Fourth, a final source of power for career administrators is a fact that the laymen political leaders and legislators are, in many countries expected to emerge from periodic elections and in most cases they lack the expertise of the career administrators. Thus, in the interaction between career administrators, on the one hand and the elected politicians in both the executive and legislative arms of the government on the other, the career administrators, could become dominant because of their expertise and their permanency of tenure.

It is widely recognized in the Sudan that the phenomenon of administrative power poses several problems. Two broad categories of problems can be distinguished: Those related to administrators abuse of office for selfish ends (especially for personal and family enrichment), and those related to conflicts that could emerge in the course of administrators, dealing with citizens. In regard to the latter
problem, attention is usually drawn to the very weak position of the citizen vis-à-vis the powerful state bureaucracy whose activities cover a very large area of the citizens life. To deal with these serious problems Sudan should have devise various methods of enforcing control over the conduct of administration. Two broad categories of control measures are usually distinguished: Internal and external. Our primary concern here is with the external methods of control over the conduct of administration. Internal methods of control refer to the rules and regulations that govern the day-to-day operation within governmental administrative systems and notably the methods of control in the area of financial administration.

External methods of control are those imposed on an administrative system by actors who are not normally considered as part of the administrative machine. Existing studies of this subject show that external methods of controlling the conduct of administration are closely related to the government system in the Sudan. Before examining the specific experiences of the Sudan it is important to mention that governmental system is based on theories of democracy, which agree on an instrumental conception of administration. It is accepted that sovereignty resides in the people. Sometime in the Sudan democracy accept that the sovereignty of the people can be exercised on their behalf by their representatives, who constitute the national assembly. There is no room for appointed officials to exercise power. It follows therefore, that government will attach great importance to imposing effective controls on the conduct of administration in order to prevent or curb administrative power.

The patterns of Accountability and Transparency

Before we proceed to identify patterns of accountability, it is important to define the term accountability. According to the Dictionary of the social science edited by J. Gould and W.L. kolb (London 1964), the term accountability focuses attention upon the sanctions on procedures by which public officials may be held to account for their actions. From this definition it is clear that
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Accountability is a broader concept than administrative control since its scope covers all public officials, political as well as administrative. Having pointed out the distinction, there is a list of five patterns of accountability:

1. Political accountability
2. Legal “
3. Financial “
4. Public Complaints Commission
5. Public Opinion.

The first three are the traditional areas of concern political, legal and fiscal patterns of accountability. The fourth and fifth patterns are relatively new; they have emerged in Sudan with the emergence of the service or welfare state.

In Sudan it is possible to find evidence of the five patterns of accountability identified above. Without attempting to discuss in detail, we shall summarize briefly the experiences of Sudan with regard to each pattern of accountability.

(1) Political accountability.

At independence in the late 1960s the former British colony adopted the form of governmental system of the imperial powers. In Sudan the parliamentary system of government was adopted and political control of the conduct of administrator was expected to be exercised by both the executive and parliament. The dominant theory of the control of the central government administration is accountability through ministers. The members of the cabinet who constitute the executive are individually and collectively responsible to parliament for the activities of the governmental departments placed under them. The career officials who assist the ministers in the formulation of policies, and perform the duty of executing these policies claim no credit for the good things done and accept no blame for any mistakes made. This is the rule of civil service anonymity. This rule of anonymity underpins the idea of a career service whose members are expected to serve faithfully and obediently any
government that emerges after every parliamentary election and to serve all members of the public with total impartiality.

Between 1965 and 1969, when Sudan operated a parliamentary system of government, executive control was of only limited effect even and the instruments of parliamentary control that were created could not perform satisfactorily because of an inhospitable political environment. Now the average annual session should increase for the Sudan, assembly, the legislative bodies at both the federal and state levels should meet as specified. With specific reference to the committee for economic affairs, it managed to provide some degree of control over public expenditure, but its effectiveness was greatly circumscribed by the insistence of the ruling party to provide the chairmen, the lack of dedication to duty on the part of many members and the uncooperative attitude of the civil servants.

On the whole, the future of politicians of all parties to respect the norms regulating a government and opposition arrangement led to a situation in which ministers, legislators and civil servants adopted anti-assembly attitudes. The result was the ineffectiveness of assembly methods of control with the exception of the committee for economic affairs, which probably because of the specificity of its focus, was able to achieve some positive results. The provisions in Sudan’s, 1998 constitution have considerably strengthened the roles of the National Assembly and the state assemblies as instruments for enforcing legislative control over the conduct of administration. In addition to the power to maintain general oversight over the conduct of administration, the assemblies can organize hearings and conduct investigation

(2) Legal accountability:

Leaving aside the difference between sharia and secularism, there is clearly a well-established and respected legal tradition since the colonial period. Although Sudan have adopted the legal traditions of the former colonial powers, it is difficult to determine the actual degree of commitment of the different regimes to the rule of law. In the case of military regimes and one-party system there is no more
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than a formal and nominal respect for the concept of an independent judiciary. In some cases the judiciary is actually subordinated to the ruling single party and some military rulers proclaim their decrees to be superior to the constitution and all existing laws. In such circumstances one cannot meaningfully talk of enforcing accountability through the courts.

The creation of transparent legislative and judicial institutions is important for reconciliation and to establish trust in the post-conflict government. Extreme conflicts often lead to deliberate destruction of legal infrastructure and the judiciary. Furthermore, post-conflict societies sometimes suffer from the complete absence of at least minimally trained lawyers and judges. International experts can assist in the restoration of the legal framework, by providing their expertise through legislative assistance in drafting laws and training legislators, lawyers and judges. At the same time, independence and accountability of the justice system has to be promoted. The administration of justice must be based on rule of law and human rights to establish the trust of the society in these newly restored institutions.

The involvement of law enforcement agencies, military and police in the conflict poses a major challenges to reform and institutional strengthening. International agencies have to be very careful in addressing police reform to avoid the danger of strengthening potentially regressive capabilities and to irreversibly undermine the credibility of police forces. To break with the past, the former structure of law enforcement agencies has to be completely overhauled. Political neutrality of police forces has to be established. Accountability of police officers has to be introduced, monitored and enforced.

(3) Financial accountability:

Civil war is common in low-income countries, and deteriorates the already dismal state of the economy of these countries even further. Thus, the transition periods following conflicts are unstable, not only from the socio-political point of view, but also in economic
terms. Yet economic stability is an important feature in securing long-term political stability and reconciliation. It is paramount for the constitution of a legitimate government that is equipped with sufficient financial accountability to restore infrastructure and to create a social safety network. The question of financial accountability had attracted considerable attention in many parts of the world. In Sudan, for example, the desire to control finances had been a major subject of concern of governments.

There are three major methods that are used to ensure financial accountability.

1. One method consists of the appointment of an independent official charged with the responsibility for the auditing of government accounts. In Sudan the independent official is called the Auditor General. He is independent of the executive arm of government and it is his annual report that forms the basis of the control exercised by the legislature over government accounts. The Auditor General (federal and State levels respectively) is guaranteed in the country's constitution.

2. The second method of ensuring financial accountability is the role of the legislature to which we have already alluded. In Sudan there is a committee of assembly that is charged with the responsibility of watching over the finances of the government. The expenditure side of government accounts is monitored by the committee.

3. The third major area of ensuring financial accountability consists of the internal checks and balance jointly maintained by the office of the Director of Budget and the individual ministries, departments and government agencies. Considerable importance is attached to the Financial Instructions, circulars and letters of the Ministry of Finance. The
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emphasis on these internal methods is on the honesty of the officials and regularity in financial practice.

In its broadest sense, the idea of financial accountability ought to cover the objective that is commonly summarised as value for money. Whilst recognizing the logic of this viewpoint, we consider it more appropriate to examine this additional dimension as one of the considerations that have inspired the different techniques and tools of financial management. Legal reform plays an important role in reviving the financial framework and economic institutions, such as property rights, banking laws, and tax laws. At the same time, political sensitive public administration reform is an essential ingredient of economic rehabilitation. Transparent administrative institutions which are free from corruption increase economic activity by creating a stable environment for national and foreign investors.

(4) Public complaints commission:

Sudan have established Ombudsman – like institutions to provide additional avenues for citizens seeking protection from administrative injustice. With us the Ombudsman institution is in the form of a nation wide network of public complaints commissions with the headquarters organization in the federal capital Khartoum and a state level organization in each of the twenty-six states of the federation. Established few years ago, the institutions have proved a relatively effective instrument for protecting citizens against administrative injustice. The commission received complaints each year. Individual citizen can take their complaints to the commission and the commissioner can initiate actions in their own right. Available evidence suggests that complaints are drawn from all groups within society: The rich, poor, urban dweller, rural dwellers and so as. An important feature of the institution is that it is under the palace or presidency. However, the usefulness of the commission must not be exaggerated. Its effectiveness depends to a great extent on the willing cooperation of general public officials notably the police and civil servants, and this cooperation has not always been
forthcoming or the commission lacks the power to enforce it recommendations.

(5) Public opinion:
The uses of the mass media pressure groups, consultative groups and consumer groups as methods of making career administrators responsive to the interests of citizens is largely underdeveloped in Sudan. In most cases the mass media are both owned by individuals and the government and this lack of independence significantly limits the extent to which they can perform a public watch dog role. Sudan possesses mass media system in the continent, but has only managed to assist in enforcing accountability in respect of a limited number of procedural matters.

Conclusion
The assertion that career administrators are in a position of power which they can use for better or for worse is difficult to contradict. The worthwhile thing, to do is to accept that administrative power is a reality. The challenge it poses to believers in the desirability of democratic administrators are put under effective control.

Transparency of institutional mechanisms is one way to prevent or at least diminish the level of corruption in the public administration. Strict separation of powers, addresses corruption at the political level. The constitution should provide for mutual independence of the legislative, the executive and the judiciary. At the same time authority to review the other respective other branches should be constitutionally conferred to each body.

Accountability and Transparency are the foundation of good governance, that is the exercise of economic political and administrative authority to manage a country’s affairs at, all levels. Good governance is, among other things, participatory, transparent and accountable. Local and national leaders need to be transparent and accountable for their actions if they are to successfully promote participatory governance. These local and national leaders should
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practice financial transparency that is manage budget by following financial regulation. Also Auditor General and Public Complaints Commission to be provided with adequate financial resources and report to the national Assembly regularly.
Footnotes

(3) Ladipo Adamolekun: Accountability and Control Measures in Public Bureaucracies University of Ife Press, 1975 P. 201.
(11) “Fighting a peace plan, some Christian Aid Groups are supporting the Rebels.” Newsweek International August 18 2003.
(13) The August 2003. “Nakuru” draft Peace agreement proposed by IGAD.
(17) Svetlana Tsalk, Caspian Oil Wind falls: Who will Benefit (2003) 3 – U (465342)