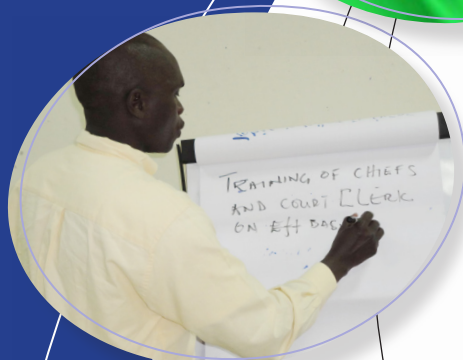
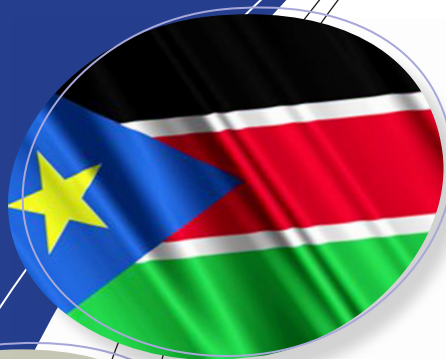


PARTICIPANTS' MANUAL



Background
to Decentralisation
and the Local
Government System

**IN SOUTH
SUDAN**



BACKGROUND TO DECENTRALISATION AND THE LOCAL GOVERNMENT SYSTEM IN SOUTH SUDAN

**PARTICIPANTS' MANUAL
FOR SUPPORT TO THE LOCAL COUNCILS IN
WESTERN EQUATORIA
AND EASTERN EQUATORIA STATES
OF SOUTH SUDAN**





TABLE OF CONTENTS

ABOUT THIS MANUAL	7
SESSION ONE: THE POLICY AND CONCEPT OF DECENTRALISATION	10
1.1.1 Understanding decentralization	10
1.1.2 Different types of decentralization	10
1.1.3 Forms of decentralization	13
1.2 Benefits and challenges of decentralization	16
SESSION TWO: BACKGROUND TO DECENTRALIZATION AND THE LOCAL GOVERNMENT SYSTEM IN SOUTH SUDAN	20
2.1.2 Early period following Independence	21
2.1.3 Local Government structures after 1985	21
2.2 Decentralization in the CPA era	24
2.3 Principles and objectives of decentralization and the Local Government system in South Sudan	28
2.3.2 Principles of decentralization in South Sudan	29
2.3.3 Objectives of Local Governments	30
2.3.4 Conclusion	30

SESSION THREE: LOCAL GOVERNMENT COUNCILS	34
3.1.2 Features of the Local Government Act, 2009	35
3.1.3 Schedules to the Local Government Act, 2009	35
3.1.4 Local Government set-up, functions and powers	35
3.1.5 Planning function	36
3.1.6 Legislative powers	36
3.1.7 Financial powers	36
3.2 Personnel management system in Local Governments	38
3.3 Primary responsibilities of Local Government Councils	43
3.3.2 Expectations from Councilors	43
3.4 Promotion of transparency and accountability	46
3.5 The roles of the State Ministry of Local Government and Law Enforcement and the Local Government Board	49
3.5.2 The Local Government Board	50
 SESSION FOUR: TIERS, TYPES AND ORGANS OF THE LOCAL GOVERNMENT COUNCILS	 54
4.1 Tiers and types of the Local Government Councils	54
4.1.2 Tiers of Local Government Councils	54
4.1.3 Types of Local Government Councils	54
4.1.4 Incorporation of traditional authority system	55
4.2 Organs of the Legislative Council	57
4.2.2 Executive Council	57
4.2.3 Customary Law Council	58
 SESSION FIVE: INTER-GOVERNMENTAL LINKAGES	 62
5.1.3 Internal border linkages	62
5.1.4 Relations in the administration of decentralized systems	62
5.2 Extra-governmental linkages	65

SESSION SIX: MEETINGS OF THE LEGISLATIVE COUNCIL	68
6.1 Introduction to meetings	68
6.1.1 Understanding meetings	68
6.1.2 Functions of meetings	69
6.1.3 Problems with meetings	70
6.2 Meetings of the Legislative Council	72
6.3 Roles of various officials in Legislative Council debates	76
6.3.4 Motions	77
6.3.5 Amendments	80
6.4 Debate guidelines	82

ABOUT THIS MANUAL

Introduction to the manual

This manual is intended for use by the participants who shall benefit from the training of the councils of Central Equatoria and Western Equatoria States of South Sudan.

The manual has been developed with support from the Association of European Parliamentarians with Africa (AWEPA), an international NGO with headquarters in Amsterdam. The objective of AWEPA is to support efforts aimed at the realization of human rights, democracy, combating of poverty and to promote sustainable development in Africa by supporting the capacity development of African parliaments and by promoting a better understanding of African development among European parliamentarians. AWEPA has been implementing capacity building programmes for the National Legislative Assembly and the States in South Sudan since 2007.

The overall objective of AWEPA's work in South Sudan has been to contribute to the sustainable socio-economic development and reconstruction in South Sudan, through strengthening the capacity of Parliament, and also the State Assemblies.

Support to Local Councils in South Sudan

AWEPA has embarked on the implementation of a new programme to strengthen the capacity of the following ten (10) Local Councils of Central and Western Equatoria States: the Local Councils of Yambio, Nzara, Ibba, Maridi, Mundri West, Mundri East, Mvolo, Lainya, Yei and Juba counties. The programme seeks to strengthen the capacity of the Local Councils through extensive training of Councilors in five modules, preparation and distribution of publications and the facilitation of three community outreach visits for each Local Council. Special emphasis will be placed on the promotion and respect of human rights, peace and reconciliation as well as gender equality as cross-cutting themes in the interests of easing tensions between communities and foster improvement of human security.

Rationale for preparing this training manual

This is the first model developed under the AWEPA programme to support Local Councils on Background to Decentralization and the Local Government System in South Sudan. The purpose of the training is to facilitate understanding of the background, concepts and application of the decentralization system among councilors in the target group.

The manual addresses the following aspects:

1. The policy and concept of decentralisation
2. Background to Decentralisation and the Local Government System in South Sudan
3. Local Government councils
4. Tiers, types and organs of the Local Government councils
5. Inter-governmental linkages
6. Meetings of the Legislative Council

Each of these aspects has been treated as a session with various training sub-sessions therein for better understanding and sufficient detail where required. Notes to enable an in-depth understanding of the various issues by the participants have also been provided under every training session within a module. During the dissemination of the module, copies of the National Constitution, the State Constitution and the Local Government Act, 2009 shall be distributed to all councilors. A separate evaluation form, which may be used by the trainers to assess training, shall also be provided alongside the manual during the training. All this notwithstanding, the main reference will be the National Constitution, the Local Government Act 2009, the respective State Constitution and other publications developed by the Local Government Board to operationalize that law.

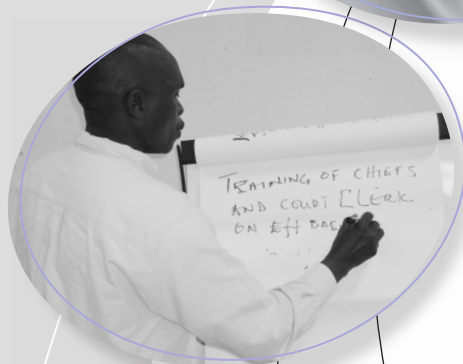
As outputs, it is expected that at the end of the training:

- (a) All the Councilors have an understanding of the concepts of decentralization and local government system of administration.
- (b) At least 80% of the target beneficiaries have knowledge of local council procedures and practices.

The following outcomes are expected from the intervention:

- (a) Improved capacity of the councilors to participate in council proceedings. The indicators to measure this outcome shall be the council minutes and records of proceedings.
- (b) Beneficiaries have a better understanding of their roles and responsibilities. The indicator to measure this outcome shall be their contributions in council meetings and training evaluation reports.
- (c) Councilors have improved understanding of the Local Government legal framework. The indicator to measure this outcome shall be the training evaluation reports, record citations of the relevant laws by councilors.

Kristien Debref
Project Coordinator, AWEPA - South Sudan



SESSION 1

THE POLICY AND CONCEPT OF DECENTRALISATION

SESSION 1: THE POLICY AND CONCEPT OF DECENTRALISATION

1.1 The Concept of Decentralization

Session objectives

By the end of the session, participants will be able to:

- (a) Define the concept of decentralization
- (b) Describe the different types and forms of decentralization.

Subtopics/Content

The following subtopics will be covered in this session:

- (a) Understanding decentralization
- (b) Different types of decentralization
- (c) Forms of decentralization

1.1.1 Understanding decentralization

Decentralization is the transfer of powers, authority and responsibilities from the central to the lower levels of government. In terms of governance, it's the transfer of authority and responsibility for public function from the central government to subordinate or quasi- independent government organizations and/or the private sector.

1.1.2 Different types of decentralization

Different types of decentralization show different characteristics, policy implications and conditions for success. Examples of decentralization are: political, administrative, fiscal and market.

Political Decentralization

Political decentralization aims to give citizens or their elected representatives more power in public decision making. It is often associated with pluralistic politics and representative government but it can also support democratization by citizens, or their representatives, more influence in the formulation and implementation of policies. Advocates for political decentralization assume that decisions made with greater participation will be better informed and more relevant to diverse interests in society than those made only by national political authorities . The concept implies that selection of representatives from local electoral constituency allows citizens to know better their political representatives and allows elected officials to know better the needs and desires of their constituents.

Administrative decentralization

Administrative decentralization seeks to redistribute authority, responsibility and financial resources for providing public services among different levels of governance. It is the transfer of responsibility for planning, financing and management of public functions from the central government or regional governments and its agencies to local governments, semi-autonomous public authorities or corporations or area-wide, regional or functional authorities.

Financial decentralization

Dispersal of financial power is a core component of financial decentralization. If local governments and private organizations are to carry out decentralized functions effectively, they must have adequate level of revenues; either raised locally or transferred from central government as well as have authority to make decisions about expenditures. Fiscal decentralization can take many forms including the following:

- (a) Self-financing or cost recovery through user charges
- (b) Co-financing or co-production arrangements through which the users participate in providing services and infrastructure through monetary or labor contributions. This is possible in the construction of health centres or schools where the local community provides bricks or labour and a different party provides the financing.
- (c) Expansion of local revenues through property or sales taxes or indirect charges
- (d) Intergovernmental transfers that shift general revenues from taxes collected by the central government or local governments for general or specific uses; and
- (e) Authorization of municipal borrowing and the mobilization of either national or local government resources through loan guarantees. In Yei for example, the Council passed a resolution to borrow money from Equity Bank for renovation of a health centre facility.

Economic decentralization

Under economic decentralization functions that have been primarily or exclusively the responsibility of government are carried out by businesses, community groups, cooperatives, private voluntary associations and other non-governmental organizations.

Economic decentralization can range in scope from leaving the provision of goods and services entirely free to the operation of the market to “public private partnerships” in which government and the private sector cooperate to provide services or infrastructure. It can include:

- (a) Allowing private enterprises to perform functions that had been previously monopolized by government, for

example provision of health care and education;

- (b) Contracting out the provision or management of public services or facilities to commercial enterprises. Indeed there are a wide range of possible ways in which this function can be organized and many examples within public sector and public private institutional forms; particularly in service delivery. An example of this is garbage collection.
- (c) Financing public sector programs through capital markets and allowing private sector organizations to participate.
- (d) Transferring responsibility for providing services from the public to the private sector through divestiture of state owned enterprises.

Central theme in decentralization

A central theme in decentralization is the difference between:

- (a) A hierarchy, based on authority: two players in an equal power relationship; and
- (b) An interface: a lateral between two players of roughly equal power.

Decentralization, therefore, is the restructuring or reorganization of authority so that there is a system of co-responsibility between institutions of governance at the central, state and local levels according to the principles of subsidiarity, thus increasing the overall quality and effectiveness of the system of governance while increasing the authority and capacities of sub national levels. Decentralization could also be expected to contribute to key elements of good governance, such as increasing people's opportunities for participation in economic, social and political decisions; assisting in developing capacities; and enhancing government's responsiveness, transparency and accountability.

1.1.3 Forms of Decentralization

Decentralization takes many forms; de-concentration, devolution, delegation and privatization. These four forms of decentralization are primarily distinguished on the basis of the powers that the Central Government transfers or gives up to the local units.

De-concentration

This is the shifting of responsibility and workload from Central Government Ministry headquarters to those working in the states or local governments or it can create strong field administration or local administrative capacity under the supervision of central government ministries.

Delegation

This is the shifting of responsibility for administering public functions, making decisions, producing goods (functions previously done by Central Government ministries) to semi-autonomous organizations which, though not wholly controlled by the government, are ultimately accountable to it. Such organizations include marketing boards and other parastatal bodies, public corporations, regional planning and area development authorities, housing authorities, project implementation units, and single and multi-purpose functional bodies. They may be exempted from constraints on regular civil service personnel and may be able to charge users directly for services.

Devolution

Devolution is an administrative type of decentralization. It involves the transfer of discretionary decision making, planning, administration and financial management to independent local government units with corporate powers i.e. to sue and be sued. Devolution usually transfers responsibilities for services to local governments that elect their own functionaries and councils, raise their own revenues and have independent authority to make investment decisions, provided they are operating within the legislated limits and their actions do not conflict with the Constitution, and other laws and the broad national goals.

Privatization

This is the giving up by government, primarily for reasons of efficiency, of certain functions and services to various sections of the private sector, namely; business, community groups, cooperatives, association groups, and nongovernmental and community based organizations. The Nyokuron Cultural Centre is one such service, which was privatized by the Government of South Sudan.

The different forms reflect:

- (a) Different constitutional and legal arrangements
- (b) Different degrees of decentralization by government.
- (c) Different arrangements for representation of the local community.
- (d) Different approaches of decentralization.
- (e) Different resource control arrangements.
- (f) Different climate of rules, regulations and expectations.

1.2 Benefits and Challenges of Decentralization

Session objectives

By the end of the session, participants will be able to:

- (a) List the benefits of decentralization
- (b) List the challenges of decentralization

Subtopics/Content

- (a) Benefits of decentralization
- (b) Challenges of decentralization

1.2.1 Benefits of Decentralization

The benefits of decentralization are as follows:

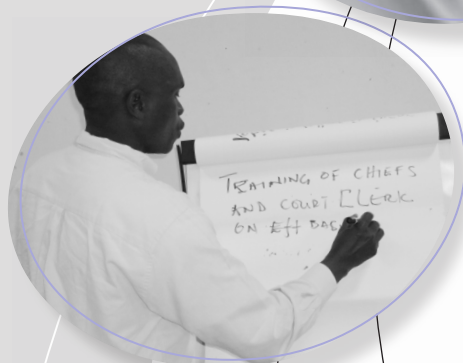
- (a) Cuts bottlenecks or red tape imposed by an over centralized system.
- (b) Enables financial transfers from the central government for timely service delivery.
- (c) Creates employment e.g. qualified personnel can be recruited at the local government level.
- (d) Improves planning as each local government is mandated to develop own plan.
- (e) Improves the quality of budgets and district expenditures.
- (f) Allows people a greater chance to participate in development planning and decision making.
- (g) Permits the convenient provision of services locally for which they would have to travel long distances.
- (h) Gives the local politicians and public a chance to practice, learn and understand democratic practices through the election of their own leaders.
- (i) Facilitates development from the grass roots.
- (j) Encourages mutual approach in solving local problems.
- (k) Increases public participation in the development process thereby increasing a sense of community ownership of projects.
- (l) Allows special interest groups to be represented and participate in decision making in local councils i.e. women, youths and the persons with disabilities.
- (m) Promotes infrastructure development thus making it easier for the local people to relate taxes to development.
- (n) Strengthens national policy and planning by freeing ministry staff from administrative and routine responsibilities.
- (o) Promotes inter-sectoral collaboration at the local government levels.

- (p) Allows the central government to play the supervisory and setting of standards roles.

1.2.2 Challenges of Decentralization

The challenges of implementing decentralization may be as follows:

- (a) Problems of transition to full implementation of the Local Government System. In South Sudan, the Local Government Act 2009 has for example not yet been fully implemented. The members of the Legislative Councils have also not been inducted.
- (b) Problems of coordination between the vast local governments and other tiers of government. In South Sudan for example, there has been instances of inadequate consultation between the different tiers of government. At the local levels, the Councilors move very long distances, once there is a council session.
- (c) Inadequate funding for decentralized services. Funding of meetings of the legislative council requires sitting, transport and accommodation allowances that may not be easily available.
- (d) Management capacity problems. In some areas for example, the councilors, because of their diverse backgrounds, speak more than one dialect thus requiring interpreters who sometimes are not readily available.
- (e) Democratic accountability problems.
- (f) Revenue expenditure assignment problems.
- (g) Inadequate funding.
- (h) Inadequate staffing in local governments to run the decentralized services.



SESSION
BACKGROUND TO
DECENTRALIZATION
AND THE LOCAL
GOVERNMENT SYSTEM
IN SOUTH SUDAN

2

SESSION 2: BACKGROUND TO DECENTRALIZATION AND THE LOCAL GOVERNMENT SYSTEM IN SOUTH SUDAN

2.1 Background to Decentralization and the Local Government System in South Sudan

Session objectives:

By the end of the session the participants should be able to:

- (a) Describe the background to decentralization and the Local Government system in South Sudan.
- (b) Appreciate the history of the Local Government system in South Sudan.

Subtopics/Content

The following subtopics will be covered in this session:

- (a) The Local Government system during the colonial era
- (b) Early period following independence
- (c) Local Government structures after 1985

2.1.1 The Local Government system during the colonial era

The historical narrative of the Local Government experience in South Sudan typically begins with the end of British colonial rule. The British relied upon a system called indigenous administration to control the Local Governments in non-urban areas. Under this system, traditional, tribal and village leaders i.e. nuzara (singular- nazir) umada (sing, umda) and sheikhs were entrusted with responsibility for administrative and judicial functions within their own areas and received financial support and where necessary, military support from the central authorities.

Following World War II, pressures arising from younger and better educated Sudanese led the British in 1951 to abandon administration by local rulers in favor of a system of Local Government Councils.

2.1.2 Early period following Independence

In many rural areas of Sudan, the system in the early years of independence was little different from the old indigenous administration dominated by the conservative, traditional elite, while in most cities the effectiveness of councils was seriously weakened by party politics. As they evolved under successive national administrations following independence in 1956, a total of eighty four such councils were created and entrusted with varying degrees of community autonomy. This system was, however, fraught with problems of divided power, the councils being responsible to the Minister of Local Government, whereas Provincial Governors and District Commissioners remained under the supervision of the Minister of Interior. Effectiveness varied from one local authority to another, but all

suffered from inadequate finances and shortage of trained personnel willing to serve in small, isolated communities. In the South, such problems were compounded when hundreds of colonial officials were replaced by Sudanese civil servants almost all of whom were Northerners.

The 1961 Local Government Act introduced a Provincial Commissioner appointed by the Central Government, a chairman of the provincial authority, an executive body of officials representing Khartoum. The 1961 law was not intended to be a democratic reform; instead it allowed the Central Government to control local administration despite the existence of provincial councils chosen by the Local Governmental and Provincial authorities.

The people's Local Government Act of 1971 designed a pyramidal structure with local community councils at the base and progressively higher levels of authority up to the executive councils of the 9 provinces. By 1980, community councils included an estimated 4,000 village councils, more than 800 neighborhood councils in cities and towns, 281 nomadic encampment councils and scores of market and industrial area councils. In theory, membership of these local councils was based on popular elections, but in practice, the councils were dominated by local representatives of the Sudan Socialist Union, the only political party that was permitted to function. Above the committee councils was a second tier of Local Government structures that included 228 rural councils and 90 urban councils. A third tier consisted of 35 sub Provincial District Councils, and at the apex were the Province Commissions, presided over by the Province Governor appointed from Khartoum.

2.1.3 Local Government Structures after 1985

Although there were some changes following Nimeri's overthrow in 1985, the Local Government structures remained relatively intact. Parliament devolved more authority to community councils and reorganized the functions and powers of the province commissions. In February 1991, a major change was the introduction of a federal structure. The federalism decree divided the country into nine states: Aali El Nil (Upper Nile), Al Awsat (Central State), Al Isitiwaia (Equatoria), Al Khartoum, El Shamalia (Northern State), Ash Sharqi, Bahr al Ghazal, Darfur and Kordufan. Generally, both the borders and names of the states are similar to the historical nine provinces of Sudan during the colonial period and early years of independence. The States were further sub-divided into 69 provinces and 218 Local Government areas or districts. Each State had a Governor, Deputy Governor and Council of Ministers. These officials were responsible for administration and economic planning in the states. They also appointed the province and district authorities in the states. The latter officials were for the most part the same persons who occupied Local Government posts before the federal structure was introduced and continued to be responsible for elementary and secondary education, health and various government programmes and services in the cities, towns and villages.

2.2 Decentralization in the CPA era

Session objectives

By the end of the session, participants should be able to:

- (a) Describe the provisions of the CPA relating to the decentralization and the Local Government in South Sudan
- (b) Cite the sections of the CPA and match them with devolved functions
- (c) Appreciate the Local Government system as outlined in the CPA

Subtopics/Content

- (a) Introduction
- (b) Decentralization of power in the CPA
- (c) Decentralization regarding wealth
- (d) Land rights and decentralization

2.2.1 Introduction

The Comprehensive Peace Agreement signed by the Government of Sudan and the Sudanese Peoples' Liberation Movement/Army ended the war between the north and the south. It also provided the legal framework for a six year interim period, which witnessed a referendum on southern independence in January 2011 and ended with the release of the south into their chosen independence on 9th July 2011.

2.2.2 Decentralization of Power

Sub-paragraph 1.5.1, Part I of the Chapter II (Power Sharing Agreement) of the CPA, provides as follows: In the administration of the Government of National Unity, the following provisions shall be respected:

- 1.5.1.1 There shall be a decentralized system of government with significant devolution of powers, having regard to the National, Southern Sudan, State, and Local levels of government;
- 1.5.1.2. In their relationship with each other or with other government organs, all levels of government and particularly National, Southern Sudan and State Governments shall:
 - a) Respect each other's authority;
 - b) Collaborate rather than compete, in the task of governing and assisting each other in fulfilling each other's constitutional obligations;
 - c) Perform their functions and exercise their powers so as:
 - i) Not to encroach on another level's powers or functions;

- ii) Not to assume another level's power or functions conferred upon it by the Constitution;
 - iii) To promote cooperation between them;
 - iv) To promote open communication between government and the levels of government;
 - v) To advance the good co-ordination of governmental functions;
 - vi) To adhere to procedures of inter-governmental interaction as agreed upon;
 - vii) To promote amicable settlement of disputes before attempting litigation;
 - viii) To respect the status and institutions of other levels of government;
- d) Allow the harmonious and collaborative interaction of the different levels of government within the context of national unity and for achievement of a better quality of life for all.

Paragraphs 2 to 4 of the Power Sharing Protocol laid down four different levels of government in Sudan as follows:

- The National Level;
- The Government of National Unity (GoNU);
- The Government of Southern Sudan (GoSS);
- The State Level Governments; and
- Local Governments

2.2.3 Decentralization of decision regarding wealth

The Wealth Sharing Agreement (Chapter III) of the CPA also recognizes decentralization as the means of equitably sharing common resources of the then Sudan. Paragraph 1.8 provides: "That revenue sharing should reflect a commitment to devolution of power and decentralization of decision-making in regard to development, service delivery and governance."

2.2.4 Land rights and Decentralization

The Wealth Sharing Agreement provides:

- 2.4 Rights in land owned by Government of Sudan shall be exercised through the appropriate or designated levels of government.
 - 2.5 The parties agree that a process be instituted to progressively develop and amend the relevant laws to incorporate customary laws and practices, local heritage and international trends and practices.
 - 2.6 That National Land Commission shall apply the law applicable in the locality where the land is situated or such other laws as the parties to arbitration agree, including principles of equity.
- 3.1.7 The communities in whose area development of subterranean natural resources occurs have the right to participate,

through their respective state/regions, in the negotiations of contracts for the development of those resources.

3.5.4 If the non-permanent members representing the oil producing state/region collectively disagree with the provision of any oil contract, the National Minister of Petroleum shall not sign the contract but shall refer it to the Council of States. If the Council of States approves it by 2/3, the Minister shall sign the contract but if the Council rejects it by 2/3, then the Minister shall not sign the said contract and the contract had to be revisited.

The foregoing CPA paragraph gave power to the oil producing region/states to participate in all the decisions regarding oil exploration, exportation and sharing of the oil revenues. This was a very important step towards decentralization in the CPA era.

2.3 Principles and Objectives of Decentralization and the Local Government System in South Sudan

Session objectives

By the end of the session, participants should be able to

- (a) List the principles of decentralization and the Local Government system in South Sudan
- (b) List the objectives of decentralization and the Local Government system in South Sudan

Subtopics/Content

- (a) Introduction
- (b) Principles of decentralization and the Local Government system in South Sudan
- (c) Objectives of Local Governments
- (d) Conclusion

2.3.1 Introduction

It was under the auspices of the CPA provisions that the Interim Constitution of Southern Sudan (ICSS), 2011 was promulgated thereby establishing the GoSS. Article 39 (1) of the transitional Constitution, 2011 provides:

“Government in Southern Sudan shall promote democratic principles and political pluralism, and shall be guided by the principles of decentralization and devolution of power through the decentralization and devolution of power to the people through the appropriate levels of government where they best manage and direct their affairs.”

As a result, the ICSS established the following levels of government in Southern Sudan:

- (a) Articles 54 of the Constitution provided the following organs:
 - i. The legislature;
 - ii. The executive; and
 - iii. The judiciary.
- (b) Article 168 established the State Level Governments:
 - i. The legislature;
 - ii. The executive; and
 - iii. The judiciary.
- (c) Article 173 (1) establishes the system of local government with two organs, namely:
 - i. The Urban Council; and
 - ii. The Rural Council.
- (d) The Local Government tiers consist of County, Payam and Boma in the rural areas and of city, municipal and town council in urban areas.

2.3.2 Principles of decentralization in South Sudan

Article 51(1) of the transitional Constitution, 2011 provides for devolution of powers based on the following principles;

- (a) Affirmation of the need for norms and standards of governance and administration at the state and local government levels that reflect the unity of the people of South Sudan while recognizing their diversity.
- (b) Acknowledgment of the roles of the National Government and the states in the promotion of the welfare of the people and the protection of their human rights and fundamental freedoms.
- (c) Recognition of the need for the involvement and participation of all people of South Sudan at all levels of governance through democracy, separation of powers, transparency, accountability and respect for the rule of law to enhance peace, socioeconomic development and political stability.

Section 13 of the Local Government Act 2009 provides the following principles of Local Governance:

- (a) Principle of subsidiarity: where decisions and functions shall be delegated to the lowest competent level of Government;
- (b) Self-governance and democracy;
- (c) Participation of all citizens in the exercise of their rights to express their opinions in the process of decision- making in public affairs;
- (d) Rule of law: maintain law and order and its enforcement in a fair and impartial manner while respecting and honoring the norms, virtues and values of the society;
- (e) Transparency: to build mutual trust between government and citizens through the provision of information and guaranteed access to information;
- (f) Equity: to provide an equitable distribution of resources throughout the Local Government Council;
- (g) Equality: to provide equal services and opportunities for all members of the local community with the aim of improving their welfare;
- (h) Responsiveness: to increase the sensitivity of the employees of government and non-governmental organizations to the aspirations of the people in service delivery and meeting public demands;
- (i) Accountability: to ensure accountability of decision-makers to the people in all matters of public interest; and
- (j) Efficiency and effectiveness: to ensure good public service delivery through optimum and responsible use of resources.

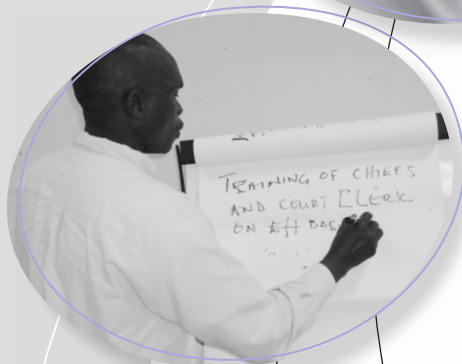
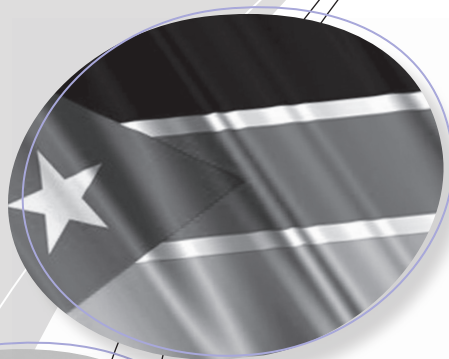
2.3.3 Objectives of Local Governments

In light of the above, chapter 11, section 12 of the Local Government Act provides the objectives of the local government as follows:

- (a) Promotion of self-governance and enhancement of the participation of people and communities in maintaining law and order and promoting democratic transparencies and accountable local government.
- (b) Establishing the local government institutions as close as possible to the people.
- (c) Encouraging the involvement of communities and community based organizations in local governance and promoting dialogue among them on matters of local interest.
- (d) Promoting and facilitating civic education.
- (e) Promoting social and economic development.
- (f) Promoting self-reliance amongst the people through mobilization of local resources to ensure the provision of service to communities in a sustainable manner.
- (g) Promoting peace, reconciliation and peaceful coexistence among the various communities.
- (h) Ensuring gender mainstreaming in local government.
- (i) Acknowledging and incorporating the role of traditional authorities and customary law in the local government system.
- (j) Consulting and involving communities in decision making relating to the exploitation of natural resources in their areas.
- (k) Creating and promoting safe and healthy environment.
- (l) Encouraging and supporting women and youth activities and the training of local cadres.

2.3.4 Conclusion

Since the inception of the Government of South Sudan (GoSS) to date, it is not possible for all South Sudan's ethnic groups – least of all the sub-groups – to be represented in the Cabinet. Decentralization therefore offers the possibility to bring decision-making powers closer to the people, at least for issues that are of relevance at the community level, such as basic services and jobs



SESSION LOCAL GOVERNMENT COUNCILS } 3

SESSION 3: LOCAL GOVERNMENT COUNCILS

3.1 Local Government set up, structures and functions

Aim: To enable participants internalize the critical provisions of the law governing the Local Government system in South Sudan.

Session objectives

By the end of the session, the participants should be able to:

- (a) Identify the provisions of the Constitution and the Local Government Act that set up the decentralization system.
- (b) Describe the Local Government structures and set up.
- (c) List the powers and functions of the Local Governments

Subtopics/Content

The following topics will be covered in this session

- (a) Introduction
- (b) Features of the Local Government Act, 2009
- (c) Schedules of the Local Government Act, 2009
- (d) Local Government set up, functions and powers
- (e) Planning function
- (f) Legislative powers
- (g) Financial powers

3.1.1 Introduction

The Local Government Act commenced in 2009. It was developed in the context of the Comprehensive Peace Agreement (CPA), and the Interim Constitution of South Sudan. The Comprehensive Peace Agreement signed by the Government of Sudan and the Sudanese Peoples' Liberation Movement/Army ended the war between the north and the south. It also provided the legal framework for a six-year interim period, which witnessed a referendum on southern independence in January, 2011 and ended with the release of the south into their chosen Independence on 9th July 2011. The Local Government Act 2009 was intended to streamline the laws and align them with the 2011 Constitution and to;

- (a) Streamline legislations on the decentralized system of government and also issues of interest to the states.

- (b) Provide for the establishment of local governments their powers, functions and duties, structure, composition and any other matters related thereto.

3.1.2 Features of the Local Government Act, 2009

- (a) Sections 15 and 16 outline the tiers and types of the Local Government Councils.
- (b) Section 17 relates to the grading of Local Government Councils according to their respective status and viability.

3.1.3 Schedules to the Local Government Act, 2009

Schedule I provides the powers of a Local Government Council

Schedule II provides the concurrent powers of the Government of South Sudan and the Local Governments i.e. the state and local government are granted both executive and legislative competences on a number of areas.

Schedule III provides for resolution of residual powers.

The fourth schedule provides for resolution of conflict in respect to concurrent powers and appendix III of the same schedules spell out the responsibilities of the Local Government Council.

3.1.4 Local Government set-up, functions and powers

- (a) The Legislative Council is the highest political authority within its area of jurisdiction and has legislative powers (Section 37).
- (b) Membership of the Legislative Council is by direct election apart from members of the Executive Council who may participate as ex-officio members, without rights to vote (Section 26).
- (c) The Executive Council is the highest executive authority in the Council (Section 45-47).
- (d) Members of the Legislative Council and the Executive Council are mandated to abide, uphold and safeguard the Constitution and all laws of South Sudan in exercising of their powers (First Schedule of the Local Government Act).
- (e) All local governments are mandated to have a Chairperson and Deputy Chairperson and Standing Committees (Sections 34 and 41).
- (f) No council member shall belong to more than one council i.e. to the Executive Council or the State Executive Council (Section 33(2b) and Section 46 (2)).
- (g) Loss of membership of the Legislative Council is subject to a semi judicial process that involves council resolution where a member (Section 29):
 - Tenders his or her written resignation to the Council

- Fails to attend three consecutive ordinary meetings without permission or reasonable cause
- Ceases to be a resident in the Boma or Quarter
- Is appointed to fill another office or position
- Suffers mental infirmity based on an official medical report
- Is convicted of an offence involving honesty or moral turpitude; or
- Dies

(h) All counties are mandated to establish Customary Law Council which shall be the highest Customary Law authority in the County (Section 93).

3.1.5 Planning function

The local government council is the planning authority of the council. The preparation of the council's plan is based on the principle of integrated participatory approach (Section 69). The council planning unit is responsible for prioritizing the needs and coordination of development intervention in the council (Section 71).

3.1.6 Legislative powers

Legislative councils enact by-laws (Section 37). All by-laws passed by the legislative council are forwarded to the county commissioner, mayor or town clerk to the state legal administration to confirm compatibility with the state and South Sudan Constitution and other laws (Section 38).

3.1.7 Financial Powers

Local government councils have been empowered to collect revenue and spend it in accordance with the laid down procedures. Section 74 and 84 of the Local Government Act mandates a local government council to generate revenue from specified sources and to execute her budget.

Section 81(1) stipulates that the financial year of the local government councils shall commence on the first day of July of every year and end on the thirty first day of June of the following year.

3.2 Personnel Management System in Local Governments

Session objectives

By the end of the session, the participants should be able to:

- (a) Describe the personnel management system in local Governments
- (b) List the powers, functions and duties of the Chief Administrator of a Local Government Council.

Subtopics/content

The following topics will be covered in the session:

- (a) Personnel management system in Local Governments
- (b) Powers, functions and duties of the Chief Administrator of a Local Government Council

3.2.1 Personnel function

- (a) Local government councils are mandated to recruit and terminate the service of their local staff (Section 68).
- (b) Local Government Administrative Officers are professional officers of the civil service of the States and other institutions of Local Governance including undersecretaries, at all levels of government and are recruited, appointed and promoted on the basis of education qualifications, professional training, experience, competence and merit (Article 138(2) of Constitution and amplified under Section 66 of the Local Government Act.
- (c) Local Government administrative officers are protected by provisions of the Constitution and Local Government Act from victimization and unfair disciplinary action (Article 141 (3) of the Constitution and Section 66(7) of the Local Government Act.
- (d) Section 59 of the Local Government Act provides for each Local Government Council to be headed by a Chief Administrator from the general list of the Local Government Administrative Officers of the State who is the head of the Civil Service of the Council.

The Chief Executive Officer (Section 59)

Each Local Government Council is headed by a Chief Administrator who is the head of civil service of the Council. The titles of the Chief Administrators of the Local Government Councils shall vary according to the type and status of the Council as follows: Executive Director for a County Council, Chief Executive Officer for a City Council, Chief Executive Officer for a Municipal Council and Town Clerk for a Town Council. For a County composing of two Councils, one Town Council and one Rural Council, the Town Council is headed by a Town Clerk and the Rural Council is headed by

a Deputy Executive Director.

Powers, functions and duties of the County Executive Director

The County Executive Director is the deputy of the County Commissioner, head of the Civil Service of the County and Chief Financial Officer of the County. Notwithstanding the provisions of sub-section (1) above, the County Executive Director shall exercise the following powers, functions and duties:

- (a) Represent the County Commissioner in the County Council;
- (b) Advise the County Commissioner on all technical matters of the Council administration;
- (c) Oversee the public order functions of the County Council;
- (d) Implement policy decisions and programmes of the County Council;
- (e) Supervise the administration and management of the County council finance, personnel, stores, workshops, public utilities and recreational centers, procurement and the maintenance of movable and immovable public assets;
- (f) Ensure implementation and execution of the resolutions of the County Council on all matters;
- (g) Monitor and evaluate the programmes and activities of the County Council;
- (h) Supervise and coordinate the technical functions of the Council departments;
- (i) Conduct performance appraisal of the seconded staff and report on their work to the County Commissioner and the State Ministries concerned;
- (j) Develop capacity development programmes and make recommendations for the support and technical staff and administrative officers, to the State Ministries concerned;
- (k) Safe custody of all County Council records and funds;
- (l) Mobilize and organize the general public to play an effective role in service delivery and development;
- (m) Coordinate government, non-governmental, private and community activities and functions in the County Council; and
- (n) Perform other functions and duties as may be prescribed by any applicable law and/or delegated by the County Commissioner.

Powers, functions and duties of the Chief Executive Officer of the City or Municipal Council

The Chief Executive Officer is the deputy of the Mayor, Head of the Civil Service of the City or Municipal Council and Chief Financial Officer of the City or Municipality. Notwithstanding the provisions of sub-section (1) above, the Chief Executive Officer shall, inter alia, exercise the following powers, functions and duties:-

- (a) Represent the Mayor in the City or Municipal Council;

- (b) Advise the Mayor on all technical matters of the City or Municipal Council administration;
- (c) Oversee public order and functions of the City or Municipal Council;
- (d) Implement the policy decisions and programmes of the City or Municipal Council;
- (e) Supervise the administration and management of the City or Municipal Council finances, personnel, stores, workshops, public utilities and recreational centers, procurement and the maintenance of movable and immovable public assets;
- (f) Implementation and/or execution of the resolutions of the City or Municipal Council on all matters;
- (g) Monitor and evaluate the programmes and activities of the City or Municipal Council;
- (h) Supervise and coordinate the technical functions of the City or Municipal departments;
- (i) Conduct performance appraisal of the seconded staff and report on their work to the Mayor and the State Ministries concerned;
- (j) Develop capacity development programmes and make recommendations for the support and technical staff and administrative officers, to the state Ministries concerned;
- (k) Ensure safe custody of all City or Municipal Council records and funds;
- (l) Mobilize and organize the public to play an effective role in service delivery and development.
- (m) Coordinate government, non-governmental, private and community activities and functions in the City or Municipal Council; and
- (n) Perform other functions and duties as prescribed by any other applicable law and/or delegated by the Mayor.

Powers and functions of the Town Clerk of the Town Council

The Town Clerk of the Town Council is the Chairperson of the Town Security Committee, Head of the Town Executive Council and Chief Financial Officer of the Town Council.

Notwithstanding the provisions of sub-section (1) above, the Town Clerk shall, inter alia, exercise the following powers, functions and duties:-

- (a) Represent the County Commissioner in the Town Council;
- (b) Advise the County Commissioner on all technical matters of the Town Council administration;
- (c) Oversee public order functions of the Town Council;
- (d) Implement policy decisions and programmes of the Town Council;
- (e) Supervise the administration and management of the Town Council finances, personnel, stores, workshops, public utilities and recreational centers; procurement and maintenance of movable and immovable public assets;

- (f) Implementation and/or execution of the resolutions of the Town Council or all matters;
- (g) Monitor and evaluate programmes and activities of the Town Council;
- (h) Supervise and coordinate the technical functions of the Town Council departments;
- (i) Conduct performance appraisal of the seconded staff and report on their work to the County Commissioner and the State Ministries concerned;
- (j) Develop capacity development programmes and make recommendations for the support staff and technical staff and administrative officers, to the State Ministries concerned.
- (k) Ensure safe custody of all Town Council records and funds;
- (l) Mobilize and organize the public to play an effective role in service delivery and development;
- (m) Coordinate government, non-governmental, private and community activities, functions and duties in the Town Councils; and
- (n) Perform other functions and duties as may be prescribed by any other applicable law and/or delegated by the County Commissioner.

3.3 Primary responsibilities of Local Government Councils

Session objectives

By the end of the session, participants should be able to:

- (a) Explain the primary responsibilities of the Local Government Councils
- (b) Describe the expectations of the electorate from Councilors

Subtopics/content

The following topics shall be covered in the session

- (a) Primary responsibilities of the Local Government Councils
- (b) Expectations from Councilors

3.3.1 Primary responsibilities of Local Government Councils

Section 24 provides for the primary responsibilities of the Local Government Councils as follows;

- (a) Regulation and maintenance of law and public order;
- (b) Regulation, provision and maintenance of services to the people;
- (c) Land administration and environmental management;
- (d) Encouragement and promotion of local development and provision of access and opportunities for the people to engage in the development of their communities; and
- (e) Protection of the rights of the people and their interests.

3.3.2 Expectations from Councilors

Councilors are representatives of the people in their electoral areas, they are the people's voices in their councils, and they are the watchdogs as well as overseers of their electoral areas. The communities have a number of expectations from them. They include;

- (a) Maintaining close contact with the electoral area and consulting the people on issues to be discussed in Council.
- (b) Presenting people's views, opinions, and proposals to the Council. Councilors do not only present their own opinions but also what the electorate is saying.
- (c) Attending Council sessions and committee meetings. As policy makers, the policies are made in these Council meetings.
- (d) Meeting the people in the electoral areas regularly.

- (e) Reporting to the electorate the decisions of the Council and the actions taken to solve problems raised by residents in the electoral area for purposes of political accountability and transparency.
- (f) Taking part in communal and development activities in their electoral area and district as a whole.

3.4 Promotion of Transparency and Accountability

Session objectives

By the end of the session, participants should be able to describe the role of Local Governments in promoting transparency and accountability.

Subtopics/content

- (a) Introduction
- (b) Promotion of transparency and accountability
- (c) Political accountability

3.4.1 Introduction

Section 13(5) and (9) provide for the principle of local governance based on transparency to build mutual trust between Government and citizens through provision of information and guaranteed access to information and accountability to the people in all matters of public interest.

3.4.2 The Civil Service

Chapter 1 of the Interim Constitution establishes the civil service. Article 142 of the Constitution provides its values and guidelines as a basis for accountability and transparency.

3.4.3 The Anti-Corruption Commission

Article 147 establishes the Anti-Corruption Commission to among other duties protect public property and to combat malpractices in public institutions.

Functions of the Commission are stipulated under Article 148 (1) as follows;

- (a) Protect public property
- (b) Investigate cases of corruption involving public property as well as in the private sector; such investigation shall be submitted to the Ministry of Legal Affairs and Constitutional Development for necessary action.
- (c) Combat administrative malpractices in public institutions such as nepotism, favoritism, tribalism, sectionalism, gender discrimination, bribery, embezzlement and sexual harassment; and
- (d) Pursuant to provisions of Article 121 (1) of the Constitution, require all persons holding such public offices to make a confidential formal declaration of their income, assets and liabilities.

Article 148 (2) of the Constitution provides that without prejudice to sub-Article (1) above, the Commission shall not have any powers to question the decision of any justice, judge, magistrate or chief registrar where such decision was made in the discharge of the functions of his or her office.

3.4.4 Political accountability

Section 36 of the Local Government Act, provides for the establishment of internal regulations of the Legislative Council for the conduct of its business.

Section 42 (5) requires that a councilor who has direct or indirect interest in any matter under consideration before the legislative council or any of its committee shall disclose that fact and shall withdraw from that sitting or meeting.

3.5 The Role of the State Ministry of Local Government and Law Enforcement and the Local Government Board

Session objectives

By the end of the session, the participants should be able to:

- (a) Describe the role and functions of the State Ministry of Local Government and Law Enforcement
- (b) List the role and functions of the Local Government Board

Subtopics/Content

- (a) The role and functions of the State Ministry of Local Government and Law Enforcement
- (b) The role and functions of the Local Government Board

3.5.1 State Ministry of Local Government and Law Enforcement

Section 125 of the Local Government Act stipulates that the State Ministry of Local Government and Law Enforcement shall have the responsibility for the functional organization of Local Government operations as follows;

- (a) Make sectoral policies to guide the functional organization of Local Government Councils in order to harmonize the state and local government plans and programmes;
- (b) Develop state framework for effective coordination of Local Government councils affairs between the State Ministries and Local Authorities and between the Local Authorities and Local Community institutions;
- (c) Organize State periodic transfers of Local government Administrative Officers and departmental senior staff in accordance with Local Government Board guidelines;
- (d) Organize state financial schedules for periodic disbursement of grants from the State Treasury and making similar arrangements for the internal and external audit of the Local Authorities accounts;
- (e) Establish inter-county fora to foster relations between the local authorities, civil society organizations and the private sector in service delivery;
- (f) Organize field visits to the Local Government Councils to inspect, monitor, appraise and evaluate their operations, staff performance, service delivery and progress in local development projects;
- (g) Adopt human resource management systems through which Local Government staff shall be effectively supervised and disciplined in accordance with provisions of Public Service Law, rules and regulations; and
- (h) Mobilize and sensitize the local population for participation in national, state and local functions.

3.5.2 The Local Government Board

Section 123 (1) of the Local Government Act establishes the Local Government Board in accordance with the provisions of Article 173 (3) of the Constitution.

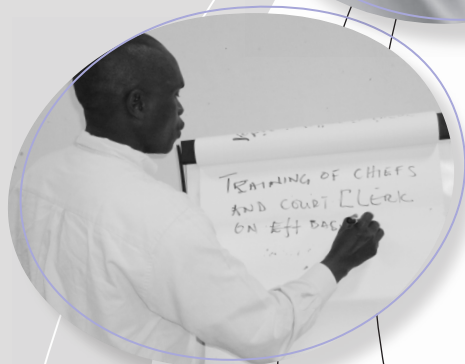
Section 123 (2) stipulates that the Board may from time to time be assigned mandatory executive functions and powers for discharge of Local Government affairs, as the case may be:-

- (a) To review and formulate Local Government policies and legal frameworks; and
- (b) To recommend and coordinate the establishment of minimum standards and uniform norms for service delivery in accordance with the provisions of B (9), C and D, read together with Schedule E, of the Constitution.

Section 124 provides the functions of the Local Government Board as follows;

1. In addition to the functions and duties provided under section 123 above, the Local Government Board shall have the following functions and duties:-
 - (a) Make recommendations for organization and establishment of Local Government Council;
 - (b) Recommend to the President the formation of a High Level Technical Committee for the creation and establishment of Local Government Councils in the 10 States of South Sudan in accordance with the criteria set forth in Article 173 (4) of the Constitution;
 - (c) Prepare warrants of establishment showing the status, administrative jurisdiction and the boundary of each Local Government Council for signature by the President;
 - (d) Review and recommend on the performance and administration of local government affairs of each Local Government Council in consultation with State Governments and reports its findings to the State Governors and the President for consideration; and
 - (e) Research and recommend the development of relevant concepts, principles and workable policy framework of local government.
2. The Local Government Board may upon the directives of the President prepare administrative circulars to regulate the status, conditions and quality of services being delivered to the people in order to:-
 - (a) Determine the appropriate transitional arrangements and mechanisms for the smooth transformation of the existing Local Government Councils from their current rudimentary stages to integrated modern local authorities;
 - (b) Promote the adoption of relevant models for local government planning, resource mobilization and management, service delivery and Local Government development programmes;
 - (c) Set national standards for recruitment, training, management and performance appraisal of the Local Government staff;

- (d) Review Local Government financial resources and recommend relevant models for grants allocation and disbursement; and
 - (e) Recommend the adoption of common norms and values to orient local government administration to be more responsive to the people in service delivery.
3. The Local Government Board shall assist in the coordination of the local government affairs through:-
- (a) The establishment of good inter-governmental linkages to harmonize the working relationships between people's Local Government Councils and government institutions at the State and Government of South Sudan levels; and
 - (b) The development of model Local Government programmes for service delivery at the local levels which may adopted for implementation by the State Ministries of Local Government and the Local Government Councils.



SESSION TIERS, TYPES AND ORGANS OF THE LOCAL GOVERNMENT COUNCILS

4

SESSION 4: TIERS, TYPES AND ORGANS OF THE LOCAL GOVERNMENT COUNCILS (SECTION 15 AND 16)

4.1 Tiers and Types of the Local Government Councils (Section 15 and 16)

Session objectives

By the end of the session, participants should be able to:

- (a) Distinguish between the tiers of the local government
- (b) Distinguish between the types of local government councils

Sub topics/content

The following topics will be covered in the session;

- (a) The tiers of the local government
- (b) The types of local government councils
- (c) Incorporation of traditional authorities

4.1.1 Introduction

Local Government Councils are established on the principles of decentralization and democratic governance based on devolution of authority and powers to the lowest level of government closest to the people (Section 6 (2) of the Local Government Act, 2009).

4.1.2 Tiers of Local Government Councils

Section 15 provides for the three tiers of the Local Government as below:

- (a) The County, City, Municipal and Town (councils)
- (b) The Payam and Block councils (Coordinative administrative units): and
- (c) The Boma and Quarter councils (Basic administrative units)

4.1.3 Types of Local Government Councils

Section 16 provides for the types of Local Government councils as follows:

- (a) Rural Council: a council established in a rural settlement or area whose economy is predominantly agricultural, pastoral or mixed, with a strong base of traditional administration and cultural practices, and known as a County Council which is subdivided into Payam and Boma.
- (b) Urban Council: a council established in an urban or a cosmopolitan area with more than 60 percent of its economic activities being non-agricultural. Urban councils are classified into:

- A city council, which shall be a body corporate divided into block and quarter councils.
 - A municipal council, which shall be a corporate body divided into block and quarter councils.
 - A Town Council, which shall be a corporate body divided into quarter councils.
- (c) An Industrial Council is a council established in an industrial area which may have either or both characteristics of an urban or rural council such as the following;
- In its initial establishment, it may be devolved and de-concentrated within the jurisdiction of the corporate body within which it exists, and
 - An industrial council may develop into a full corporate body as population, infrastructure and services grow.

4.1.4 Incorporation of traditional authority system

Section 19 provides for the incorporation of traditional authority system in the three tiers of the local government.

- (a) The traditional leaders shall represent their people in County Legislative Council
- (b) The Boma shall be the main domain of the traditional authority where the traditional leaders perform their administrative and customary functions
- (c) In the Town Council, the traditional authority shall perform its administrative and customary functions within the quarter council
- (d) There shall be no customary bench court at the Municipal and City Council levels

4.2 Organs of the Legislative Council

Session objectives

By the end of the session, participants should be able to describe the organs of the Local Government Council (Section 22).

Subtopics/content

The following topics will be covered:

- (a) Introduction
- (b) The Executive Council
- (c) The Customary Law Council

4.2.1 Introduction

Local Government Councils are established on the principles of decentralization and democratic governance based on devolution of authority and powers to the lowest level of government closest to the people - Section 6(2) of the Local Government Act, 2009.

Section 22 provides for the organs of Local Government Councils such as the legislative, executive and customary law councils.

4.2.2 Executive Council

The Executive Council is the highest executive authority in the council and it's composed of the following:

- (a) County Commissioner or Mayor of City or Municipal Council or Town Clerk of the Town Council, as heads as the case may be;
- (b) Chief Administrators as the Secretaries of the Executive Councils; and
- (c) Heads of departments of the Councils, as members. Membership of the Executive Council is not combined with the membership of the Legislative Council or the State Executive Council or any other level of Government.

The Executive Council performs the following functions (Section 47):

- (a) Undertake the general planning and administration of the Local Government Council;
- (b) Provide services to the people;
- (c) Approve administrative policies proposed by the functional units of the Council;

- (d) Implement policies and by-laws passed by the Legislative Council;
- (e) Prepare annual budget and reports to the Legislative Council on the progress of the executive work;
- (f) Report to the Legislative Council upon its request;
- (g) Initiate Acts for submission to the Legislative Council;
- (h) Exercise powers and competences specified in Schedules I, II, III and IV of the Local Government Act, 2009.

The County Commissioner (Section 48)

There is a County Commissioner for each Local Government Council

The County Commissioner is the head of the County Executive Council, Chairperson of the County Security Committee and representative of the State Governor in the County.

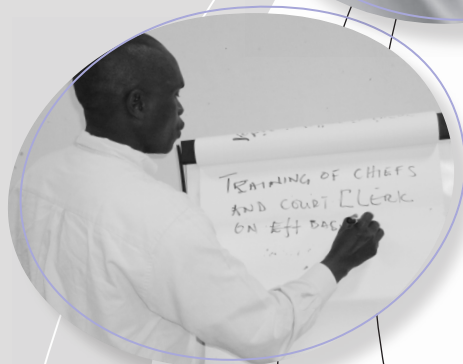
The County Commissioner is not a member of the Legislative Council but he or she is accountable to the County Legislative Councils in the discharge of his or her functions and duties.

4.2.3 Customary Law Council

There is also established in each County a Customary Law Council which is the highest Customary Law authority in the County (Section 93).

The functions and duties of the Customary Law Council include the following (Section 95);

- (a) The Customary Law Council shall protect, promote and preserve the traditions, customs, cultures, values and norms of the communities.
- (b) The Customary Law Council shall regulate, maintain, monitor and ensure proper administration of the customary law.
- (c) Members of the Customary Law Councils shall be impartial in the performance of their functions and duties.



SESSION 5

Inter Governmental Linkages

SESSION 5: INTER-GOVERNMENTAL LINKAGES

5.1 Inter-Council Linkages

Session Objectives

By the end of the session the participants should be able to describe the inter-council linkages

Subtopics/Content

The following subtopics will be covered in this session:

- (a) Internal boarder linkages
- (b) Relations in the Administration of decentralized systems

5.1.1 Introduction

Section 122 of the Local Government Act provides for a decentralized system of governance where the Local Government institutions are established in three levels i.e. at the Government of South Sudan, State and the Local Government Councils.

5.1.2 Inter-Council linkages

Section 127 provides for inter-council linkages allowing two or more Local Government Councils to develop, through mutual understanding, coordinative mechanisms to enhance inter-council co-operation for joint service delivery and local development ventures.

5.1.3 Internal Border linkages

Section 128 requires all Local Government Councils to maintain good border relations with their sister Councils and to foster good inter-council linkages within their State.

5.1.4 Relations in the administration of decentralized Systems

Section 126 (1) of the Local Government Act stipulates that in the administration of the decentralized system of governance in the Local Government, the following principles of inter-governmental linkages shall be observed:-

- (a) The linkages between the Government of South Sudan and the Local Government shall be through the relevant State Government organs or institutions;
- (b) In their relationships with each other or with other governments, all levels of government in South Sudan referred to in Article 50 of the Constitution shall observe the following:-

- i. Respect each other's powers and competences;
- ii. Collaborate in the task of governing; and
- iii. Assist each other in fulfilling their constitutional obligations.
- c) The Government organs at all levels of Government referred to in subsection (1) (b) above, shall perform their functions and exercise their powers so as to:-
 - i. Avoid encroaching on or assume powers or functions conferred upon any other level except as provided for by this Act and the Constitution;
 - ii. Promote cooperation in rendering assistance to support each other's level of government;
 - iii. Coordinate each other's functional activities and communication systems so as to facilitate the operations of all levels of government;
 - iv. Promote the spirit of peace and peaceful co-existence in handling and dealing with local government matters;
 - v. Resolve disputes and conflicts amicably among each other and other levels of government; and
 - vi. Respect the status and institutions of government of each other at all levels of Government.

The Government of South Sudan and the State Governments shall develop relations and mechanisms to nurture the Local Government Councils during their growth to maturity and provide for internal and external border linkages respectively.

5.2 Extra-Governmental Linkages

Session objective

By the end of the session, participants should be able to describe the extra-governmental linkages

Subtopics/Content

The following subtopics will be covered in the session

- (a) Linkage with Local Government associations
- (b) Linkages with the union of Local Government Administrative Officers
- (c) Public-Private Sector linkages
- (d) Linkages with international agencies and organizations

5.2.1 Linkages with Local Government Associations

Section 130 provides for linkages with Local Government Associations to advocate and solicit support for Local Governments locally, nationally, regionally and internationally.

5.2.2 Linkages with the union of Local Government Administrative Officers

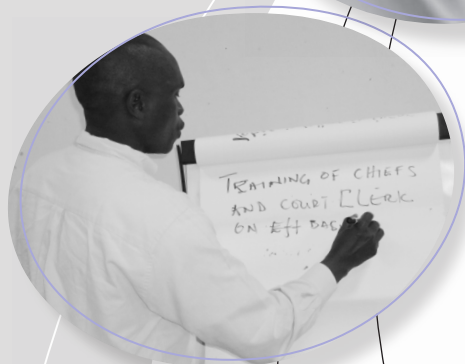
Section 131 provides for linkages with the union of Local Government Administrative officers.

5.2.3 Public-Private Sector Linkages

Section 132 and section 133 provides for public-private sector linkages through non-governmental organizations, Community Based Organizations and the private sector institutions in service delivery.

5.2.4 Linkages with International Agencies and Organizations

Section 133 provides for linkages with international agencies and organizations to seek for support for funding and implementation of the programmes and projects of the Local Government.



SESSION MEETINGS OF THE LEGISLATIVE COUNCIL **6**

SESSION 6: MEETINGS OF THE LEGISLATIVE COUNCIL

6.1 Introduction to meetings

Session Objectives

By the end of the session, participants should know:

- (a) The various types of meetings
- (b) The functions of meetings
- (c) The general problems associated with meetings

Subtopics/Content

The following will be covered in this session:

- (a) Understanding of meetings
- (b) Various types of meetings
- (c) Functions of meetings
- (d) General problems associated with meetings

6.1.1 Introduction

We often find ourselves involved in meetings at every level. These range from family conferences, formal general meetings of large corporations, a small group meeting to solve a common problem, a large group called together to discuss a pressing local issue or a committee which meets regularly to consider an organization's affairs.

In the interest of democracy in local councils, most decisions and policies are made in meetings as a policy making body. The seriousness attached to Legislative Council meetings must be reiterated.

The purpose of this presentation therefore, is to discuss with participants the importance of meetings and how to effectively manage them.

6.1.2 Understanding Meetings

a) Definitions

A meeting may be defined as:-

- A number of people (from two to several) who come to a pre-arranged place, at a pre-arranged time to discuss and usually decide upon matters of common interest.
- Getting together with the idea of talking about and sharing knowledge, experiences, views and suggestions.

b) Types of meetings

Meetings can be formal or informal. Formal meetings follow a set of rules of procedure. Informal meetings on the other hand do not follow any set rules of procedure.

There are various forms of formal meetings as indicated below.

c) Group decision meetings

In group meetings, decisions are arrived at democratically through discussions, voting on resolutions directed by the chairperson and collective responsibility in implementing resolutions. Such meetings include general meetings and committee meetings.

(c) General meetings

With general meetings, all members belonging to an organization are expected to attend. General meetings are also of two types: public and private. A public meeting is open to any member of the public. The meeting is usually held in a public place and to discuss public issues. A private meeting on the other hand is restricted to only members of the organization. It is held in a private place and usually to discuss private issues.

(d) Committee meetings

A committee meeting is one in which only a small group of members from the organization are supposed to attend. On average, they may be six to seven persons. In such meetings, issues are discussed more exhaustively. Some members of the committee are authorized to implement the resolutions made. Others simply report them back to the general meeting.

(e) Command meetings

These are meetings between supervisors and their subordinates (their commands). In the meeting, the supervisor passes on resolutions/directives already made. The supervisor is not obliged to discuss with the subordinates the issue. He/she may simply ask for a few comments, at his/her discretion. An example is a Military Command meeting.

6.1.3 Functions of meetings

Group discussion is a powerful means of persuasion. Through meetings, various individuals with varied opinions or ideas or positions have these thrashed out and streamlined into a "group think". Meetings therefore serve various functions namely:-

- (a) To consult, exchange views, discuss matters of common interest and generate more ideas.

- (b) To inform staff about new work procedures and update them on current developments.
- (c) To make decisions i.e. democratic decisions.
- (d) To solve problems by pooling the relevant expertise and generate new ideas.
- (e) To investigate occurrence e.g. accidents.
- (f) To make recommendations to a parent Executive Committee.
- (g) To improve organizational morale; individuals interact to improve personal relationships.
- (h) To let off steam or to preserve mental health and to present divergent interests on level ground.
- (i) To gain support for a course of action.
- (j) To delegate work or authority.

6.1.4 Problems with meetings

As already pointed out, meetings serve a number of functions for organizations, however, they may not be effective due to the following:-

- (a) Drifting off the subject.
- (b) Poor/inadequate preparation.
- (c) Lack of effective listening.
- (d) Verbosity of participants.
- (e) Time management.
- (f) Lack of participation.
- (g) Authority relationship.
- (h) Hidden agenda.
- (i) Disruption.

6.2 Meetings of the Legislative Council

Session objectives

By the end of the session, participants should be able to outline the rules to be followed during Local Council meetings.

Subtopics/content

The following will be covered during the session

- (a) Introduction
- (b) Rules to be followed during the Local Council meetings

6.2.1 Introduction

The Legislative Council is the body through which the Local Government councils discuss, plan and make policy decisions. The following are key in planning and managing effectively the council meetings.

6.2.2 Rules to be followed during the Local Council meetings

a) Frequency of meetings

Meetings of the Legislative Council are held every quarter to deliberate on council business. The Chairperson of the Legislative Council shall, in consultation with the Secretary convene ordinary sessions of the Legislative Council-Section 43(3). The seat of the Legislative Council shall be the headquarters of the County, Municipality or Town Council. The Chairperson of the Legislative Council may call any meeting to convene at any other place in the County, Municipality or Town Council as he or she deems fit (Section 44).

b) Special meetings

The Chairperson of the Legislative Council may, on his or her own initiative, in consultation with the Secretary or on written request signed by at least one third of the councilors, call an extra-ordinary session of the Legislative Council-Section 42(4).

c) Notice of meeting

A notice calling a meeting, together with the agenda for the meeting, shall be circulated by the Secretary to the Council to every member after preparation in consultation with the Chairperson of the Legislative Council - Section 35(5).

d) Language to be used in the Legislative Council

The proceedings and debates of Council shall be in English, Arabic or any other national languages being used in the County, Municipality or Town Council - Section 42(9).

e) Council meetings to be open to public

The meetings of a Council shall be open to the public, but where in the opinion of the Chairperson or by resolution of Council the deliberations are of confidential nature, Council may meet in camera- Section 42(8).

f) Quorum

The quorum of the sittings of the Legislative Council shall be by simple majority of the councilors. For the purposes of quorum above, a withdrawing member from the sitting shall be considered present- Section 42(6).

g) Decisions of the Legislative Council

Any matter before the Legislative Council shall be decided by a simple majority and in the case of a tie, the Chair shall have a casting vote - Section 42(8).

h) Declaration of interest

A Councilor, who has direct or indirect interest in any matter under consideration before the Legislative Council or its committee, shall disclose the fact and shall withdraw from that sitting or meeting (Section 42(5)).

i) Records of Council Minutes (Section 43)

- Every Legislative Council shall keep records of its proceedings and resolutions.
- The records of all the proceedings and resolutions shall be kept by the Secretary of the Legislative Council.
- The Secretary of the Legislative Council shall ensure access by councilors and the public to the Legislative Council records of proceedings and resolutions and ensure that they are available in sufficient quantities in the Legislative Council library.
- The records of the Legislative Council meetings shall be kept in English, Arabic or any other national language being used in the County, Municipality or Town Council.

j) Internal regulations of the Legislative Council

The Legislative Council shall make its internal regulations for the conduct of business in its first session. The Chairperson of the Legislative Council shall ensure internal regulations are respected, adhered to and enforced accordingly (Section 36).

(k) Committees of the Legislative Council

Committees are the practical ways in which the Council handles its affairs. The Legislative Council shall establish committees for efficient and effective performance of its functions and duties.

There shall be established in each Council, two types of committees. Standing committees as shall be determined by each Legislative Council (Section 34). Standing Committees – These are committees of Council which consider council matters before they are put before Council. They also consider proposals referred to them by Council. Standing Committees consider proposals and make recommendations to Councils. The Council may also establish ad hoc committees as necessity may require.

For purposes of good governance, each committee should be left to operate independently without undue influence by any person or other committee and be left to present a report to Council which shall consider it with the contributions of all councilors. Committees make recommendations, which if adopted by the Council meeting become resolutions. No committee makes a resolution whatsoever.

(l) Freedom of speech in meetings

There shall be freedom of speech in proceedings of every Local Government Council and that freedom shall not be impeached or questioned in any court, tribunal or any other place out of the Council. Members of the Legislative Council shall freely and responsibly express their opinion as provided for in the Council code of conduct of business. No civil or criminal proceedings shall, therefore, be instituted against a member of a Local Council arising out of anything said in the Local Council (Section 32).

6.3 Roles of various officials in Legislative Council Debates, Motions and Amendments

Session objectives

By the end of the session, participants should be able to list the roles of the various officials in the Legislative Council and describe how to move motions and initiate amendments in the council meetings.

Subtopics/content

- (a) The role of the Chairperson in the Council meetings
- (b) Functions of the Legislative Council members in meetings
- (c) Functions of technical officers in meetings
- (d) Motions
- (e) Amendments

6.3.1 The Chairperson

Except during the election of the Chairperson, the Chairperson shall preside over the proceedings of the Council, control, maintain order and supervise the administrative affairs of the Council - Section 35(2). The Deputy Chairperson shall preside over the proceedings of the Council any time when requested by the Chairperson to do so during a Council meeting and in the absence of the Chairperson. The Chairperson determines the order of debate and ensures that all Councilors receive an equal opportunity to speak.

The Chairperson may order anyone to be removed from the room if that person is behaving irregularly, improperly, offensively, or is willfully obstructing the business of the Council.

6.3.2 Members of the Legislative Council

Every Legislative Council member shall:

- (a) Actively participate in the Councils meetings.
- (b) Be at the place of the meeting on time and be at the meeting for the whole duration.
- (c) Study and comprehend the minutes of the previous meetings, and consult on topics to be discussed and equip themselves for fruitful discussions during the meetings.

6.3.3. Technical officers

- (a) Suggest to Council strategies for identified problems

- (b) Give technical advice to Councilors during meetings.
- (c) Custodians of Council deliberations.
- (d) Take down minutes of Council meetings
- (e) Assist Council in policy formulation: Civil servants are recruited on merit and as such, they are experts in their respective fields. They use this knowledge and expertise to advise Council on various matters, the final decision lies with the Councilors.

The advice given by the civil servants should always be recorded to avoid situations where complications may arise. The implementation of Council decisions is the role of the civil servants and this role should not be interfered with by the Councilors. The civil servants are bound to implement lawful decisions. The role of Councilors is to monitor projects and exercise authority as a corporate body, not as individuals, therefore unless specifically authorized by the Council, no Councilor or Committee to which Council has delegated its powers, should issue any order on any matter under the jurisdiction of Council or give instructions to any civil servant.

6.3.4 Motions

A motion is a formal proposition submitted to the Council for debate and decision. It is a summary or a highlight of the proposed business to be handled in a Council meeting. There should be a motion for business to start, and the Chairperson should take each motion on the agenda in turn. If a meeting adopts the motion, it becomes a resolution of the Council.

Nature of Motions to Council

- (a) A member may propose a subject for discussion or a draft resolution for approval as a resolution of the Council.
- (b) Every motion shall be referred to the relevant Standing Committee for review and appropriate recommendation to the Council.

A motion should be worded exactly as its mover desires it to appear in the minutes of Council debate. Motions should start with the word "That". The following is a typical motion:

I beg to move, "That the Medical Officers' report for the month of October 2012 be approved".

Motions should be very clear and relevant to the business for which the meeting has been convened. Motions should be on matters that the Council has authority to debate on. Motions should be in writing when handed to the Chairperson (such as a motion to invite the relevant head of department to answer queries).

Formal Motions

A formal motion is one that refers only to procedures, and is moved to expedite or facilitate the business of the meeting. The main formal motions are:

- | | |
|---|--|
| “The Closure’ | The objective of this motion is to force a vote on a question that has been sufficiently debated. This is moved in the form “That the question be now put”. If it is passed, the question under discussion is put immediately to the vote. The Chairperson may also apply the closure when he/she judges that all opinions have sufficiently been heard. |
| “Proceed to next item of business” | This may be moved at the end of any speech even if an amendment is before the meeting. If this formal motion is carried, the main motion is dropped and the meeting proceeds to the next item on the agenda. If the motion is not carried, discussion continues. |
| “Adjournment of the debate” | This is moved to postpone the discussion to alter stage, or to another date, time or place or indefinitely. This is necessary until some related matter has been settled, or until certain information is available, or a certain person is present. |
| “Adjournment of the meeting’ | The formal motion for adjournment should indicate the place of resumption or whether the adjournment is <i>sine die</i> (indefinite). The motion may be moved at the end of any speech or conclusion of any business. If it is seconded, it may be discussed before being put to the vote. |
| “Refer back” | This is tabled if the Council does not agree with certain recommendations, such as those contained in a Committee report. This motion is tabled to refer the matter back to the Committee for further consideration. |

- “Resolve into Committee”** Council meetings may resolve into a “Committee of the whole Council” in order to debate confidential matters. Resolutions from such meetings are recorded confidentially, or passed as simple resolutions when the normal meeting to which the public is invited resumes.
- “Let the matter lie on the table”** If the meeting is unable or unwilling to deal with a certain issue, it may resolve to “let the matter lie on the table”. This is a decision to do nothing on the matter until a later date. Later, the motion may “be taken from the table” and discussed normally.
- “Motions Out of Order”** The Chairperson may rule a formal motion out of order if:
- i. He/she considers it destructive or abusive.
 - ii. It is moved afresh before a reasonable period has passed.
 - iii. It violates the standard regulations of procedures.
- Point of Order** A point of order is an objection submitted to the Chairperson over an irregularity in the meeting. The most common irregularities are:
- i. Use of irrelevant or improper language;
 - ii. Absence of a quorum;
 - iii. Amendments which are simple negatives of motion before the meeting;
 - iv. If the motion is ultra vires (i.e. not within the scope of the notice given);
 - v. If a motion is being debated without being seconded;
 - vi. If any regulation governing the council meeting procedures is being violated;
 - vii. Use of misleading information

6.3.5 Amendments

An amendment may be moved under the following conditions:

- (a) To insert words in the body, or at the end of the motion.
- (b) To delete certain words.
- (c) To substitute certain words for others.

Amendments must:

- (a) Be relevant to the motion.
- (b) Not raise any matter already decided upon by the meeting.
- (c) Not be in writing, unless the rules require.
- (d) Be formally moved, but need not be seconded, unless the rules so require.
- (e) Be moved after the motion has been tabled for discussion, but before it has been voted upon.

Any one member may move only one amendment to a motion.

Discussion must focus on the amendment that has been tabled, after which there should be a vote. If the amendment is dropped, the original motion remains. If the amendment is passed, it should be incorporated into the original motion, which may then be further amended.

Once an amendment has been accepted, no further amendments may be done on it. If there are several amendments, the chairperson will usually take them in the order in which they affect the main motion and not necessarily in the order in which they were moved.

If there are two or more amendments to the same point, the amendment affecting the greatest alterations should be put first. If it is lost, the amendment affecting the small alterations may then be tabled.

6.4 Debate Guidelines

Session Objectives

By the end of the session, participants should be able to list the good practices in conducting debates in the Legislative Council meetings.

Subtopics/content

The following will be covered in the session:

- (a) Debate guidelines
- (b) Important things and good practices on procedures of meetings.

6.4.1 Debate guidelines

- (a) Business should be conducted in the order of the agenda, unless the Chairperson rules otherwise.
- (b) Except with regard to a point of order, no discussion should take place unless there is a motion before the meeting.
- (c) The Chairperson may require motions and amendments to be submitted in writing.
- (d) Only one member may speak at a time. He/she must be standing and facing the Chair, unless permission to remain seated has been given by the Chairperson, or where there is compelling physical disability.
- (e) All speeches must be relevant to the motion. A member who refuses to be “called to order” may be required to stop speaking, or to leave the meeting.
- (f) Once a motion is tabled before the meeting, it should not be withdrawn without the consent of the meeting.
- (g) A matter once disposed of by the meeting may not be raised again at the same meeting.
- (h) No interruption of speakers, other than on a point of order or point of information, is allowed.
- (i) Once a motion has been voted upon, no one should speak on it again.
- (j) Councilors should not use offensive or insulting language, persist in irrelevant repetition, create a disturbance, or commit any act disrespectful to the Chairperson or to the Council.

6.4.2 Important things and good practices on procedures of meetings

- (a) An agreed schedule of meetings and some expected outputs should always be made.
- (b) Agenda must be adopted by the meeting before start of business
- (c) Invitations for meetings should include the agenda so that members can do ample research and consult

constituents in time.

- (d) Councilors should make consultations and gather facts in the respective constituencies.
- (e) Draft minutes of previous meetings should be included in the invitations if they are part of the next meeting.
- (f) It is only Council and not any committee whatsoever that makes resolutions, which must also be lawful for implementation. All committees make recommendations for the Council.
- (g) In all meetings, service delivery, value for resources and local development should be given prominence.

DESIGN AND LAYOUT

Moses Bwalatum

E-mail: bwalatum@yahoo.com

Tel. +256772882688



**THIS MANUAL HAS BEEN PRODUCED WITH FINANCIAL
ASSISTANCE FROM THE ROYAL NETHERLANDS GOVERNMENT**