



UNDERSTANDING HUMANITARIAN ACCESS AND THE PROTECTION OF CIVILIANS IN AN ERA OF DEPOLITICIZED WAR



1. Executive Summary

The humanitarian community tends to think of humanitarian access issues as iterative problems: technocratic challenges to be dealt with one-by-one, as they occur. The government decides if humanitarian operations can happen, and NGOs adapt to those restrictions. What such an approach occludes is that in southern Sudan, humanitarian access has long been part of a political economy of war, in which the government and armed non-state actors seek to shape the movements of populations—and the control of those populations and any resources accruing to them—by variously denying and enabling humanitarian access to those populations. This is not an iterative problem. Questions of humanitarian access shape the flow of the conflict in South Sudan today.

Conceptually, humanitarian access and the protection of civilians are distinct issues. The first refers to the ability of affected people to claim and reach humanitarian assistance and protection, as well as the capacity and ability of humanitarian assistance to deliver life-saving services to those people in accordance with humanitarian principles. ‘Protection of Civilians’ refers to the responsibility of all armed parties to a conflict to ensure that civilians are, indeed, protected. In South Sudan, the United Nations Mission in South Sudan (UNMISS) also has a mandate to protect civilians, despite its evident incapacity to do so.

In 2020, both civilian lives and humanitarian access have been under stress. While a Revitalized-Transitional Government of National Unity (R-TGoNU) was formed in Juba in February 2020, the government has continued to attack non-signatories to the Revitalized-Agreement on the Resolution of the Conflict in the Republic of South Sudan (R-ARCSS), and signatories to the R-ARCSS, in violation of the agreement, and has continued to commit serious human rights violations against civilians. As this report shall show, the selective granting and denying of humanitarian access, especially in Equatoria, has formed an essential part of the government’s war strategy. In what was a Yei River state, government forces, often operating in alliance with the Sudan People’s Liberation Army in Opposition (SPLA-IO), have attack the forces of the National Salvation Front (NAS), while denying humanitarian access to opposition-held territories, as part of a deliberate strategy to immiserate populations held to be hostile to the government, starve the opposition of support, and drive rural populations into urban areas, where they can be controlled by the government, and the government can benefit from the various advantages that accrue from having aid operations based in territory under its control.

Thus, while humanitarian access and protection of civilians are conceptually distinct issues, they are practically linked: humanitarian acquiescence to the government's strategy of asymmetrically granting humanitarian access imperils civilian populations, putting them in harms' way, and assists the government's war strategy, as this report will go onto show.

The proper response to such actions, this report will argue, is for the humanitarian community to establish robust red lines that ensure that no humanitarian access can be instrumentalized by the government to further its war strategy, and to ensure equitable and neutral delivery of humanitarian resources to the communities of South Sudan. This is unfortunately not the current strategy adopted by the humanitarian community. Amid a culture of silence, in which humanitarian organizations fear government retaliation, there has been a recent drive to depoliticize violence, naturalizing it as putatively 'communitarian' or 'inter-communal violence' and placing the emphasis and responsibility for such violence on the communities of South Sudan, rather than where it belongs, which is with the government itself. This report shall argue that such an approach is mistaken, and deleterious for the civilians of South Sudan.

This report is based on fieldwork in Unity, Jonglei, and Upper Nile states from August-December 2020. Due to access issues for research related to Covid-19, some of this research was conducted remotely. The report surveys the humanitarian access issues produced by conflict in 2020 through a series of focused case studies. These case studies are not intended to be comprehensive, but are rather thematic, and indicate some of the broader political economic structures in which humanitarian access issues are embedded, how they are intertwined with issues of civilian protection, and how such issues are perceived by communities and armed-non-state-actors in South Sudan.



2. Introduction

In March 2020, after nearly a year of delays, ministers from the parties in South Sudan that were signatories to the Resolution of the Conflict in the Republic of South Sudan (R-ARCSS) were appointed to a new cabinet, as part of a Revitalized-Transitional Government of National Unity (R-TGoNU), formed in February 2020.¹ With their appointment—along with the selection of governors for nearly all the country’s states, made in June-July 2020—many in South Sudan hoped that the civil war that began in December 2013 would draw to a close, and the difficult task of rebuilding a country ravaged by six years of conflict could begin in earnest.²

Unfortunately, 2020 has not borne out these hopes. The level of violence in South Sudan actually increased in 2020, relative to 2019.³ This year, there has been a sharp increase in violence in Jonglei, Lakes, Warrap, Western Bahr el Ghazal, the Greater Pibor Administrative Area (GPAA), and Western, Eastern, and Central Equatoria states.⁴ Around Yei and Mundri, in both Central and Western Equatoria states, the South Sudan People’s Defence Forces (SSPDF) have opportunistically allied with the Sudan People’s Liberation Army in Opposition

¹ The Revitalized Agreement on the Resolution of the Conflict in South Sudan initially intended the formation of a national government by May 2019, before two extensions were agreed by the belligerent parties, which allowed the parties to form a government at the beginning of 2020.

² Eight of the ten governors were selected on 29 June; the governor of Jonglei was appointed on 15 July; the sole remaining governor not to be appointed is in Upper Nile, where South Sudanese President Salva Kiir has thus far, as of the end of November 2020, refused to appoint the candidate of the Sudan People’s Liberation Army in Opposition (SPLA-IO), Johnson Olonyi.

³ For instance, in the period from April-June 2020, there were more than 417 violent incidents, involving at least 1,620 civilians in major forms of individual harm (death, abduction or sexual violence), relative to 138 incidents, involving 441 civilians, in the same period in 2019. See: Quarterly Brief of the United Nations Mission in South Sudan Human Rights Division (HRD), April-June 2020.

⁴ See UN Panel of Experts report for South Sudan, Interim Report, 25 November 2020.

(SPLA-IO) to attack the forces of the National Salvation Front (NAS) and civilian populations that the government believes supports NAS, in acts that amount to collective punishment of civilian populations.⁵ These attacks by government-aligned forces have been accompanied by widespread government denials of humanitarian access to the affected civilian populations, in what amounts to further collective punishment, and the politicization of humanitarian aid under the government's control.⁶ For NGOs and humanitarian organizations, such denial of humanitarian access, coupled with the civilian protection issues caused by the government and the SPLA-IO's assaults, raise questions about how to effectively provide aid in areas in which the government is intentionally blurring the distinction between opposition rebel groups and civilian populations. Current conflict in South Sudan also poses questions of how we are to understand civilian protection in a moment of apparent political stability in Juba. Given the current political situation, the relationship between belligerent parties and the peace process often seems to be opaque. This is an opacity, as this report shall onto show, that is partially caused by the dulled lenses of the categories that humanitarian actors are using to understand contemporary violence.

Since the signing of the R-ARCSS, there has been an intermittent alliance between what were once the two principal belligerent groups in the country, the SSPDF and the SPLA-IO.⁷ In Central Equatoria, both South Sudanese President Salva Kiir and opposition leader and First Vice-President Riek Machar share a common interest in undermining the position of Thomas Cirillo, the leader of NAS.⁸ SSPDF/SPLA-IO attacks on NAS positions continue despite the cessation of hostilities agreement signed by the government.⁹ As of the end of November 2020, NAS was a non-signatory to the R-ARCSS, and thus outside of the properly political order of the rebel groups included within it.¹⁰ That the SPLA-IO is officially in government, though violence continues elsewhere in the country at increased levels, has

⁵ UNMISS HRD, for instance, reported SSPDF/SPLA-IO attacks on civilian positions in the first half of 2020 in and around Yei, Maridi, Mvolo, and Tambura.

⁶ See UN Human Rights Council, *"There's nothing left for us": starvation as a method of warfare in South Sudan*. Conference Room Paper of the Commission on Human Rights in South Sudan. 5 October 2020.

⁷ Since the formation of the R-TGoNU, a raft of defections from the SPLA-IO to the SSPDF has limited the former organization's military strength. The relative powerlessness of the SPLA-IO had led many of its principal commanders, including its chief-of-staff, First Lieutenant General Simon Gatwich Dual, to consider breaking with the SPLA-IO leadership.

⁸ SSPDF and SPLA-IO forces have conducted military offensives against NAS in Central Equatoria since March 2020.

⁹ Agreement on Cessation of Hostilities, Protection of Civilians and Humanitarian Access.

¹⁰ See Joshua Craze, 'Why peace agreements in South Sudan intensify the war economy.' 29 July, 2020. Centre for Public Authority and International Development at LSE's Firoz Lalji Centre for Africa; Joshua Craze, *The Politics of Numbers: On Security Sector Reform in South Sudan 2005-2020*, Centre for Public Authority and International Development at LSE's Firoz Lalji Centre for Africa, 22 July 2020. The *properly political order* here refers to the fact that the government has frequently denied that NAS is an actual political force, with substantive and genuine grievances against the South Sudanese state, and instead contended that it is composed of 'bandits' – and thus should be policed, rather than negotiated with. For instance, in March 2016, the government contended that there could be no cantonment sites for the opposition in Western Equatoria, because there was no opposition there, only bandits and criminals not protected by the ceasefire provisions of the peace agreement. See, inter alia, Radio Tamazuj, 'S Sudan Parties in dispute over cantonment sites in Equatoria and Bahr el Ghazal', 9 March 2016.

led to the R-TGoNU declaring that such forces are ‘bandits’ and outside the order of ‘political violence.’¹¹ Such a classification of violence has allowed UNMISS to declare that *political* violence has reduced in South Sudan—even though its own agencies have declared that violence has increased—as violence between the belligerent parties to the peace agreement has seemingly reduced (itself a dubious proposition).¹² The UN’s claim implies that the violence that we see playing out in South Sudan today is *not* political, and is somehow disconnected from the politics of Juba.¹³ This report will show that this is not the case. The violence scarring South Sudan at present is indeed political, and the *political* nature of this violence has important implications for how we understand both the protection of civilians and humanitarian access.

While UNMISS and the R-TGoNU is claiming that the current waves of violence in South Sudan are not political, that determination *is itself political*, and designed to maintain the legitimacy of a peace agreement that is no longer fit for purpose, and which neither meaningfully includes the actual belligerent parties within it, nor offers a reasonable roadmap to peace for the communities of South Sudan.¹⁴ UNMISS pushes such an interpretation of contemporary violence because it enables the mission to claim that peace has come to South Sudan. Such a narrative, in turn, has enabled UNMISS to withdraw force protection from the Protection of Civilians Sites (PoCs), abandoning their residents to the control of the very government forces that displaced them from their homes.¹⁵ There are thus very real consequences for civilian protection in how violence is classified after the formation of the R-TGoNU, and very real risks in abandoning the centrality of a state-focused framework for understanding violence in contemporary South Sudan.

What is central for the humanitarian community, this report will argue, is that we use an approach to current violence that is grounded in an understanding of South Sudan’s history and political economy and use that approach to understand the co-constitutive dynamics of

¹¹ Despite the signing of multiple cessation of hostilities agreements, government forces have continued to attack NAS, in violation of such agreements. See, Report by H.E. Maj. Gen (RTD) Charles Tai Gituai Interim Chairperson of RJMEC on the status of implementation of the Revitalised Agreement on the resolution of the conflict in the Republic of South Sudan for the period 1st July to 30th September 2020. 20 October 2020. See footnote 10 for further details of the claim of ‘banditry.’

¹² See Joshua Craze and Naomi Pendle. A Fantasy of Finality: The UN Impasse at the Protection of Civilian Sites in South Sudan.’ *African Arguments*. 23 September, 2020.

¹³ See for instance, the comments of David Shearer, The Special Representative of the Secretary General of the UN, ‘UN Protection of Civilians Sites Begin Transitioning to Conventional Displacement Camps,’ 4 September 2020, UNMISS.

¹⁴ For this reading of the political, see Carl Schmitt, *The Concept of the Political*, Chicago: University of Chicago Press, 2007.

¹⁵ Among excellent recent work on the PoCs, see Matthew F. Pritchard, *Fluid States and Rigid Boundaries on the East Bank of the White Nile in South Sudan*, European Institute of Peace policy brief, July 2020; and Simon Harragin and the Conflict Sensitivity Resource Facility, ‘*The Role of PoCs in South Sudan and the potential for returning ‘home,’* Conflict Sensitivity Resources Facility, South Sudan, October 2020.

struggles for power in Juba and violence in the country's periphery.¹⁶ That we need to take such an approach is now urgent. In September 2020, more civilians needed humanitarian assistance than in September 2019, according to the UN Office for the Coordination of Humanitarian Affairs.¹⁷ Far from the government being a partner-to-peace, as UNMISS suggests, it has failed to adhere to the cessation of hostilities agreement and failed—as per its commitments in chapters 2 and 3 of the R-ARCSS—to enable an environment for the delivery of humanitarian assistance and protection.¹⁸

Amid these failures, one of the fundamental questions for NGOs and the humanitarian community over the past year relates how to classify the extent of current violence. Who is fighting in Jonglei? Does one understand the fighting to be *between* communities? If one does: what should follow from that determination? With whom should humanitarians negotiate to gain access to conflict areas? Where should responsibility be placed for contemporary violence? What role can the government play—if any—in preventing further violence, if it is the main causal agent behind such violence?¹⁹

Some of the current clashes in South Sudan are clearly *political* in origin, malgré the protestations of David Shearer, the head of UNMISS. For instance, in the Equatorias, it serves the mutual interests of the SSPDF and the SPLA-IO to work together to try and eliminate NAS as a military actor—while playing lip service to the diplomatic process in Rome.²⁰ Elsewhere, political manoeuvring in Juba has led to increased clashes between the SSPDF and the SPLA-IO. In Maiwut County, Upper Nile, for instance, forces led by James Ochan, a former SPLA-IO commander who went over to SSPDF, partly to maintain a local political-economic powerbase, continues to attack his former allies in the SPLA-IO, as the government further fragments the opposition in much of the country in order to increase its powerbase in Juba.²¹

In other parts of the country, however, the relationship between the politics of Juba and the increased levels of violence in South Sudan has been less successfully understood by

¹⁶ For the fuzzy borders of the category of civilian, and the way civilian populations themselves emerge as targets of war, to be managed and controlled, see Nicki Kindersley and Øystein Rolandsen, 'Who are the civilians in the wars of South Sudan?' *Security Dialogue*, Volume: 50 issue: 5, page(s): 383-397.

¹⁷ Office for the Coordination of Humanitarian Affairs, humanitarian snapshots, September 2019 and September 2020.

¹⁸ R-ARCSS, Chapter 3, Article 3.1.1.

¹⁹ While the latter question is placed in the conditional, the conclusion of the recent UN Panel of Experts reports from 1 December 2020 turns a conditional question into an affirmative statement. C.f. Footnote 4.

²⁰ In September and October 2020, SSPDF and SPLA-IO deployed troops to Lainya, Lobonok, Morobo, and Mundri counties in preparation for dry season offensives, despite playing lip service to the next round of talks in Rome.

²¹ For a succinct summary of the issues involved in the ongoing clashes in Maiwut, see the UN Panel of Experts on South Sudan, 'Letter dated 20 November 2019 from the Panel of Experts on South Sudan addressed to the President of the Security Council', 22 November 2019, pp. 25-27.

the humanitarian community. Jonglei is exemplary. The state has seen the worst levels of violence of any state in South Sudan this year. Intense clashes have occurred between armed Murle actors—with the support of government military units—and forces of intermittently allied Dinka, Gawaar, and Lou Nuer sections, who have received political and military backing from powerful commanders in Juba.²² Despite the evidently political dimensions of this violence, the tendency of the humanitarian sector has been to declare it Inter-Communal Violence (ICV)—as if the dynamics between communities could somehow be divorced from the overall political economy of the country. As a recent World Food Programme (WFP)-Conflict Sensitivity Resource Facility (CSRF) study found:

To describe organized violence in South Sudan, terms like cattle raiding and revenge, ethnic or tribal violence, and inter-communal violence are widely employed. In addition, labels used for armed actors often refer to entire ethnic groups or generalized masses of youth. In turn, such narratives often heuristically prompt explanations based on ideas of tradition, intractability, normality in context, and low severity... In short, common labels and terms used to describe organized sub national violence in South Sudan do more to obscure than to explain the how and why of violence.²³

Despite this finding, and the helpful suggestion of alternate terminology by the WFP-CSRF, there has been a tendency for the humanitarian sector to shy away from acknowledging the political dynamics of conflict in places like Jonglei state.²⁴ Instead, there has been an insistence on focusing on the ‘communitarian’ nature of the violence—as if it is communities themselves that are to blame.²⁵ This has problematic implications for both protection of civilians and humanitarian access issues. Effectively, designating violence—such as was witnessed in Jonglei in 2020—as traditional means that some level of violence is accepted as a base standard, and dealing with violence becomes effectively a police matter: a question of government intervention to reduce violence to a minimal or acceptable level. This is a problematic understanding of contemporary violence in South Sudan, given that it is the government itself that has produced much of the recent violence in the country, and this violence is not natural, or stable, but intimately tied to the political situation in South Sudan.

²² Interviews with participants in the Lou Nuer raids on Pibor, August–October 2020, telephone interviews with Nuer political leaders in Juba, October 2020, names withheld. Further citational evidence on the role of Juba in the clashes in Jonglei will follow in this report in the section devoted to Jonglei.

²³ Conflict Sensitivity Resource Facility and World Food Programme. ‘Adjusting Terminology for Organised Violence in South Sudan.’ September 2020.

²⁴ See, for an example, the press releases of the International Committee for the Red Cross (ICRC), which talk about the violence in Jonglei as perpetuated by ‘armed youth’, depoliticized and shorn of intentionality. ICRC, ‘South Sudan: Fears that hundreds more could die in renewed violence in Jonglei State.’ 18 June 2020.

²⁵ Telephone interviews with humanitarians, September–October 2020.

In terms of the protection of civilian issues raised by recent violence, UNMISS has increasingly tried to establish Temporary Operating Bases (ToBs), in order to protect civilians outside of major urban centres.²⁶ It further claims that the abandonment of civilians in the PoCs will enable these ToBs to be more efficient, because more troops will be able to be committed to protecting civilians outside of major urban centres.²⁷ However, during the current conflict, UNMISS has thus far shown no capacity at all for reducing violence or protecting civilians even within major urban centres, and there is nothing to suggest that ToBs will change this situation, for the basic problem is structural.²⁸ Amid imposing environmental challenges, the peacekeeping troops in UNMISS are under the orders of commanders who will not allow them to engage in kinetic violence, and these forces further lack the capacity, interest, or knowledge, which would allow them to engage in active operations to protect civilians in South Sudan.²⁹ Thus, the mission's withdrawal from the PoCs—the one set of sites where it has at least somewhat successfully protected civilians—is unlikely to actually increase its capacity to protect civilians, and may well expose civilians in Bentiu, Malakal, and elsewhere—who previously lived in the PoCs, and who will now have to live in government-controlled Internally Displaced Peoples (IDP) camps—to further dangers.³⁰

While the formation of the R-TGoNU in Juba may have brought the appearance of political stability to Juba, it has brought renewed violence to much of the country and has meant that large swathes of South Sudan's population cannot avail themselves of the protection of either the government or UNMISS.³¹ The current configuration of violence in the country—which this report shall explore—in turn poses questions of the role of humanitarian agencies in the current civil war, and the role that humanitarian aid plays in structuring the political economy of the conflict.³² How might we understand whether or not humanitarian aid, far from ameliorating the lives of the people of South Sudan, is actually leading to serious protection issues?

²⁶ See UNMISS. 'UNMISS Establishes Temporary Bases to Deter Road Ambushes in Central Equatoria.' 2 September 2020.

²⁷ See David Shearer, SRSG, Remarks at UNMISS on the Protection of Civilian Sites, 4 September 2020. See also Joshua Craze and Naomi Pendle. 'Return pressure builds at Covid-19 hits South Sudan's displacement camps.' *The New Humanitarian*. 1 June 2020.

²⁸ For a trenchant and honest look at the limitations of the UNMISS peacekeeping forces, see the essay by the former head of UNMISS: Hilde Frafjord Johnson, 'Protection of Civilians in the United Nations: A Peacekeeping Illusion?' In C. de Coning and M. Peters (eds), *United Nations, Peace Operations in a Changing Global Order*. Palgrave MacMillan, 2019.

²⁹ On the failures of the UNMISS mission to protect civilians, see, inter. alia, MSF, Internal Review of the February 2016 attack on the Malakal Protection of Civilians Site and the post-event situation. June 2016.

³⁰ Even in the PoCs, of course, UNMISS' record is not untarnished. C.f. The invasion of the Malakal PoC: Joshua Craze, *Displaced and Immiserated: The Shilluk of Upper Nile in South Sudan's Civil War, 2014-19*. Human Security Baseline Assessment project of Small Arms Survey. 20 September, 2019, pp. 63-70.

³¹ On the necessary relation between peace in Juba and war elsewhere, see Joshua Craze, *The Politics of Numbers*, pp. 97-104.

³² See, Joshua Craze. Displacement, Access, and Conflict in South Sudan: A Longitudinal Perspective. Conflict Sensitivity Resource Facility, 21 May 2018.

This report will investigate the relationship between civilian protection issues, humanitarian access, and the political economy of the current conflict. It will suggest, through an investigation based in a survey of the perceptions of humanitarian aid by armed non-state actors and civilian populations throughout the country, that it is only after we understand the way that the provision of humanitarian aid sculpts the current conflict, and—far from standing apart from protection of civilians issues—actually creates protection problems, that we will be able to think through the possibility of a humanitarian regime in South Sudan that does not consistently create suffering and contribute inexorably to the dynamics of the conflict.

Such an approach is urgently needed. The current violence in South Sudan has posed renewed questions about humanitarian access to civilian populations and how such access can be established. Even before the clashes that have marked 2020, South Sudan was a difficult working environment for humanitarian organizations, with environmental difficulties and insecurity characterizing a situation of severe access constraints in much of the country. The renewed violence in the country this year, seemingly disaggregated from the R-ARCSS, creates an environment in which it is even more difficult to work and negotiate ongoing clashes. If the formal end of the civil war has not brought peace to South Sudan, but rather intensified the logic of the war, then how should we understand the violence pockmarking the country?

This is not simply an academic question, but one that has very real implications for the practice of the humanitarian sector in South Sudan. For instance: How is one to think about questions of sovereignty and political power—and equally the areas of control—for a state like Jonglei? Who should NGOs negotiate with in order to gain access to an area and under what conditions should they negotiate? The way that NGOs in the current period have emphasized the *communal* nature of the violence in Jonglei, within an ICV framework, has posed further questions for NGOs. What is the extent of community responsibility for security for aid provision? For instance, if members of the Lou Nuer community have received a distribution of aid in Akobo East, but then Lou Nuer fighters attack the Murle and raid aid distributions given to the Murle, what is the relationship between the Lou Nuer who received the aid and the Lou Nuer who made the attack? Should any such connection be made?³³ Many in the humanitarian community strongly feel that to link the reception of aid

³³ During the violence in 2020, Gawaar Nuer in Ayod continued to receive humanitarian aid, while Gawaar Nuer youth participated in the looting and destruction of humanitarian aid in Gumuruk, Likuiongole, and Vertet. Telephone interview, humanitarian official, September 2020.

by a community to actions taken by members of that community is to engage in collective punishment and to be in strong violation of humanitarian ethics.³⁴ Others, however, feel that unless humanitarian access is negotiated in a more expansive way, such that community's exercise responsibility for themselves as a whole, both in their areas of inhabitation and when attacking other parties, humanitarian provision will always be placed before neutrality, effectively sacrificing neutrality on the altar of provision.³⁵

Traditionally, within the humanitarian community, protection of civilians and humanitarian access are correctly thought of as very distinct concepts.³⁶ The first—protection of civilians—is a mandate given to UNMISS, and is not the proper affair of humanitarian organizations, which—or so the understanding goes—cannot protect civilians, but rather can ensure a rather more minimal standard of ensuring that humanitarian activities do not put civilians in active harm.³⁷ More recently, important work has been done on the important role that civilians themselves play in the protection of civilians.³⁸ Nevertheless, protection of civilians must be analytically and conceptually distinguished from the other issue at the heart of this paper: humanitarian access.

At the core of the concept of humanitarian access is the idea that those in need obtain the humanitarian assistance necessary for survival, and that humanitarian organization are able to access such populations in need.³⁹ The establishment of access tends to be a technocratic affair: enabled first of all through a prior series of negotiations with the government—and thus all discussion of humanitarian access must of necessity be based in an understanding of the government's interest in variously restricting and enabling humanitarian access—and then with the relevant communities and armed non-state actors.⁴⁰

³⁴ Telephone interviews with humanitarian workers, names withheld, September-October 2020.

³⁵ Ibid. In this particular imaginary case (given as an exemplar, and not reflective of the actual situation in Jonglei), my informant opined, the humanitarian community would be providing the Lou Nuer with food aid and medical support in Akobo East, while also allowing the fighters to take the food aid designated for the Murle, and support themselves during their attacks on the Murle from that food aid, creating a situation in which the humanitarian community was effectively sustaining the Lou Nuer's attacks on the Murle, and thus not being neutral with respect to the belligerent parties.

³⁶ See the overview of humanitarian access in Rob Grace, *Humanitarian Negotiations: Key Challenges and Lessons Learned in an Emerging Field*, Harvard Humanitarian Institute, 2012; OCHA, *Bureaucratic Access Impediments to Humanitarian Operations in South Sudan*, Survey Report, June 2017.

³⁷ C.f., *inter. alia*, Brigitte Rohwerder, 'Restrictions on Humanitarian Access,' GSDRC, Applied Knowledge Services, November 2015.

³⁸ Emily Paddon Rhoads and Rebecca Sutton, 'The (self) protection of civilians in South Sudan: Popular and community justice practices,' *African Affairs*, Volume 119, Issue 476, July 2020, Pages 370–394. See also: Lucian Harriman, Ilona Drewry, and David Deng. "Like the Military of the Village" *Security, Justice, and Community Defence Groups in south-east South Sudan*. Saferworld, February 2020.

³⁹ For an overview of the debate about humanitarian access, see the very helpful set of papers from the Humanitarian Policy Group, including Jonathan Loeb's, *Talking to the Other Side: Humanitarian Engagement with armed non-state actors in Darfur, Sudan, 2003-12*, HPG Working Paper, August 2013.

⁴⁰ However, it should be noted that in South Sudan, for the overwhelming majority of humanitarian organizations, humanitarian access negotiations start and stop with the government. Outside of WFP and UNICEF, no organizations have

Such negotiations tend to be done iteratively, and there are no NGOs, including WFP and UNICEF, two of the major access negotiators in South Sudan, which do long-term work tracking the relationship between humanitarian access decisions and conflict dynamics. What the treatment of humanitarian access as an iterative affair occludes is that over the past year, denial of humanitarian access has been tactical and deliberate. The South Sudanese government has repeatedly denied access to humanitarian organizations, either to protect its own military operations by making them less visible to humanitarian observers, or to effectively punish communities it sees as supporting rebel or opposition groups.⁴¹ Such denials have evident consequences both for humanitarian actors, and for the populations concerned. As this report will show, this means that:

(1) Questions of humanitarian access—and the humanitarian sector more broadly—are a constitutive part of the political economy of this crisis.

(2) Questions of humanitarian access may be treated iteratively and technocratically but are in actuality directly linked to the protection of civilians and the risks posed to such civilians.

Whether or not a community is given aid is central to the political economy of predation and reward at the centre of the current conflict in South Sudan—a conflict that the recent formation of a R-TGoNU has not stopped, but rather intensified, as political struggles in Juba are displaced into the peripheries of the country.⁴²

This report will go outline how humanitarian access issues—and then the humanitarian sector more broadly—relate to issues of civilian protection. It will argue that humanitarian resources:

(1) **Act as a means of fuelling conflict.** Humanitarian aid goes to support both belligerents and their families. Taxes paid by humanitarian organizations—whether formally to the government or informally at checkpoints—go to sustain the political economy of the war.

dedicated access units, and few organizations have the capacity or the willingness to negotiate access with either armed non-state actors or communities themselves.

⁴¹ For instance, on 18 September 2020, the SSPDF denied inter-agency movement in the Wau-Baggari area; on 24 September 2020, to the areas around Lankien and Old and New Fangak; and on 24 September 2020 to—inter alia—Mundri, Mvolo, and Tambura.

⁴² In South Sudan, armed forces are part of the dominant political economy of the country, based on predation and the reallocation of resources from the government to commanders, and who rely on both gaining internal resources via wealth transfer from poor, immiserated populations (via looting and taxes), and manipulating external resources (from oil revenues and aid resources), in a process of extraversion. For a short version of the concept of extraversion, see the essay by Jean-François Bayart, 'Preface to the second English edition. Africa in the world: a history of extraversion' in *The State in Africa: The politics of the belly*, 2nd edition, Polity, London, 2009.

(2) **Shapes the flow of the conflict.** Selective granting of humanitarian access pushes populations into areas where humanitarian access has been granted. This tends to push populations into areas of government control—where aid can be diverted to government forces—and exposes civilians to protection issues.

(3) **Acts as a means of collective punishment.** Too often, NGOs assent to denial of humanitarian access by the government such that civilian populations are effectively punished for their putative support for rebel or opposition groups and are thus collectively punished.

Too often, these direct mechanisms of the political economy of the war in South Sudan are overlooked by the humanitarian sector because it focuses on viewing the situation in the country from the perspective of NGOs and the humanitarian community, rather than how the activities of these industries fit into the broader political economy of the war.⁴³ In order to understand the place of the humanitarian community in South Sudan, this report inverts the perspective taken by the humanitarian sector. This report is based on interviews with government officials, armed non-state actors, and civilian populations in the states of Central Equatoria, Jonglei, Upper Nile, and Unity, in August-November 2020. It will understand the way communities and armed actors see NGOs, and how extant forms of aid distribution fit into much bigger political-economic patterns that give those forms of distribution meaning and structure. In doing so, this report will show how humanitarian access issues directly affect the protection of civilians in South Sudan.

This report will initially set out a brief conceptual and practical history of humanitarian access in South Sudan. It will use that history to understand the situation of humanitarian access in South Sudan in the post-R-ARCSS landscape. The report will then focus on a series of case studies: Yei and the Equatorias, Jonglei state in 2020, Mangalla, and Unity state, to investigate the nexus between humanitarian access and protection of civilian issues, before returning to conclude the report with some concrete policy proposals for what NGOs can do in future to address some of the issues uncovered by this report.

⁴³ An indicative publication, which refuses to think through the implications of South Sudan's political economy, is d'Errico, M., Ngesa, O. & Pietrelli, R. 2020. Assistance in chronic conflict areas: evidence from South Sudan. FAO Agricultural Development Economics Working Paper 20-01. Rome, FAO.



3. What is humanitarian access (in South Sudan)?

Humanitarian access is most simply understood as the ability of affected people to claim and reach humanitarian assistance and protection and the capacity and ability of humanitarian assistance to deliver life-saving services to those people in accordance with humanitarian principles.⁴⁴ Thus, we must understand access as the interstices of three different groups, each of which, as we shall see, have markedly different understandings of what should constitute humanitarian access. The definition given above denotes a class of 'affected people' who require humanitarian assistance: the extent and scope of such assistance, and the location in which such assistance is delivered, is determined, however, by the humanitarian agencies (in a complicated fashion in relationship to the government), rather than the people themselves. In February 2020, for instance, REACH reported that less than half (43%) of assessed settlements reported that they were satisfied with assistance given to them between March and August 2019.⁴⁵ A recent study by CSRF also found that too often, international NGOs in particular were not felt accountable to local communities and their own accountability mechanisms.⁴⁶ An LSE study found that local NGOs were often better positioned to be responsive to local needs, but were hamstrung by donor priorities.⁴⁷

⁴⁴ This definition is derived from Conflict Dynamics International, *Humanitarian Access in Situations of Armed Conflict: Practitioners Manual*. 2014.

⁴⁵ REACH Report. *Accountability to Affected Populations: Community Perceptions of humanitarian assistance in South Sudan*. February 2020.

⁴⁶ See CSRF, *Lost in Translation: The Interaction Between International Humanitarian Aid and South Sudanese Accountability Systems*, September 2020.

⁴⁷ LSE, *Localising humanitarian aid during armed conflict: Learning from the histories and creativity of South Sudanese NGOs*. March 2020.

This gap between community understandings of sufficient assistance and humanitarian provision is due to many factors, including a lack of funding and capacity amongst humanitarian organizations, differential evaluations of situations on the ground by local groups and humanitarian organizations, and most fundamentally, because humanitarian organizations are, in their very essence, responsible to their donors, rather than to local populations.⁴⁸ The concept of extraversion—see footnote 42—not only describes the political economy of predation in South Sudan, but also rather precisely describes the relationship of NGOs to their donors. Rather than legitimacy coming from the communities that NGOs deign to help, NGOs' fundamental loyalty and accountability are to the donors that furnish their funds. It is in this sense that NGOs are, by their very nature, detached from the communities they purport to help.⁴⁹ Even in the context of a congruence between donor and community interests, humanitarian access is also affected by a number of more seemingly prosaic phenomena that can interrupt or limit such access.

Some of these phenomena are natural or environmental in nature. Flooding can limit the capacity of NGOs to reach affected populations; there is very little infrastructure in South Sudan to facilitate the movement of humanitarian supplies; the rainy season closes approximately 60% of the country thanks to the poor condition of the country's roads. Just as NGOs face access environmental restrictions, affected populations can also struggle to get access to humanitarian aid for the same very same reasons: flooding, for instance, can isolate populations away from aid distribution points. Insecurity also poses great problems for NGOs (and affected populations) in South Sudan. Phenomena categorized as banditry, violence, or crime, can shut down humanitarian access to a given location, or result in the South Sudanese government blocking access to a location, apparently for these reasons. It should be emphasized, however, that crime and banditry are *political* determinations of phenomena.

The difference between classifying something as insecurity and classifying it as political violence is that the second category leaves a situation amenable to humanitarian access negotiations (one can negotiate with the actors involved), whereas the former depoliticizes violence, and declares banditry, for instance, to be a naturalized phenomenon much like flooding: a barrier to be overcome or accepted, but one that will reoccur regardless of the intervention that one takes, rather than a problem to be resolved through negotiation. The

⁴⁸ See Michel Agier, *Managing the Undesirables: Refugee Camps and Humanitarian Government*. Cambridge: Polity Press, 2011. Didier Fassin, *Humanitarian Reason: A moral history of the present*. Berkeley: University of California Press, 2012.

⁴⁹ See James Ferguson, *The Anti-Politics Machine: Development, Depoliticization, and Bureaucratic Power in Lesotho*, University of Minnesota Press, Minneapolis, 1994.

recourse to categories like banditry, crime and insecurity tend to naturalize or make apparently self-evident, forms of restriction placed by the government on humanitarian access that are deeply political.

Such restrictions include checkpoints, flight denials, and active restrictions to given areas, as well as a complex set of bureaucratic and security obstacles.⁵⁰ Often, impediments to access do not appear as intentional blockages, but rather an accumulation of seemingly unrelated incidents—visas not being approved on time, permissions being given at a national level but not at a local level, papers found to not be in order, etc. It remains challenging for NGOs to determine whether these blockages operate at the level of political intentionality, or are rather contingent, accidental, compounds of minor decisions.⁵¹ What all these forms of decision point to, however, is the central presence of the third actor involved in humanitarian access along with humanitarians and the communities involved: the government. According to international humanitarian law, all humanitarian assistance must be provided with the consent of the sovereign country in which it is being provided.⁵² Humanitarian assistance thus takes place within a framework of liberal internationalism, in which the primary political actor is thought to be the state. In such a framework, the primary responsibility to care for victims of a crisis in a given territory is the state. The citizens of a state are the responsibility of the state, and it is only given the state's incapacity to provide assistance, that international and national NGOs can engage in humanitarian relief.

South Sudan produces a limit-case of such a framework, given that the primary producer of crises within the territory of South Sudan *is the state*.⁵³ Thus, while humanitarian access is a question for affected populations and humanitarian organizations, and emerges as a question only *because* the state is unable or unwilling to provide assistance itself, it is the state that nevertheless has primary control over whether or not access will be granted to humanitarian actors that will enable affected communities to have access to desired relief. Secondary negotiations with other armed actors—such as the SPLA-IO, during the current crisis—or with given communities are precisely that: secondary. They can only occur with the go-ahead of the South Sudanese state.⁵⁴

⁵⁰ See, inter alia, OCHA, Bureaucratic Access Impediments to Humanitarian Operations in South Sudan, Survey Report, June 2017.

⁵¹ On the likelihood that such 'contingent' blockages often constitute planned campaigns of blockage by the government see, *A Rock and a Hard Place: Operating Challenges for Aid Organizations in South Sudan*. April 2017.

⁵² ALNAP, 'The Role of National Governments in International Humanitarian Response to Disasters,' 2010.

⁵³ For a long history of the ways in which, in Unity state in particular, the government has itself produced the crises to which the humanitarian community responds, see Joshua Craze, Jérôme Tubiana, with Claudio Gramizzi, *A State of Disunity: Conflict Dynamics in Unity State, South Sudan, 2013-15*, Small Arms Survey Paper, December 2016.

⁵⁴ The rather technocratic literature on access negotiations with non-state-armed-groups (NSAGs) or armed-non-state-actors (ANSAs) tend to bypass the central political economy of access negotiations and instrumentalization in favor of box-ticking writing about ensuring that rebel groups verbally affirm international humanitarian law. An exemplar of such an approach is

Within the tri-partite relationship that this report sketches out, it is the affected communities themselves who are excluded from substantive deliberations over the form and modalities of humanitarian access. Such communities are expected to be victims, grateful to receive aid.⁵⁵ While a series of recent studies have shown that actually, when aid is distributed on the ground, communities exercise a great degree of agency in redistributing food aid, determining who receives it, and where it should be distributed, that agency is not reflected in formalized negotiations over humanitarian access issues, in which community wishes are noticeably absent from the positions of states and humanitarian actors alike.⁵⁶ In interviews for this report, recipients of humanitarian aid in three states in South Sudan (Jonglei, Unity, and Upper Nile), all reported that that they felt that communities wishes were much less important in determining the modalities of aid distribution than the priorities of the government and the humanitarian organizations, and that their experience and demands were marginalized.⁵⁷

The frameworks that govern humanitarian access are determined by a delicate symbiosis of the South Sudanese regime and humanitarian organizations. For the humanitarian organizations, humanitarian access involves putatively technical issues like site selection (where the aid should be distributed), targeting modalities (who the aid should go to), and scheduling (when the aid should be distributed). These technical issues should be in accordance with a variety of minimum standards for humanitarian activities. Such standards vary by organization, but typically include that distribution sites should be civilian in nature, free from military personnel, and free of undue interference from local authorities.⁵⁸ While the selection of sites is based on an evaluation of—and in dialogue with—local communities, these humanitarian standards are developed externally to dialogue with local communities. These frameworks are not standardized. Hugo Slims gives as many as thirty-principles that are commonly used to justify humanitarian action, but the four most commonly invoked are: Humanity, Impartiality, Neutrality, and Independence.⁵⁹

William Carter and Katherine Haver, *Humanitarian access negotiations with non-state armed groups: Internal Guidance Gaps and Emerging Good Practice*. Secure Access in Volatile Environments (SAVE) Resource Paper, October 2016.

⁵⁵ See Mark Duffield, 2002. 'Social reconstruction and the radicalization of development: Aid as a relation of liberal global governance.' *Development and Change*, 33, 5: 1049-1071.

⁵⁶ For studies of local reception of humanitarian aid, see, inter alia. Feinstein International Center, *Localization Across Contexts: Lessons Learned from Four Case Studies*, July 2020; Conflict Sensitivity Research Forum, *Lost in Translation: The Interaction Between International Humanitarian Aid and South Sudanese Accountability Systems*, September 2020; Leben Moro, Naomi Pendle, Alice Robinson, and Lydia Tanner, *Localising humanitarian aid during armed conflict: Learning from the histories and creativity of South Sudanese NGOs*, 2020.

⁵⁷ Telephone and field interviews, Greater Upper Nile region, September 2020.

⁵⁸ Frequently used guidelines for such standards include policy platforms like 'Do No Harm,' as well as both inter-agency and intra-agency policy platforms.

⁵⁹ Hugo Slim, *Humanitarian Ethics: A Guide to the Morality of Aid in War and Disaster*, Oxford: Oxford University Press, 2015.

Such access modalities have to occur within the framework of state institutions. Through the 2016 Relief and Rehabilitation Commission Act (RRC) and the NGO law, amongst other legal frameworks, the South Sudanese government has exerted control on humanitarian organizations.⁶⁰ Especially since 2016, humanitarian organizations have often faced an overwhelming number of barriers placed in their way by the government at both a national and subnational level—restrictions placed on the movement of aid workers, requests for lists of assets, and redundant requests for registration documentation.⁶¹ NGOs have also faced increased levels of taxation, often illegal, and the expulsion of staff. Taken collectively, all these measures amount to a government that is opportunistically seeking rents from humanitarian actors—a vital source of foreign currency as oil prices plummet and the currency inflates—and trying to influence the distribution of humanitarian aid.⁶² Thus, the legal frameworks of the state are here instrumentalized as means of shaping humanitarian organizations actions in South Sudan, just as the South Sudanese state seeks to shape the behaviour of populations on the ground. One of the fundamental ways that the government seeks to influence aid distribution is through allowing and prohibiting—effectively turning on and off—humanitarian access. The government’s determination of whether or not it allows humanitarian access follows from its own priorities, which are not consonant with either humanitarian priorities, necessarily congruent with the humanitarian principles given above, or with the wishes of the communities affected by conflict.

Humanitarian access is granted by the South Sudanese government in accordance with its political and military aims. The total number of access incidents during the current civil war has exhibited a positive correlation with the government’s military campaigns.⁶³ For instance, during the 2015 military campaign in Southern Unity, the number of access incident increased by approximately 50%.⁶⁴ There are a number of strategic reasons that the government restricts humanitarian access during periods when it is attacking civilians and opposition forces. Restricting access to humanitarians reduces the visibility of such attacks and makes evidence of war crimes harder to gather: refusing humanitarian access thus functions to create invisibility around government attacks.⁶⁵

⁶⁰ See United States Institute of Peace, *The Unintended Consequences of Humanitarian Action in South Sudan: Headline Findings*, 2017.

⁶¹ Interviews with INGO staff, Juba, February-March 2020.

⁶² For the South Sudanese government’s rent-seeking activity, see the work of the team around Alex de Waal and the Conflict Research Program at the LSE, Alan Boswell, et. Al., ‘The Security Arena in South Sudan: A Political Marketplace Study,’ Conflict Research Programme at the LSE and World Peace Foundation at The Fletcher School, December 2019.

⁶³ *Between A Rock and a Hard Place*, p. 7.

⁶⁴ *Ibid*, p. 15.

⁶⁵ See, *A State of Disunity*, pp. 142-145.

Such refusals of humanitarian access have also occurred in 2020, especially in Central and Western Equatoria, during government attacks on NAS positions.⁶⁶ They have a central strategic benefit: they make it difficult for civilian populations to sustain life. In the campaign in Southern Unity in 2015, government-backed forces razed villages, stole livestock, and destroyed agriculture, in order to make sustaining life as difficult as possible for the population that was being attacked.⁶⁷ The denial of humanitarian access must be seen as congruent with such an approach, whose overall intention is to displace and immiserate communities—preventing distributions of humanitarian resources is part of a strategy to prevent communities maintaining life, and is part of the government’s frequent use of starvation as a weapon of war.⁶⁸ Too often, aid workers think of such denials of access as iterative. When there is a denial of access, they repeatedly request it. When access is once again granted, they return to supplying aid. What such an episodic approach elides is the degree to which the strategy of turning off and on humanitarian access is part of a cohesive strategy on the part of the government, and one to which the humanitarian community is a party.

For instance, during government attacks on the West Bank of the White Nile in what is now Upper Nile, from 2015-16, the razing of villages and the use of helicopter gunships to attack civilian populations was accompanied by the denial of humanitarian access to the west bank—an action that was a part of the broader military campaign, and was designed to punish the Shilluk population and starve out support for the opposition forces.⁶⁹ As in Equatoria in 2020, the denial of humanitarian access was intended to weaken the population, erode support for the opposition, and prevent the opposition being able to support itself. As elsewhere in South Sudan, the campaign on the west bank of the White Nile was not a war that *accidentally* targeted civilians. Rather, the civil war in South Sudan has made civilians the central targets of the war: the war takes populations as its object, and its campaigns first displace and then control populations. Thus, in their very essence, the putatively technocratic questions of humanitarian access modalities are political, for they partially determine the location of populations, and the possibility of those populations sustaining themselves: the two questions that are at the heart of the current conflict.

⁶⁶ Telephone interviews with INGO staff, Juba, September 2020.

⁶⁷ Joshua Craze and Jérôme Tubiana, with Claudio Gramizzi, *A State of Disunity: Conflict Dynamics in Unity State, South Sudan, 2013-15*, Small Arms Survey, Geneva, December 2016.

⁶⁸ See UN Human Rights Council, *“There’s nothing left for us”: starvation as a method of warfare in South Sudan*. Conference Room Paper of the Commission on Human Rights in South Sudan. 5 October 2020.

⁶⁹ See Joshua Craze, *Displaced and Immiserated*, pp. 64-68.

Government military actors use humanitarian aid to push and pull populations around the country: denying access to humanitarians in areas they want cleared of civilians, encouraging access in areas that would allow them to either reward a population (for staying in a government-controlled area), control it (by keeping a given population away from rebels and under the eyes of government forces), or use its presence as a way to control external resources (by taxing NGOs either legally or illegally, or by obtaining aid supplies to resupply its forces). Putative commitments to allow free, unimpeded, and unhindered humanitarian access—as one finds, for instance, in the R-ARCSS 3.1.1.1. and in the 9 November 2017 Republican Order No.29/2017 for the ‘Free, unimpeded, unhindered Movement of Humanitarian Assistance Convoys in the Republic of South Sudan’—are the formal, legalistic window-dressing on top of the government’s actual substantive interest, which is in the control of populations in South Sudan. Relative to this aim, military strategies and controlling humanitarian aid represent points along a continuum of options, rather than strategies of a fundamentally different sort.

This is the most profound *proximity* between the government and humanitarian community. Both treat populations as precisely that: populations.⁷⁰ Rather than considering them as political constitutive units with relative autonomy, which have to be engaged in dialogue, communities are treated as populations: either victims, amenable to biometric analysis, or indifferent reservoirs of life, to be exploited.⁷¹ In both cases, the possibility of communities being recognized as constituting their own proper political interests is occluded.⁷²

However, this point—of treating communities as populations—is *also* the degree of greatest distance between the two communities. Whereas for the humanitarian community, it is—aside from some limit cases, such as the treatment of injured soldiers by medical facilities—the *sine qua non* of humanitarian activity that the populations it is helping are not active armed actors, or participants in the war, the nature of the war in South Sudan means that populations are the very objects of the war. The distinction between combatant and civilian that is central to humanitarian ethics is not part of the basic calculus of war in South Sudan at all. All civilians are potentially soldiers (and all soldiers, civilians), and civilians and soldiers alike are potentially resources. War in South Sudan is not primarily territorial at all. It is rather fought for control of populations and resources—insofar as humanitarian operations *also* make populations the object of their interventions,

⁷⁰ My use of the concept of population is indebted to Michel Foucault’s formulations in *Security, Territory, Population: Lectures at the Collège de France, 1977-78*. Palgrave, MacMillan, London, 2006.

⁷¹ See Didier Fassin and Marielli Pandolfi (eds.), *Contemporary States of Emergency: The Politics of Military and Humanitarian Interventions*, Zone Books: New York, 2010.

⁷² See the essays in Michel Feher (ed.), *Nongovernmental Politics*, Zone Books: New York, 2007.

humanitarian groups assist in turning populations into resources, by making them desirable targets to be controlled.⁷³ This is the distance and the proximity of the humanitarians and the political economy of the government's forces, and why questions of access are so vexed in South Sudan.

The iterative approach of the humanitarian community elides what the community members interviewed for this report understand all too well: that the countless bureaucratic cuts and obfuscations of the government forces are not accidental or contingent measures, but structural parts of a war effort. It is the coherence of this war effort that is missed by approaches to humanitarian aid that focus merely on trying to get humanitarian access restrictions lifted. For instance, to return to the same campaign against the Shilluk in 2015-16, while an important part of the government's strategy was to displace and immiserate the population, it is too simplistic to see the removal of humanitarian access restrictions as the removal of the problem—rather, such removals represent the *intensification* of the government's strategy, which, in this case has two parts. It first *displaces* and immiserates a population, using military attacks and denial of humanitarian aid as two of the means of doing so, and then it *recomposes* a population as pliant, under its control, and used as a source of resource extraction, thanks to the intervention of the humanitarian community, which brings aid and resources to the site of initial displacement. For instance, in Wadakona, Upper Nile in 2015, and in Kodok, Upper Nile, in 2017, the government first used helicopter gunships to kill and displace the Shilluk population, before allowing humanitarian organizations to distribute aid in the urban centres, as an enticement to those very same displaced Shilluk, who now returned, pliable and under the control of the government forces, breaking rural-urban linkages on the west bank of the White Nile necessary for the sustenance of the Shilluk population as a whole.⁷⁴

This reconstitution of populations is not well understood by humanitarians who understand the lifting of access restrictions as the end of a problem, not a continuation of a strategy. In the two cases given above, the government forces used aid redistribution to 'reward' pliant populations, moving them out of the control of opposition forces (and thus trying to shut down the possibility of the opposition recruiting) and in so doing, reconstituting aid operations in areas under government control, where the administrative and tax possibilities engendered by NGOs, along with the wages and food resources that

⁷³ The way civilian populations have become valuable objects to control during the current civil war is in continuity with the political economy of the second civil war. See Africa Watch, *Food and Power in Sudan: A Critique of Humanitarianism*, (Africa Watch, London, 1997, p.87).

⁷⁴ See Craze, *Displaced and Immiserated*, pp. 54-84.

humanitarian operations bring, constitute valuable goals of the war effort. In this second movement—of recomposition—humanitarian aid forms part of a neo-patrimonial system of government in which resources are redistributed within a patronage network, which rewards service and compliance or attempts to seduce new clients.⁷⁵

It is in this situation that neutrality, relative to humanitarian access, is impossible. In a war fought for control of populations—especially insofar as those populations have resources, including those that come from humanitarian relief—negotiating humanitarian access is inevitably a political act that is part of the course of the war. This is not necessarily problematic. As Hugo Slim argued in 2003:

Humanitarianism is always politicized somehow. It is a political project in a political world. Its mission is a political one – to restrain and ameliorate the use of organised violence in human relations and to engage with power in order to do so. Powers that are either sympathetic or unsympathetic to humanitarian action in war always have an interest in shaping it their way ... [T]he ‘politicization of humanitarianism’ is not an outrage in itself. Ethics and politics are not opposites. I believe that there can be good politics, bad politics and some politics that are better than others... For humanitarianism to be a political project is not a contradiction or necessarily a problem. The real questions for our debate are the ones that follow from this recognition ... Who is politicising humanitarianism today, how and to what end?⁷⁶

This report will now formulate a response to Slim’s question: what is the current politicization of humanitarian access in South Sudan, and is it a good politicization—does it lead to a flourishing of life for the citizens of South Sudan?

⁷⁵ See Clémence Pinaud’s seminal article: ‘South Sudan: Civil war, predation and the making of a military aristocracy’, *African Affairs*, Volume 113, Issue 451, April 2014, pp. 192–211.

⁷⁶ Hugo Slim, ‘Is Humanitarianism Being Politicized? A Reply to David Rieff.’ The Dutch Red Cross Symposium on Ethics in Aid, The Hague, 8 October 2003.



4. Contemporary Case Studies

The Current Situation

In the eyes of many in the international community, the signing of the R-ARCSS, followed by the formation of the TGoNU in early 2020, has brought an end to the South Sudanese civil war. There have certainly been some changes. The SPLA-IO has returned to Juba, and Riek Machar is once again vice-president, albeit one of five. While there has been some continued fighting between the SSPDF and the SPLA-IO in 2020, notably in Northern Bahr el Ghazal and in Upper Nile, there has been a reduction in clashes between the two sides. In large part this is because both sides find it now more profitable to remain in Juba, where the remaining SPLA-IO politicians can gain access to minimal sinecures in government, and Kiir's regime can use this accommodation to insist that peace has come to South Sudan, so availing itself of the benefits that follow such a determination (the potential lifting of sanctions, a forthcoming loan from the International Monetary Fund, etc.).

In the rest of the country, however, little has changed. As of the end of November 2020, county commissioners and state-governments appointments have still not been made, and the SPLA-IO political administration in zones that had been under its control, such as Akobo East, remains in place.⁷⁷ The bureaucratic impediments to humanitarian work in South Sudan are also still active, and humanitarian access is still bound up with the political economy of the conflict. According to the UN Office for the Coordination of Humanitarian Affairs

⁷⁷ Interviews with SPLA-IO officials, Akobo East, August-September 2020.

(COHA), there were 55 operational interferences and 58 bureaucratic impediments reported by NGOs and humanitarian organizations up to the end of September 2020 in South Sudan.⁷⁸

In Central Equatoria, the first case study to which we now turn, the basic contours of the conflict persist, having first taken root when the conflict spread to the Equatorias in 2016.⁷⁹

The Equatorias

From the beginning of the conflict in the Equatorias, the government has attacked Equatorian villages, displacing people into the bush (echoing the tactics of displacement described for Upper Nile in the previous section). It then blocked humanitarian access to at-need rural areas, containing those displaced people, in order to draw out vulnerable populations from the bush, depriving the rebels of their support base, in tactics that mirrored those used by the Sudan Armed Forces during the second Sudanese civil war (1983-2005).⁸⁰ In 2016-17, the government then encouraged refugees who had fled to Uganda to return to Kajo Keji, in order to attract aid distributions to the town, and so provide benefits to local military actors.⁸¹

In 2019-20, the government has continued to use the same tactics. Despite the signing of the Rome Declaration in January 2020, reaffirming a Cessation of Hostilities Agreement, by February 2020—as the government was continuing to hold talks about holding talks—forces from the SSPDF, alongside forces from the SPLA-IO Division 2B, attacked NAS in former Yei River State, violating the Cessation of Hostilities Agreement.⁸² Fighting around Lainya, Otogo, Mukaya, and Tore payams led to the complete destruction of several villages and the entire displacement of several communities.⁸³ These attacks continued through March-June. Meanwhile, humanitarian access to those communities was denied repeatedly, leaving these communities without access to aid in rural areas. The war in the Equatorias has caused a rapid urbanization, as civilians have fled rural areas to urban centres where food

⁷⁸ OCHA, South Sudan: Quarterly Humanitarian Access Snapshot, July-September 2020.

⁷⁹ Small Arms Survey, HSBA Issue Brief, Spreading Fallout: The collapse of the ARCSS and the new conflict along the Equatorias-DRC border, Issue Brief No. 28, May 2017.

⁸⁰ See David Keen, *The Benefits of Famine: A political economy of famine and relief in southwestern Sudan, 1983–1989*, 2nd edition, James Currey, Oxford, 2008

⁸¹ *Unintended Consequences*, p. 5.

⁸² See UN Panel of Experts for South Sudan, Letter dated 28 April 2020 from the Panel of Experts on South Sudan addressed to the President of the Security Council, 28 April 2020, pp.16-18.

⁸³ Telephone interview with expert researcher, October 2020.

and resources can be obtained.⁸⁴ This has the effect of—to return to Slim’s question—politicizing humanitarianism. As of the end of September 2020, the government continues to block aid distribution in what it considers opposition rural areas, while allowing it in urban areas under government control. Humanitarianism is here politicized to allow government control of civilian populations through the selective allowance of humanitarian access. This has the effect of immiserating a rural population, allowing further resources to flow to the government, and solidifying government power: it is hard to think of anyone who would exactly call this a flourishing life for the citizens of Equatoria.

In the Equatorias, humanitarian staff indicate that access negotiation have become increasingly problematic.⁸⁵ Amongst NAS members, humanitarian actors report that it is difficult to establish lines of communication, given a disorganized chain of command and a lack of humanitarian knowledge of the commanders on the ground.⁸⁶ However, humanitarians also claim that government chains-of-command also seem increasingly fragmented, and that the only way to actually ensure humanitarian access is to go along the roads to be travelled by the humanitarian convoys and talk directly to all the commanders oneself. However, this apparent lack of command-and-control should not be constituted as a lack of organization. Rather, apparent fragmentation of lines of control—from both rebel groups such as NAS and for the SSPDF—can be one the most vital form of maintaining control. It allows the military actor to blame what are actually tactical blockages of humanitarian access on misunderstandings at the local level, whereas they are actually activated as part of a systematic plan. Such ambiguity also perpetuates uncertainty and unease amongst humanitarian workers, while maximizing the number of points at which—via bribes and tolls—money can be extracted from humanitarian actors. As elsewhere in South Sudan, greater fragmentation is not opposed to greater control, but is actually dialectically co-constitutive of it.⁸⁷

Persistent government denials of access to NAS-controlled areas during the current conflict have largely been accepted by the humanitarian community without public complaint. Since 2016, and the violence in Juba that saw Machar flee the capital, the government has hardened its rhetoric towards NGOs and left them afraid to speak out in case they might

⁸⁴ This is consonant with a general marketization and urbanization of South Sudan that has occurred during the current civil war, partially caused by government attacks on rural areas. For examples from Northern Bahr el Ghazal, see Nikki Kindersley and Joseph Diing Majok, *Monetized Livelihoods and Militarized Labour in South Sudan’s Borderlands*. Nairobi, Rift Valley Institute, 2019.

⁸⁵ Interviews, humanitarian actors working in the Equatorias, August-October 2020.

⁸⁶ Ibid.

⁸⁷ For more on this point see Craze, *The Politics of Numbers*, pp. 6-18.

face sanction, or else removal from the country.⁸⁸ This has left few NGOs willing to complain about the asymmetric delivery of aid created by government access constraints.

The consequences of these constraints are also hard for NGOs to understand. A combination of short-institutional memory produced by a rapid turn-over of staff and no institutionalized historical record-keeping of humanitarian access events, and a fear of information-sharing that had led to limited exchange between many NGOs, has created a situation in broader patterns in the political economy of South Sudan are hard to spot.⁸⁹ Simultaneously, a fear—whether warranted or not—of government retribution had effectively led there to be neither knowledge nor willingness on the part of the humanitarian community to confront the government about its tactics of war. Effectively, the government expects—and the NGOs produce—a permanence of the humanitarian imperative, irrespective of the consequences. This, to paraphrase Slim, is the politicization of humanitarianism in Equatoria, and it is changing the demographic shape of the region and allowing the government to concretize its powerbase on the back of its instrumentalization of humanitarian access issues.

Jonglei

If the R-ARCSS has not fundamentally changed the logic of the conflict in the Equatorias, certainly in relationship to issues of humanitarian access, then in Jonglei, the changing legal and formal structure of the conflict has seemingly produced new problems for both protection of civilians and humanitarian access, or at the very least, a return to the problems of the period of the Comprehensive Peace Agreement (CPA), where, from 2009-13, waves of violence impacted the Lou Nuer, Dinka, and Murle communities. This cycle of violence drew to a close when it was replaced—effectively—by the vicious violence of the South Sudanese civil war. During the early years of war, the government's tactics were similar to those used in Upper Nile (described above) and in Western Bahr el Ghazal. By August 2014, nearly half of the state was classified as 'severely food insecure.'⁹⁰ Government forces then systematically denied humanitarian actors' access to Akobo and Pibor counties between 2017-19, compounding the effects of flooding and crop and livestock devastation, in an attempt to deny opposition-held areas the means of supporting life.⁹¹

⁸⁸ For Machar's flight from Juba, see Small Arms Survey, HSBA Issue Brief, *Spreading Fallout: The collapse of the ARCSS and the new conflict along the Equatorias-DRC border*, Issue Brief No. 28, May 2017.

⁸⁹ *Between a Rock and a Hard Place*, pp. 22-27.

⁹⁰ Livelihood kit beneficiaries in Jonglei State - South Sudan, FAO, August 2014.

⁹¹ 'There's Nothing Left for Us', p. 7.

The formation of the R-TGoNU saw a shift in the logic of the violence in Jonglei state, as Bor Dinka and Gawaar Nuer advanced from Bor together in June 2020 to overrun the Murle settlements of Manyabol and Gumuruk. These groups remained active, and continued attacking Murle settlements, into July, where they were met with additional groups of Lou Nuer, which had mobilized in July, only belatedly, and attacked Murle settlements, before withdrawing in early August. The Murle also attacked Dinka and Nuer areas during this period. At the end of July, Bor Dinka also arrived in Central Equatoria, and in Eastern Equatoria, and threatened Murle settlements in the south of the Greater Pibor Administrative Area. During the attacks of February-March 2020, SSPDF Division 8 forces stationed at Likuongole withdrew and failed to stop attacks on Pibor.

During these attacks, humanitarian access was interrupted, and humanitarian supplies destroyed and looted, including a total of 635 metric tons of food and nutrition from Gumuruk, Verteth, Pieiri and Nyadin. While the common narrative held that these attacks were ‘communal’ or ICV violence, as indicated in the introduction to this report, politicians in Juba instrumentalized tensions within the communities of Jonglei to effectively push factional divisions within Kiir’s regime. Elite members of the SSPDF’s military intelligence supported David Yau Yau’s Cobra faction of the SSPDF, while Bor Dinka officers in the SSPDF supplied Bor Dinka fighters from within the supplies of SSPDF’s Division 8, and Thomas Duoth Guet, the Lou Nuer Director General of the General Intelligence Bureau of the National Security Service supplied Gawaar and Lou Nuer militias. What appeared to be communitarian conflicts were deeply imbricated in the politics of Juba.

Nevertheless, these conflicts posed fresh problems for humanitarian actors organizing access. Most access agreements proceed according to formalized access agreements. However, with apparently community organized forces, especially of young men—as apparently typified the clashes in Jonglei in 2020—it isn’t clear with whom one negotiates. During attacks on Pibor, extensive humanitarian supplies were looted. Government forces, in theory responsible for the safe protection of such supplies, made no effort to prevent the looting of such aid. Looting and violence in Pibor cut many important avenues of supply for months during the clashes in the summer of 2020. The question then becomes: how does one operate in such a space?

There is a profound lack of knowledge of command-and-control patterns that requires intensive further fieldwork, and the ability to reconstruct what happened in Jonglei. There is an active debate within humanitarian agencies about the degree to which, for instance, communities are in control of what occurs. In a mirror-image of the relationship between

militia forces and organized government forces from 2013-15, in Jonglei in 2020, much violence was passed off as the result of the 'youth' who were out of control. This led, for instance, to aid to continue to be given to the Duk and Twic populations whose youth was raiding the Murle, leading to an interruption of supplies of aid to the latter group. This concerns some humanitarians as an example of an absence of neutrality: the Duk and Twic continue to receive aid, while the Murle did not. It is impossible to hold the communities to account for this raiding, because there is no command-and-control responsibility in communities themselves.

The situation in Jonglei presents a pressing problem for humanitarian practice. While NGOs cannot hold communities collectively responsible for raiding, the asymmetric supplies of aid in the situation described above itself imperils the capacity of the humanitarian community, for it leads to accusations of a lack of neutrality and undermines the idea that there are red lines of minimal conduct that underlie the provision of humanitarian aid. If the humanitarian community simply provide aid, even when it is being looted and stolen, it underlies the belief—by now well-entrenched in South Sudan—that the humanitarian principle will trump every other organizing humanitarian principle. This continues a long-held structure in southern Sudan, as Alex de Waal noted of the second civil war, in which “over the years, SPLA officers became orientated towards an apparently unending supply of international humanitarian aid, which could be stolen with impunity.”⁹²

The danger with the continuation of this approach is that it effectively disaggregates aid supply from anything done to the aid, or to the humanitarian organizations. Which is to say: that aid is supplied when the government allows it to be, or when conditions are sufficiently secure, and when it is taken or looted or despoiled, then aid will soon enough continue, once conditions are once again safe to do so. Which is to say: if humanitarian access is fundamentally an agreement, it requires actions on both sides. However, in Jonglei in 2020, the relationship was fundamentally asymmetric: humanitarian provision was shown to continue, regardless of whether all the agreements related to the provision of such aid are broken. One attempt during the conflict in Jonglei in 2020 to resolve this situation was to try and involve all sides in an area-wide ceasefire. However, given the realities of the conflict, this was not successful. Humanitarian negotiations are unlikely to be successful when attempting to hold out against strong political currents. There are four reasons why this impasse is unlikely to be resolved at present.

⁹² Alex de Waal, 'When kleptocracy becomes insolvent: Brute causes of the civil war in South Sudan.' *African Affairs*, Volume 113, Issue 452, July 2014, pp. 347–369, p.352.

(1) The first is simply a question of knowledge. Posing questions of community accountability for youth violence in Jonglei indeed raises the troubling spectres of collective punishment, especially given the lack of information currently available to the humanitarian sector about how the raids in Jonglei began, who organized them, when, and why. Without this sort of detailed ethnographic knowledge of armed non-state actors, how decisions are made and who makes them, then all attempts to mediate such clashes and ensure humanitarian access are likely to founder on ignorance. There is thus an urgent need, in order to think through questions of humanitarian access, for a detail engagement with communities and armed non-state actors in Jonglei, that allows the humanitarian sector to understand in detail the relationship between armed groups and community authority structures.

(2) This urgent need for knowledge about the situation in Jonglei runs up against the self-incurred ignorance of the international community. As this report noted in the introduction, the use of frameworks like ICV prevent a serious and detailed understanding of how such clashes take form, and thus prevent an understanding of how they might be ended, or failing that, how humanitarian actors could productively engage with belligerent forces during such attacks to guarantee humanitarian access agreements that will be kept to. In order to understand the dynamics between sub-national conflicts in Jonglei, and to intervene effectively into them, is to understand that to term them 'communal' or 'communitarian' is to understand nothing about the substantive structures and crises that bring them into motion. In order to understand that requires detailed, serious, ethnographic fieldwork and engagement with the communities that participated in these clashes.

(3) Amongst the Lou Nuer participants in these clashes interviewed for this report, the authors found much the same attitude as that which persisted amongst members of armed-non-state actors (ANSA) elsewhere in South Sudan. Attacking another community means attacking the resources of that community: be they livestock or humanitarian supplies. Both form part of the same world of community reproduction to be targeted in a raid. To insist on the sanctity of humanitarian supplies without any red lines is to make a distinction without a difference. What typified ANSA responses to the authors questions about attacking humanitarian operations was the total confidence with which it could be done with impunity, without threatening future aid operations. This isn't a deeply immoral judgement: it is a realist reflection on the conduct of the humanitarian sector in southern Sudan over the last forty years, during which time widespread aid diversion, looting, and instrumentalization of humanitarian assistance has occurred, and humanitarian assistance has simply continued.

(4) To press community's to be responsible for their youth—regardless of the relationship between a community's structure of authority and the youth raiders dispatched to Pibor—is to elide the principal agent responsible, formally and legally, for guaranteeing the safety of humanitarian operations: the government. Repeatedly, humanitarian officers told the authors that it was evident that the government in Juba could stop the raids if they wanted, but it was politically expeditious for them to allow the raids to continue, as the politics of the capital play out in the peripheries of the country. This produces a variation on the pattern of conflict that occurred from 2013-15. In assaults on Southern Unity in 2014 and 2015, the government could repeatedly blame militia forces outside of its control for the raids, and thus limit its legal and political liability. It did the same thing in Upper Nile with Padang Dinka militias in 2014-16. This ambiguity allowed the government to gain the benefits of violent conflict while inheriting none of its liabilities.

Post-R-ARCSS, the government no longer sends out militias that it arms: rather, the contradictions of politics in the capital are played out in Jonglei, while the government takes a *laissez-faire* approach: the blame for both the violence and the looting of humanitarian supplies is placed onto the communities, and the government promises to help. To actively resolve the problems of humanitarian access issues and the looting of humanitarian supplies in Jonglei in 2020 would mean engaging with the fact that government *inaction* is as profound an action as government *action* and should be held just as accountable.

Mangalla

The violence in Jonglei risks affecting other areas of South Sudan, and in so doing, raising particular issues of humanitarian access that compound questions of both the protection of civilians and the neutrality of humanitarian interventions. As elsewhere in the country, humanitarian assistance risks sanctifying population shifts and power grabs.

By the beginning of September, tens of thousands of IDPs had fled from Jonglei to Mangalla.⁹³ They were accompanied by Bor Dinka IDPs from Juba County that the government assisted in transporting to Mangalla. This already poses problems for the humanitarian response: while one community was fleeing violence, other IDPs were being

⁹³ The information in this short section is derived from a recent excellent short study by CSRF: David Deng and the Conflict Sensitivity Resource Facility, *Conflict Sensitivity Resource Facility: Considerations for the Humanitarian Response in Mangalla*. October 2020.

enabled by the government, in a situation that echoes prior government-assisted movement of Dinka civilians into non-Dinka territory. In Mangalla, residents recalled the situation in Nimule in the early 1990s, when Bor Dinka displaced by violence settled in the area around Nimule, while the Madi population of the area was in Uganda. When the Madi population returned, they found their land occupied, and tensions between the two groups continue to this day.

For humanitarian actors, such conflicts pose profound problems. While the IDPs from Jonglei are clearly in need, humanitarian assistance could exacerbate land tensions, especially given government backing for the population move, and could lead to intercommunal conflict. Recent disagreement at the administrative level in Jubek and Terekeka have inflamed the situation, and led to an increasingly zero-sum approach to land, in which land is increasingly thought about in absolute, ethnic terms, rather than as a possibly shared resource. This is especially the case because of long-standing historical tensions between perceived agro-pastoralist Dinka encroachment on largely Equatorial farming land. Humanitarian provision to the Bor Dinka in Mangalla threatens to legitimize their claim to land, and provide resources to an migrant population, in such a fashion that humanitarian response risks interacting with underlying conflict in unpredictable ways.

There are a number of ways that humanitarian response can attempt to mitigate these interactions—by taking into account the host community, employing a conflict sensitive approach, etc. However, historically in South Sudan, these technical approaches have not been able to overcome the basic political economy of such shifts in population. What is important to remember here for our overall study is that Mangalla is another example of the way that humanitarian access has both directly political impacts, and in relation to populations, can actually negatively affect protection of civilian issues.

Unity State

It is important to underline here that the characterization of the war in South Sudan as one that is fought for control of populations considered as resources—and the resources those populations can bring—is one that also extends to other armed groups, as well as the government.

During the current South Sudanese civil war, the SPLA-IO also set up an administration to organize aid operations, and also instrumentalized these operations as part of the political economy of war, as this section will go on to show.

However, the reason that this report has focused on government operations is that, especially over the last year, it is overwhelmingly the government that benefits from the instrumentalization of aid operations, through taxes and benefits derived from the aid industry's location in Juba, and due to its military domination of the country. Most fundamentally, because of the legal regime in which humanitarian operations are imbricated, it is the government that has the prior and fundamental right to give or deny access to humanitarian aid operations, and thus it has the fundamental power to use humanitarian access to shape the political economy of the war.

In Unity state, during the current South Sudanese civil war, both the government and the SPLA-IO have contested control of humanitarian access and the distribution of relief supplies. In doing so, they have drawn on a long experience—rooted in the second Sudanese civil war—of aid being used to shape the political economy of conflict. Such shaping has historically taken a number of different forms. Most obviously, it has taken the shape of aid diversion to fund and feed fighters. However, as this report has shown for the current conflict, such diversion is not the fundamental way that aid shapes conflict: rather, struggles over humanitarian access need to be understood as part of a broader political economy of plunder and redistribution that typifies Southern Sudan in times of war.

In its actions during the current conflict, the SSPDF has shown itself to be an astute student of the Sudan Armed Forces during the second civil war. During this period, the Sudanese state denied humanitarian access to rural areas in Bahr el Ghazal, depopulating these areas, removing rebel support, and pushing populations into government garrison towns, enabling the SAF to benefit from humanitarian supplies and enabling the immiseration of the enemy. This campaign, which is effectively the model for the government's campaign in Equatoria at present, can only be understood if one understands the denial of humanitarian access not iteratively, but as a tool of war, designed to ensure the immiseration of a hostile population and enact a wealth transfer of resources to the army itself.

As risks happening in Mangalla, and has already happened in Jonglei in 2020, aid becomes an object over which war is fought. If the goal of a given military campaign in the current conflict is to ensure the immiseration of a population, then the granting or withholding of humanitarian access becomes a way in which one shapes the course of a war. If population is the object, the telos, of a conflict, then the destruction of humanitarian aid is consonant with the war's objectives.

This was the case in Unity state from 2013-19. Populations adopted a form of humanitarian transhumance and moved between available aid resources in an attempt to survive. The SPLA-IO and the SPLA/SSPDF sought to shape this movement, and force civilians into areas under their control. Most notably, the government forced civilians into areas under government control, and then allowed its troops to sustain themselves by taking food and relief supplies from the civilian population. These strategies echo SPLA and SPLA-Nasir manipulation of aid supplies during the second civil war.⁹⁴ Indeed, it is noticeable that the SPLA's fundamental ways of waging war have not shifted, as it went from being a rebel force (an armed-non-state-actor) to being a government army: war was still about controlling populations and the resources they accrue. What has shifted is the power that the SPLA has to organize such relations, because it now has sovereignty over a given territory.

In Southern Unity, in 2014-15, the government pursued a strategy in which certain areas were declared safe zones, while the rest of a given county would be subject to raiding from government aligned militias, pushing civilians into these safe zones, while allowing the militias to loot in the rest of the county, in what could be termed wild-zones. Humanitarian access was granted for the safe zones—under government control—while humanitarian access was denied for the wild zones, accentuating the plight of rural civilians, and pushing them into government zones. Once aid had been delivered in the safe zones, the SPLA could either raid the distribution—as it did in Dablual, Mayendit County—or else tax or otherwise acquire the aid that was distributed. Just as in Equatoria during the current phase of the conflict, this has led to an emptying out of rural areas, greater urbanization, and greater government control, all at the cost of civilian lives and livelihoods.

During our interviews for this report, SPLA-IO commanders fondly recalled the structure of aid distribution during the second civil war: the obvious antecedent for the current conflict. One commander insisted that it was the SPLA that had ultimate control over where and when aid would be distributed, and remembered a case from Pibor, when the SPLA commander who requested humanitarian intervention, then went to the food drop by WFP, and requisitioned all the food supplies that were so dropped. One of the signature differences between this war and the last is that under Operation Lifeline Sudan, the SPLA has relative autonomy in some parts of the country to deal with aid workers directly, because aid operations were not entirely based in Khartoum, and therefore under the absolute control of the Sudanese government. In contrast, today, aid operations are entirely run out of Juba, and despite the best efforts of the SPLA-IO, it has not been able to establish

⁹⁴ For a visceral description of SPLA-Nasir's employment of such strategies, see, Deborah Scroggins. 2004. *Emma's War*. London: Vintage.

analogous relations of independence with the humanitarian community that would allow it to instrumentalize aid distribution and humanitarian access in the same way.

Nonetheless, the SPLA-IO has instrumentalized humanitarian access where it can. For instance, during the current civil war, taxation of humanitarian workers in Unity state by SPLA-IO officials has gone directly to funding materiel purchases in at least two cases, while in further cases documented by interviews for this report, humanitarian aid resources were taken by the SPLA-IO in Nyal, Panyijar County. Interviews with the officers involved in these actions suggested that they were confident that such aid could be diverted, because, even if the NGOs in question pull out, they will only do so for a short time, and then they will return. In the absence of actual red-lines, the SPLA-IO commanders we spoke to suggested that aid resources could be diverted, looted, or instrumentalized with absolute impunity. Over the forty years of humanitarian operations in southern Sudan, aid resources have come to be seen as essential, permanent services and resources, and a constitutive part of the political economy of the conflict landscape.

What has shifted, most fundamentally, during this current conflict, is the economic basis for such activities. While during the second civil war, it was largely through questions of humanitarian access and aid diversion that the SPLA could gain access to aid resources, today, in the current conflict, the fact that the humanitarian sector is based in Juba means that a great deal of money flows into the government. For instance, trucking and aviation companies that receive large contracts from humanitarian agencies to deal with logistics and movement of aid are all connected to the government and provide valuable hard currency reserves that go into the hundreds of millions of dollars. Regional firms dominate the trucking sector, but all of them have connections to the ruling elite. These trucking firms are then employed by the humanitarian sector to deliver aid. There are then the taxes levied on NGOs, especially since the NGO act in August 2016, both on the firms, but also on rents, equipment, vehicles and licences. Land rentals also constitute another vital source of hard currency for the government. In Wau, Western Bahr el Ghazal, one government official informed the author that he was preparing a number of pret-a-porter compounds for NGOs to rent: another important source of income. This is without beginning to try and chart the cost of informal payments to the government for aid work, including checkpoints. Indeed, the apparent fragmentation of the command-and-control structure of the military more likely reflects *greater* government control: insofar as further fragmentation justifies further checkpoints and payments, which justify greater funds going to the government. The cost of getting one truck from Juba to Bentiu was estimated in 2018 to cost something in the region of \$20,000. To return to Hugo Slim's question: the politicization of aid in South Sudan

is fundamentally a political economic question, about how the government is enabled and maintained in its position as a predatory elite, and the answer, sadly, is partly by funds disbursed from the humanitarian community.

In comparison to this political economic structure, the amount of control that the SPLA-IO and other armed non-state actors exert on humanitarian access pales to insignificance.



Conclusion

As set out in the December 2020 UN Panel of Experts report for South Sudan, the current R-ARCSS is at the point of collapse. The SPLA-IO leadership is effectively kept under house arrest in Juba. The SPLA-IO rank-and-file has either witnessed this political defeat, and joined the SSPDF, or else is at the point of returning to the bush and making common cause with the other non-signatories.

At this juncture, it is alarming that the humanitarian community continues to follow the UNMISS-line and declare that there has been—despite all the evidence to the contrary—a reduction in violence in South Sudan. Such a declaration ignores the fact that, as this report has shown, in Equatoria and Jonglei, as elsewhere, the war in South Sudan is continuing, and the basic structure of this conflict remains intact, including its political economy, based in predation and the control of external supplies of resources.

This declaration has been accompanied by a focus on the communitarian dynamics of conflict that is also unhelpful, because it separates out conflict in South Sudan from the principal motor of the war's dynamics: the political economy of struggles in Juba. While community dynamics and the activities of armed-non-state-actors in places like Jonglei are of course important, relative to both issues of humanitarian access and the protection of civilians, they are entirely subsidiary to the actions of the powerful men in government. A robust and thoughtful approach to humanitarian access issues must start with the question posed by Hugo Slim: what does the politicization of humanitarian access enable?

Unfortunately, an iterative approach to access, which disconnects access from the broader questions of political economy in South Sudan, risks eliding the real politicization of humanitarian access. Almost forty years on from humanitarian access being used as a tool of war by both SAF and the SPLA, it is *still* being used as a tool of war in southern Sudan, by the SSPDF, to depopulate areas of the country, immiserate populations, recompose them as pliant actors under government control, and through the control of the political economy of humanitarian aid in Juba, being used to fund a government that continues to impoverish and attack its citizens. That is, sadly, the politicization of humanitarian access in South Sudan today. It is not that humanitarian access issues are enabling the protection of civilians: quite the contrary, the instrumentalization of humanitarian access is part of a war strategy by the government that deleteriously impacts the lives and livelihoods of civilians.



Recommendations

- The humanitarian community must recognize that it is the government that has overall control of humanitarian access, and that humanitarian access is being used as a weapon of war in Equatoria. There must be rigorous red lines in relation to humanitarian access drawn up by the humanitarian community that ensure that aid distribution is equitable and does not enable government campaigns of population displacement.
- There is currently insufficient historical memory in the aid community in relation to humanitarian access issues. Only WFP and UNICEF have dedicated humanitarian access staff. Even in those agencies, there is no robust historical record of when, where, and how humanitarian access is given, and its relationship to the overall political economy of war. Institutional memory should be safeguarded by dedicated teams that try to understand access issues within the context of the political economy of South Sudan.
- In order for the international community to not fund the political economy of war, there also need to be robust red lines drawn up by the humanitarian community about its contractors and services inside South Sudan. The humanitarian community needs to ensure that no money that it spends in the country goes to funding war crimes. That would involve, for instance, ensuring that vehicles are not rented from companies owned or in any way connected, to commanders involved, or who have been involved, in attacks on civilians. The same would apply to land rentals, housing rentals, and equipment rentals.

- Despite the culture of fear that permeates the humanitarian community, it is actually in a strong bargaining position. Currency inflation and reduced oil funds—especially as so much of the oil has already been sold—mean that humanitarian income constitutes a vital source of foreign currency reserves for the government. This means that there is a large amount of bargaining power that the humanitarian community could have if it acted in unison.



All Photographs taken in 2020, during Geneva Call International Humanitarian Norm Training Seminars in South Sudan.