

Land, Conflict and Displacement in South Sudan:

A Conflict-Sensitive Approach to Land Governance

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David Deng is a human rights lawyer who has been conducting research and advocacy in South Sudan since 2008. Deng's work has touched on a range of issues, including citizen perspectives on peace processes and transitional justice; land policy and housing, land and property (HLP) rights; and security and justice provision at the local level.

Acronyms

CLA	County Land Authority
CPA	Comprehensive Peace Agreement
CSRF	Conflict Sensitivity Resource Facility
DRC	Danish Refugee Council
ECRP	Enhancing Community Resilience and Local Governance Project
FAO	Food and Agriculture Organization
HDP	Humanitarian, Development and Peacebuilding
HLP	Housing, Land and Property
IDP	Internally Displaced Person
IGAD	Intergovernmental Authority for Development
IIED	International Institute for Environment and Development
INGO	International Non-Governmental Organisation
IOM	International Organization for Migration
JSRP	Justice and Security Research Programme
LGAF	Land Governance Assessment Framework
LRA	Lord's Resistance Army
LSE	London School of Economics and Political Science
NPA	Norwegian People's Aid
PfRR	Partnerships for Recovery and Resilience
PLC	Payam Land Council
POC	Protection of Civilians Site
R-ARCSS	Revitalized Agreement on the Resolution of the Conflict in South Sudan
R-TGONU	Revitalized Transitional Government of National Unity
RFGI	Responsive Forest Governance Initiative
RSRTF	South Sudan Multi-Partner Trust Fund for Reconciliation, Stabilization and Resilience
RVI	Rift Valley Institute
SPLM/A	Sudan People's Liberation Movement and Army
SSLS	South Sudan Law Society
UN	United Nations
UNHCR	United Nations High Commissioner for Refugees
UN OCHA	United Nations Office for the Coordination of Humanitarian Affairs
USAID	United States Agency for International Development
USIP	United States Institute for Peace
WFP	World Food Programme

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Executive Summary

This paper provides an overview of land governance as it relates to problems of conflict and displacement in South Sudan. The goal is to help aid actors better understand the context in which they are operating and how they might limit the potential for unintended consequences from their interventions and maximise the contribution that they make to social cohesion and conflict transformation. The study focused on three subnational locations – Bor, Wau and Yambio – that have been the sites of aid interventions in the land sector both historically and in the current context. In all, researchers conducted 74 semi-structured interviews conducted with 118 research participants (76 male and 43 female) between August and September 2021.

Community Land Ownership

The notion that communities have the right to decide what happens on their ancestral lands is of central importance to any effort to secure durable solutions to problems of displacement in South Sudan. Community landownership is legally recognised in the 2009 Land Act and has considerable public support in many parts of the country. For its proponents, a strong position in favour of community land rights is necessary to protect community assets from misappropriation by political elites. Critics of community land ownership maintain that people have taken the idea too far and that it needs to be recalibrated to recognize the government's right to acquire land for the purposes of development. Yet, others point to the way in which community land ownership, or more specifically, the overlap of customary and administrative boundaries, has driven more exclusionary notions of identity and exacerbated land conflicts in South Sudan.

Communities are by their very nature diverse, heterogeneous, and continuously shifting entities. Identities change over time in response to both endogenous and exogenous factors. Geographic territories may host groups that have varying degrees of 'otherness' even as they are bound together by other factors, including ethnicity. To account for this diversity, aid actors should make sure that their engagements with communities emphasise the principles of inclusivity, equity, and downwards accountability. Community engagement activities should be conducted at all stages of the programme cycle and aid actors should engage with different sectors of society, not just community leaders. This will help them to be more aware of the impacts that they may be having on less visible sectors of society and to adjust their interventions accordingly.

Administrative Changes and Land Governance

Administrative changes that have taken place over the years have had far-reaching impacts on land governance in South Sudan. One such change involved the creation of municipalities in many urban areas in the years after independence. State governments in Jonglei, Western Bahr-el-Ghazal and Western Equatoria established municipalities in Bor and Wau in 2012 and in Yambio in 2015. In each case, the establishment of the municipalities involved the annexation of surrounding landholdings and the transfer of administrative functions from county administrations to the newly created municipalities.

In Bor, lingering resentment among host communities with the way in which the municipality was established back in 2012 continues to drive competition over land between the municipal and county administrations to this day. Presidential orders increasing the number of states from 10 to 32 in 2016/17 further complicated the matter by incentivising newly created counties to assert control over land administration within the municipality. With the reversion to 10 states in February 2020, the municipality has sought to reclaim its powers, but the delay in appointing the new state government left the local administrations without the oversight and supervision needed to resolve the matter.

This trend towards increased competition over land will likely continue for the foreseeable future. As revenue has dwindled at the national level, control over land governance has become an increasingly important means of generating income for state and local governments that are desperate for funds. Aid actors operating in the land sector must be aware of the ways in which their interventions could

reinforce or undermine the claims of the various actors in contested environments such as these to limit the risk that they contribute to underlying conflicts.

Trends in Land Tenure Formalisation

Despite almost eight years of civil war, land formalisation processes have continued with little interruption in most parts of the country. While land survey and registration can offer benefits in terms of improved tenure security and higher land values for those who can access the process, it also imposes costs on many others, especially the more vulnerable in society. People may be subject to forced evictions and are rarely provided with compensation, whether in cash or in kind. Public authorities and other powerful individuals may manipulate the process to secure plots for themselves or to gain income by selling land to third parties outside of the formal process. The stakes are raised in peri-urban and rural areas as land formalisation entails the privatisation of ancestral lands that communities have held for many generations and that are central to their sense of identity.

South Sudan is relatively rare among African countries in that it inherited a rather equitable distribution of land ownership at independence. People's ability to freely access their ancestral land is an important social asset that contributes to people's resilience in terms of livelihoods and their ability to access economic opportunities. Aid actors should therefore be conscious of how their activities interact with the various narratives that are being deployed to support or oppose land formalisation processes, as well as the impacts they have on plans to formalise landholdings in specific locations and adjust their interventions accordingly.

Lessons from Past Return, Resettlement and Reintegration Programmes

Government policies at the national level reflect international norms that recognise the right of displaced populations to return to their places of origin, integrate into the places where they have been displaced, or resettle elsewhere. However, like their counterparts at the national level, political actors at the state and local levels often show a bias towards returning displaced populations to their places of origin. This position is unlikely to deliver sustainable outcomes. Experience has shown that even if security were not an issue, many returnees will not want to return to their homes in rural areas. Return programmes must therefore tackle head on the very thorny problems associated with urban return and resettlement programmes, including scarcity of available land, secondary occupation, land grabbing, destruction of property, and a host of other issues.

One approach that has been commonly used in past return programmes is to formalise landholdings in urban or peri-urban areas for distribution to returnees. A few such initiatives are being discussed in the study areas, but land acquisitions for these purposes are not likely to proceed in earnest until larger numbers of people begin returning home. If these types of initiatives were complicated in the past, they are likely to be more so now given the scarcity of available land in and around urban areas. Intergroup tensions stemming from the conflict or distrust between government and displaced communities also complicate efforts to formalise landholdings for distribution to returnees in the current context.

Aid actors should be attentive to the trade-offs that are involved with formalising landholdings as a means of accommodating returnees or internally displaced persons (IDPs). While land documents may help to ensure that the investments that humanitarian actors are making are sustainable, they can also complicate matters if the land was the subject of a dispute before the displacement occurred, as is so often the case in South Sudan. As part of their due diligence, aid actors should explore all available alternatives in such circumstances and, if formalising landholdings is the best choice, they should conduct thorough assessments to identify likely problems and put in place plans to address them at all stages of the return process.

Bridging the Gender Gap in Land Rights

Despite constitutional and statutory provisions that safeguard women's right to own and inherit property, women across South Sudan face systematic infringements on their land rights. One component of the problem relates to customary norms that only allow women to access land through their male relatives. As women are expected to marry outside of the clan or tribe and to thereby join the community of their husbands, customary norms do not typically protect the right of women to own or inherit land from their birth families. But discriminatory customary norms are only part of the problem. As much as customary norms disadvantage women and limit their ability to make choices independently of the men in their lives, they can also guarantee them access to land for their essential needs. Women are typically not rendered landless until these customary norms break down.

According to Dinka customary law, for example, the male relatives of the deceased husband 'inherit' the widow and her children, and they are allowed to continue residing on the land that they occupied with their deceased husband. If the woman is still of child-bearing age, one of the brothers-in-law may continue to have children with her in the name of the deceased husband. This norm should theoretically protect a widow from landlessness, even if it imposes other costs on her in terms of her freedom to live with a person of her choice. But widow inheritance is increasingly breaking down in Dinka society, particularly in urban areas where land has considerable economic value and vacant land is in short supply. All too often, the widow's in-laws will force her and her children off the land and claim it for themselves. Women who are not able to return to their birth families and do not have access to alternative landholdings are often rendered landless and forced to settle informally wherever they can find a vacant piece of land.

Aid actors seeking to support women's land rights should educate themselves on the cultural nuances of the issue. Being able to understand when cultural norms favour women's land rights and when they violate them is critical to developing a strategic approach to progressive change. Conversely, a decontextualised appeal to national or international standards that have little relevance to people's lived experiences can cause people to become more rigid in their thinking for fear of the destabilising impact that the wholesale change of customary property systems could bring. Aid actors should also identify strategic areas where their interventions can achieve structural change, such as the registration of land in women's names, and apply steady and consistent pressure over time until people are able to appreciate the benefits that come with women's empowerment.

Opportunities for Conflict Transformation in the Land Sector

The development of a conflict-sensitive approach requires consideration of both the unintended consequences of aid as well as the potential for aid to help transform conflict and contribute to conflict stabilisation and recovery efforts. As they seek to provide durable solutions to problems of displacement in the short-term, aid organisations should ensure that necessary changes are made prior to supporting return, resettlement, and reintegration programmes. This could involve identifying housing, land, and property (HLP) issues, such as secondary occupation or land grabbing in likely areas of return and working with state and local governments to put in place a plan to address those issues before, during, and after the return process. Existing HLP interventions should also be scaled up and expanded to other locations to mount a response that is commensurate with the problem.

To better contribute to structural change in the land sector, aid actors should begin factoring in longer-term, development-oriented programming into their work on land governance. The short-termism that is inherent in humanitarian programming is particularly challenging in the land sector where problems require long-term investments to effect meaningful change. Incorporating more development-oriented programming is admittedly a tall order in South Sudan where the humanitarian response remains a priority and many donors are prohibited from partnering with government institutions. Nonetheless, new thinking around resilience and the humanitarian, development, and peacebuilding (HDP) nexus could provide opportunities to address some of the longer-term challenges of land governance in the context of the humanitarian response.

A careful examination of local innovations could help to identify entry points for how aid might be strategically deployed to address structural shortcomings in the land sector. In Yambio and Wau, for example, governors recently put in place temporary freezes on land transactions to address malpractices in land administration institutions. In Western Bahr-el-Ghazal State, a small group of policymakers with the support of a civil society organisation independently developed a land policy for the state without any direct external support. Initiatives such as these, together with many more examples of community-level responses to local problems, can provide entry points for aid actors to begin building resilience and stimulating more sustainable outcomes in the land sector.

As aid actors consider the possibility of incorporating more development-oriented programming into their work, a word of caution is warranted. Given how contested land rights are across South Sudan, an approach that seeks to develop the government's capacity for land formalisation could risk entrenching problems and skewing development patterns in favour of the more powerful interests in society. At this stage in South Sudan's transition, the most important thing is to create as much space as possible for open dialogue on land issues among various sectors of South Sudanese society, particularly women and other marginalised groups. In this regard, support to inclusive dispute resolution processes may provide a more suitable starting point for institutional engagement in the short-term as it would align well with stabilisation and rule of law programming.

Summary Table of Challenges Identified and Potential Solutions

Challenges	Potential Solutions
Differing notions of what community landownership entails with respect to the rights and responsibilities of communities and government institutions	Support for dialogue on community landownership and clarification of community and government rights in the National Land Policy and amended legislation
Inadequate engagement with communities with respect to activities on community lands, including land formalization processes and aid programs in the land sector	Inclusive and sustained consultation with diverse stakeholders is conducted throughout the program cycle
Ambiguity in existing law relating to community landownership, particularly if unregistered community land rights have equal protection in law as registered community land rights	Support adoption of a National Land Policy and amendment of existing laws to clarify that community land rights will be fully protected whether they have been registered or not
Contestation among state and local governments over control of land administration in and around urban areas	Creating space for dialogue among relevant institutions and support from higher levels of government to resolve outstanding issues
Land formalisation processes in urban and peri-urban areas that do not comply with South Sudanese law, particularly around prior notice/compensation, and imposes a disproportionate share of the costs on the most vulnerable in society	Increased HLP programming to address the costs of land formalization
Manipulation of land formalization processes to benefit more powerful individuals and groups	Increased support for land governance programs to address the institutional weaknesses; Encourage freezes on land survey and demarcation processes to provide space to enact the necessary changes
Assumptions that most displaced people will return to their places of origin (rural) and a failure to adequately plan for urban return, resettlement, and reintegration, including land restitution for displaced populations	Increased HLP programming, including comprehensive assessments in HLP hotspots; Enactment of necessary changes, including in terms of putting in place plans for land restitution for displaced populations, prior to any return process
Formalising landholdings as a means of accommodating returnees without considering the complications, whether in terms of underlying claims or driving dysfunctional land formalisation processes	Consider alternative options and formalise landholdings only as a last option; Increasing engagement with land administration institutions to reduce the likelihood that they contribute to conflict over the longer-term

Inadequate engagement with the longer-term challenges of land governance in terms of state and institution-building	Increased investment in HDP and resilience programming in the land sector; Donor support for longer-term, development-oriented programming in the land sector, perhaps with a focus on dispute resolution; Greater support for local innovations that show promise for addressing problems in the land sector
Harmful customary laws that discriminate against women and ignore other customary norms that guarantee women's right to access land	More nuanced understanding among aid actors of when customary laws discriminate against women and when they protect their rights to access and use land; Identify and support opportunities to promote progressive changes, such as with respect to registration of women's land rights

Recommendations

The following recommendations can help aid actors limit the potential for unintended consequences from their interventions and support more constructive outcomes in the land sector:

- 1. Increase HLP programming within the context of the humanitarian response.** Much more needs to be done to integrate HLP considerations into other sectors of the humanitarian response while also deploying stand-alone HLP programmes in hotspots. As they seek to provide durable solutions to problems of displacement, aid organisations should also ensure that necessary changes are made to foster a more enabling environment for voluntary, safe, and dignified returns prior to supporting return, resettlement, and reintegration programmes.
- 2. Begin incorporating a longer-term land governance perspective alongside HLP programming in the emergency context.** Support to the demand side of land administration while neglecting the supply side carries longer-term risks, particularly when institutions are as inefficient and dysfunctional as those in South Sudan. Aid actors should identify strategic areas for re-engaging with land administration institutions, such as with mechanisms of dispute resolution, and in doing so, they should try to learn from mistakes that have been made in pre-conflict state-building interventions.
- 3. As aid actors continue to try to help the more vulnerable groups in society to obtain land documents, they should take steps to address the harmful impacts of land formalisation,** including misappropriation of landholdings through land survey and registration processes, forced evictions, landlessness, and gender discrimination. Legal awareness programmes, including the stationing of paralegals in land administration institutions and campaigns in affected communities, can help to prompt systemic changes and support land governance programmes that are working to build and reform institutions from the inside.
- 4. Incorporate a longer-term perspective on effecting structural changes on women's land rights alongside more focused interventions on areas that emerge as priorities** either because they involve threats to safety (e.g., the intersection between gender-based violence and land rights) or because a window of opportunity has opened for more far-reaching change (e.g., registering landholdings in women's names). Aid actors should also be cognisant of the ways in which customary law disadvantages women as well as the safety nets that it provides against landlessness, particularly for widows, divorcees, and other vulnerable groups.
- 5. Ensure that aid interventions in the land sector are deeply grounded in the contextual realities of the places where they are being implemented.** To achieve an accurate understanding of the context, aid actors should make sure that their engagements with communities emphasise the principles of inclusivity, equity, and downwards accountability. Community engagement activities should be conducted at all stages of the programme cycle and aid actors should engage with different sectors of society, particularly with women, not just community leaders. This will help them to be more aware of the impacts that they may be having on less visible sectors of society and to adjust their interventions accordingly.

1 Introduction

There are many continuities between current and past conflicts in South Sudan. The militarisation of society, deepening ethno-political fault lines, patterns of displacement, and the use of abusive military tactics are all apparent in past civil wars (1955-72, 1983-2005) as well as the periods of relative peace that separated them (1972-83, 2005-13). But the establishment of the regionally autonomous Government of Southern Sudan in 2005, independence in 2011, and the outbreak of the most recent war in December 2013 have also introduced new trends. The expansion of waged labour and cash-based markets, for example, show how resources and livelihoods have been increasingly commodified and monetised in recent years.¹ Economies that had been based on social reciprocity and interdependency have been replaced by monetised war economies that are “more hungry and less predictable.”² In the land sector, this trend is apparent in the spread of land formalisation processes since 2005.

Land formalisation in the South Sudanese context typically involves land survey and registration processes that convert landholdings from customary land tenure or some other form of informal landholding (e.g., informal settlements in urban areas) into leaseholds between individuals and state governments.³ Several factors account for the spread of land formalisation in recent years. The establishment of the regional government in 2005 and its newfound oil revenue brought an influx of public servants and economic migrants from neighbouring countries. Millions of returnees flocked to Southern Sudan to participate in the referendum on self-determination in January 2011 and many more after independence in July of that year. Rapid population growth served to drive demand for land in both urban and rural areas and land values increased exponentially, as did the pressure on communities living in urban and peri-urban areas to make land available for the purposes of urban development and expansion.⁴

The outbreak of conflict in December 2013 did little to slow this trend. Indeed, the war has, in its own way, helped to accelerate land formalisation. Eight years of conflict and widespread insecurity in rural areas have pushed many people towards the relative security of urban areas. Dwindling revenue at the national level has forced state and local governments to look for alternative means of generating income and land registration is one of the few available sources. The fluctuating circumstances of the conflict also provide opportunities for more powerful individuals and groups to assert their claims to land, including land that was previously occupied by displaced populations, and to formalise those landholdings in their names. As a result, many towns that were comprised almost entirely of

¹ See Thomas E (2015), *South Sudan: A Slow Liberation* (London: Zed Books); Kindersley N, Majok JD (2020), ‘Breaking Out of the Borderlands: Understanding Migrant Pathways from Northern Bahr-el-Ghazal, South Sudan’, Rift Valley Institute, November (<https://riftvalley.net/index.php/publication/breaking-out-borderlands-understanding-migrant-pathways-northern-bahr-el-ghazal-south>)

² As Thomas notes: “Before the civil wars, people organized their economies around social reciprocity instead of money, and they had a lot more calories than they have today. By 2009, that economy had been replaced with something more hungry and less predictable... This intense violence helped to spread markets and cash. The pastoralism crisis created a new kind of armed youth movement, built around ethnicity, with military and economic functions.” See Thomas E (2015), ‘South Sudan’s Slow Liberation’, African Arguments, 15 January (<https://africanarguments.org/2015/01/south-sudans-slow-liberation-by-edward-thomas/>)

³ There are often intermediate stages between informal landholdings and leaseholds. In many parts of the country, for example, individuals can obtain tokens from chiefs or local administrators that they can then try to convert into registered leaseholds with state governments.

⁴ A 2013 study by Norwegian People’s Aid (NPA) provided insights into how land acquisitions by foreign and domestic companies also contributed to the formalisation of large parcels of land throughout Southern Sudan during the six-year interim period after the signing of the Comprehensive Peace Agreement (CPA) in 2005. Deng DK (2011), ‘New Frontier: A baseline survey of large-scale land-based investment in Southern Sudan’, Norwegian People’s Aid, March (https://dev.landmatrix.org/media/uploads/npa_new_frontier.pdf)

unregistered landholdings when the last war ended in 2005 are completely registered today, and land formalisation processes also appear to be expanding in rural areas.⁵

Land formalisation has both benefits and costs. Land registration can provide a degree of tenure security, help to jumpstart development, and increase land values for those that are able to access the process. But it imposes costs on many others, often the most vulnerable in society, and can entrench disputes and complicate stabilisation and recovery efforts. People may be evicted from their homes to make land available for public purposes or to combine several smaller landholdings into one larger one. Although required by law, compensation, whether in cash or in kind, is rarely provided and individuals are often rendered landless in such circumstances. Internally displaced persons (IDPs) and refugees who were living on unregistered land are particularly at risk of having their landholdings formalised and distributed to third parties, especially when there are political tensions between the displaced populations and the groups that control land administration processes.

International aid can also contribute to land formalisation. During facilitated return processes around the time of independence, for example, it was not uncommon for state governments and international partners to lobby communities residing in peri-urban areas to survey and demarcate portions of community land for distribution to groups of returnees. Similar initiatives are being considered in the current context.⁶ If not done carefully and through inclusive and sustained engagement with affected communities, land acquisitions such as these can contribute to underlying tensions among communities and between communities and state and local governments. In other circumstances, individuals seeking humanitarian assistance, such as shelter support or the provision of agricultural inputs, are often required to produce legal documents showing that they own the land in question. While this may be a necessary act of due diligence to ensure that aid organisations are not helping unlawful occupants to entrench their claims, it can also contribute to increased demand for land registration in a context where land administration processes are discriminatory, dysfunctional, and corrupt.⁷ Given the current emergency orientation of international aid in South Sudan, relatively little is being done to strengthen and reform institutions of land governance so that they can more effectively respond to contemporary challenges.

In recent years, the Government of South Sudan and its international partners have initiated several national and regional policy initiatives to address problems associated with war and displacement, including a 'Two Sudans' initiative that seeks to find durable solutions for the seven million people displaced from and within Sudan and South Sudan. Such initiatives represent a welcome effort to stimulate thinking on durable solutions at higher levels of government, but much more needs to be done to ensure that necessary measures are put in place ahead of time to create an environment that is conducive to the voluntary, safe, and dignified return of displaced populations. The Government of South Sudan and its international partners should also begin thinking about what needs to be done in the longer-term, including in relation to land governance, to sustain any return, resettlement, and reintegration process and make sure that it does not contribute to conflict.

⁵ According to the United Nations High Commissioner for Refugees (UNHCR), there are currently 4.3 million displaced people from South Sudan, including refugees, internally displaced persons (IDPs), and asylum-seekers. See UNHCR: South Sudan Refugee Crisis (<https://www.unrefugees.org/emergencies/south-sudan/>) Three of the four villages visited during this assessment had discussed the possibility of registering landholdings in their areas with their respective state governments. A 2020 study by Danish Refugee Council (DRC) also discusses a land registration process that was recently initiated in Koch County, Unity State. See Pritchard MF, Deng DK (2020), 'Secondary Occupation and Indefinite Displacement: Rapid Assessment of Housing, Land and Property (HLP) Issues in Greater Koch, South Sudan', Danish Refugee Council, April (on file with author). More comprehensive statistics on land registration in urban and rural parts of South Sudan is not currently available.

⁶ In some cases, landholdings may also be formalised to distribute to IDPs on a temporary basis. See e.g., *Rapid Assessment of Housing, Land and Property (HLP) Issues in Greater Koch*, *supra* note 5.

⁷ In addition, aid organisations often must formalise landholdings to accommodate their offices. This is not an insignificant source of land formalisation given how underdeveloped the country is and the prevalence of aid organisations in both urban and rural areas.

As the peace process struggles to gather momentum and with elections a little more than a year away, South Sudan is at a critical juncture.⁸ It is incumbent upon the aid community to consider how its actions might affect longer-term prospects for peace and stability. The role of land in enabling or impeding durable solutions is an important part of this discussion. This paper provides an overview of land governance as it relates to problems of conflict and displacement in South Sudan. The goal is to help aid actors better understand the context in which they are operating and how they might limit the potential for unintended consequences from their interventions and maximise the contribution that they make to social cohesion and conflict transformation. The study focused on three subnational locations – Bor, Wau and Yambio – that have been focal points of aid interventions in the land sector both historically and in the current context. Researchers also travelled to several villages outside of these towns to better understand how land issues are being experienced in rural areas. Discussions were held with experts and practitioners at the national level to complement the field-level data. In all, researchers conducted 74 semi-structured interviews conducted with 118 research participants (76 male and 43 female) between August and September 2021.

This report is structured in three parts. The first part outlines several key contextual issues, including perceptions of community landownership and the institutional, legal, and policy framework for land governance and durable solutions in South Sudan. The second part focuses on trends relating to land formalisation in urban, peri-urban, and rural areas and how people are trying to address land-related problems in the three locations. The third section provides a more in-depth discussion about conflict sensitivity as it relates to programmes in the land sector. The conclusion summarises the key points made throughout the paper and offers several recommendations for how the aid community and the government can incorporate more conflict-sensitive approaches into their programming in the land sector.

2 Background Context

2.1 Perceptions of Community Land Ownership

The notion that communities have the right to decide what happens on their ancestral lands is of central importance to any effort to secure durable solutions to problems of displacement in South Sudan. Community landownership is legally recognised in the 2009 Land Act and has considerable public support in many parts of the country.⁹ For its proponents, a strong position in favour of community land rights is necessary to protect community assets from misappropriation by political elites. As a chief in Bor explained:

“Our perception as community leaders is that if the government is solely responsible for the land, maybe ten people will take the whole of this area. For example, there is that land in the centre of Bor, it is only government representatives that have occupied that land. They evicted less influential people to the other side of town where they are susceptible to enemy attacks. Instead, the government people should be the ones to stay in the front and the poor people should stay behind.”¹⁰

Critics of community land ownership maintain that people have taken the idea that ‘land belongs to the community’ too far and that the concept needs to be recalibrated to recognise the government’s

⁸ According to the Revitalized Agreement on the Resolution of the Conflict in South Sudan (R-ARCSS), elections are supposed to be conducted 60 days before the end of the transitional period on 22 February 2023. See R-ARCSS, Ch. I, Art. 1.20.5 (2018)

([https://www.peaceagreements.org/view/2112/Revitalised%20Agreement%20on%20the%20Resolution%20of%20the%20Conflict%20in%20the%20Republic%20of%20South%20Sudan%20\(R-ARCSS\)](https://www.peaceagreements.org/view/2112/Revitalised%20Agreement%20on%20the%20Resolution%20of%20the%20Conflict%20in%20the%20Republic%20of%20South%20Sudan%20(R-ARCSS))). See also, UN News (2020), ‘Slow progress, stubborn cycles of violence, as South Sudan turns 10’, 21 June (<https://news.un.org/en/story/2021/06/1094462>)

⁹ See Land Act, Ch. II, § 6(4) (2009) (stating that “All lands traditionally and historically held or used by local communities or their members shall be defined, held, managed and protected by law in Southern Sudan”)

(<http://extwprlegs1.fao.org/docs/pdf/ssd181072.pdf>)

¹⁰ Interview with traditional authority in Bor, 23 Aug. 2021.

right to acquire land for the purposes of development.¹¹ As a state government official observed in Wau:

*"You find members of communities resisting government to take the land because they are saying that the constitution says 'land belongs to the community'... They always demand 70 or 80 percent of the plots to be given to the community... Sometimes the government has ambitious plans to do something, but in order to get land it is a problem. So we need a specific provision that is well-defined leaving government some right to use to land."*¹²

Yet others point to the way in which community landownership, or more specifically, the overlap of customary and administrative boundaries, has driven more exclusionary notions of identity and exacerbated land conflicts in South Sudan.¹³ Justin and van Dijk, for example, trace the increase in "ethnic conflicts" during the interim period (2005-11) and after independence to pre-independence legal reforms:

*"[T]he Land Act and the Local Government Act ha[ve] strengthened the links between local authorities and land administration, and between land ownership and rural communities. These relations have resulted in heightened competition over authority in rural areas as a strategy to control land. The link between rural communities and land ownership has caused conflicts around authority to take the form of land conflicts between communities."*¹⁴

Whereas one might assume that community landownership is only relevant in peri-urban and rural areas where land is held under customary land tenure, the concept can also be applied in more cosmopolitan and ethnically diverse urban settings. For example, community leaders in Makuach and Anyidi payams which host Bor municipality play a prominent role in decision-making on land issues in Bor Town.¹⁵ As a chief in Bor explained:

*"During the war, John Garang declared that the 'land belongs to the community' and this is the only law we are following as community leaders... This land here belongs to Anyidi community. The international organisations and the UN agencies, including UNMISS, were accommodated by Anyidi community."*¹⁶

Understanding how statutory and customary norms interact in these different spaces is critical for aid actors seeking to develop conflict-sensitive approaches to land governance. One outstanding question in this regard is how public policy will approach the formalisation of community lands. Until now, the formalisation of community landholdings has involved the conversion of land held under customary land tenure into leaseholds between individuals and the state. The Land Act, however, outlines a process whereby community land itself may be registered in the name of:

- (a) a community;
- (b) a clan or a family in accordance with the customary practices applicable;
- (c) a community association in accordance with the document constituting the association; or
- (d) a traditional leader in trust for the community and with the consent of the members of the community.¹⁷

¹¹ Hirblinger then traces the slogan, 'land belongs to the community' to the wealth-sharing negotiations of 2003 held in Naivasha, Kenya, when the Sudan People's Liberation Movement and Army (SPLM/A) leadership used it to 'shield off' the national government's claims over southern land. See Hirblinger AT (2015), 'Land, political subjectivity and conflict in post-CPA Southern Sudan', *Journal of Eastern African Studies* 9 (4), pp 704-722: 708.

¹² Interview with state government official in Wau, 9 Sep. 2021.

¹³ See De Simone S (2015), 'Building a Fragmented State: Land Governance and Conflict in South Sudan', *Journal of Peacebuilding & Development* 10 (3), pp 60-73: 60; Leonardi C, Santschi M (2016), 'Dividing Communities in South Sudan and Northern Uganda: Boundary Disputes and Land Governance', Rift Valley Institute (RVI) (<https://riftvalley.net/publication/dividing-communities-south-sudan-and-northern-uganda>)

¹⁴ Justin PK, van Dijk H (2017), 'Land Reform and Conflict in South Sudan: Evidence from Yei River County', *Africa Spectrum* 52 (2).

¹⁵ 'Payam' lies under the county and is the second lowest administrative unit of local government in South Sudan.

¹⁶ Interview with traditional authority in Bor (23 Aug. 2021).

¹⁷ Land Act, Ch. VIII, § 58(2), *supra* note 9.

Moreover, it is not clear whether South Sudanese law will only recognise registered community lands or if it will recognise community lands whether or not they have been registered. Mandatory registration of community lands in a contested environment such as that of South Sudan carries major risks. Not only could it serve to drive more restrictive notions of identity and increase competition over shared territories as groups seek to exclude others who may have overlapping claims, but it also creates opportunities for self-interested community leaders and political elites to secure rights to community lands by manipulating registration processes, as has been evident in the survey and registration of individual landholdings. Good practice therefore favours an approach that acknowledges that “community and individual customary land rights exist and are enforceable regardless of paper documentation.”¹⁸

The potential for disruption even through well-meaning land reforms warrants a cautious approach to processes of land formalisation in the current context. As discussed in Section 4.4 below, aid actors interested in investing in land governance over the longer-term might consider starting with dispute resolution processes, particularly as they relate to land restitution for displaced populations and focus their engagement with land registration and survey processes on mitigating the harmful impacts that they have on vulnerable groups. Sustained and inclusive engagement with target communities at all stages of programme design, implementation, and exit is also of the utmost importance. As a representative of a UN agency in Wau explained:

“The key advice is to not only engage the local leaders who are the custodians of the community land, but also extend to holding consultative meetings with the community members to hear their views. Because you realise later on that a partner engaged the leaders but never consulted the community members. They think they are just the ordinary people who don’t form the decision-making structure. Then later you hear that issues have come up and people don’t want them there. You may also hear that the leaders are accused of allowing people to settle because they expect benefit from the aid being offered.”¹⁹

Communities are by their very nature diverse, heterogeneous, and continuously shifting entities. Identities change over time in response to both endogenous and exogenous factors. Geographic territories may host groups that have varying degrees of ‘otherness’ even as they are bound together

Land of the Kingdom of the Gbudwe in Yambio Town

Yambio Town has undergone rapid land formalisation since the Western Equatoria State government was established after the signing of the Comprehensive Peace Agreement in 2005. As noted in Section 3.1 below, almost all the land within the boundaries of Yambio municipality has been registered. But there is a parcel of prime land in the centre of town where plots have not been registered, even as landholdings are being formalised all around it. Community leaders among the Azande claim that the land belongs to the Kingdom of the Gbudwe and that it cannot be surveyed and distributed to the public.

As community leaders quarrelled over the land, people in Yambio began settling on the land of their own accord. According to interviewees, there are now more than 500 households that have settled in the area. The impasse demonstrates the considerable influence that notions of community landownership can have even in urban areas, and how they can shape patterns of development for extended periods of time.

¹⁸ See Knight RS (2010), ‘Statutory recognition of customary land rights in Africa: An investigation into best practices for lawmaking and implementation’, Food and Agriculture Organization of the United Nations (FAO), p 221 (<https://www.fao.org/3/i1945e/i1945e00.pdf>) See also Chauveau JP (2003), ‘Rural Land Plans: Establishing relevant systems for identifying and recording customary rights’, International Institute for Environment and Development (IIED) (<https://pubs.iied.org/sites/default/files/pdfs/migrate/9297IIED.pdf>); Benjaminsen TA, et al. (2006), ‘The Emerging Formalisation Agenda and Some Empirical Evidence from Africa’, Paper presented at the international symposium At the Frontiers of Land Issues: Social Embeddedness of Rights and Public Policy, École National Supérieur Agronomique Montpellier (<https://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.566.2614&rep=rep1&type=pdf>)

¹⁹ Interview with representative of UN agency in Wau (13 Sep. 2021).

by other factors, including ethnicity. These nuances become even more important in the context of a return programme. For example, in the past, returnees from Sudan, East Africa or further afield in the West would often face challenges integrating into South Sudanese society because of their perceived foreign mannerisms. In the current context, women and youth groups may be excluded from community decision-making processes that are often dominated by older men, even though they represent major demographic groups at the local level.

To account for this diversity, aid actors should make sure that their engagements with communities emphasise the principles of inclusivity, equity, and downwards accountability. This will help them to be more aware of the impacts that they may be having on less visible sectors of society and to adjust their interventions accordingly. A carefully considered plan for community engagement is particularly important for activities in the land sector which often touch on the interests of many different stakeholders and where the rights and responsibilities of the various groups may be contested or otherwise unclear. Aid interventions in such circumstances can inadvertently reinforce or undermine the claims of different groups, thereby contributing to conflict.

Inclusivity: Refers to the involvement of many different sectors of society, including women, youth, and vulnerable groups whose voices are sometimes overlooked. This recognises that communities are by nature heterogeneous, and may include host populations, IDPs, returnees, economic migrants, and groups with secondary rights of access, among others.

Equity: Emphasises fairness in opportunity and outcome. Equity should be distinguished from equality in that it sometimes requires differential treatment, particularly for historically disadvantaged groups.

Downwards accountability: This emphasises accountability towards the end users of public goods and services. Traditional authorities are sometimes considered among the more downwardly accountable public authorities in South Sudan in that they are accountable to the communities they serve. However, the militarization of society and the centralized nature of governance has eroded this feature of traditional authority over the years.

2.2 Institutional Framework for Land Governance

Since the regionally autonomous Government of Southern Sudan was established in 2005, the main locus of decision-making over land in South Sudan has rested primarily with state governments. The Governor and state-level Ministries of Lands (also known as Ministries of Physical Infrastructure) manage most administrative functions together with local government administrations.²⁰ In a few places, County Land Authorities (CLAs) and Payam Land Councils (PLCs) have been established as provided for in the Land Act to manage land issues in their localities.²¹ These bodies are typically headed by the County Commissioner and Payam Administrator respectively and include representation from various stakeholder groups, including traditional authorities, civil society, women's groups, and other local government administrators.²² Where they exist, these institutions have been criticised for being upwardly accountable to state and local government officials and failing to adequately reflect the interests of people residing in these areas. As Oyono and Galuak observed in a 2013 report about the CLA in Bor:

"[T]here was a lack of substantive interaction between CLA members and the rural communities they are mandated to represent. Bor CLA members were authorized through top-down appointment and, therefore, did not feel accountable to the rural communities. The representational relation was vacuous.

²⁰ The Ministries of Land were formerly known as Ministries of Physical Infrastructure in most locations. The name of the institution varies across the 10 states of South Sudan. This report uses the term Ministries of Land for ease of reference.

²¹ Of the three study areas, CLAs are present in both Bor and Yambio and PLCs are present in Makuach and Anyidi payams in Bor South County. These CLAs were established as part of a pilot project by a consulting and engineering firm called TetraTech with funding from the United State Agency for International Development (USAID) that was carried out in Bor and Yambio between 2009 and 2014. See Sudan Rural Land and Governance Project, Land Portal website, available at <https://www.landportal.org/community/projects/sudan-rural-land-and-governance-project>.

²² Land Act, Ch. VII, §§ 45, 49 (2009) (outlining the composition of the CLA and PLC), *supra* note 9.

Bor CLA members were neither responsive nor responsible. What was called a local ‘representative committee’ in rural Sudan was not representative; it was not accountable to local people nor did it respond to local needs or aspirations. Rural communities remained voiceless in land governance and administration matters.”²³

Administrative changes that have taken place over the years have had far-reaching impacts on institutions of land administration. One such change involved the creation of municipalities in many urban areas in the years after independence. State governments in Jonglei, Western Bahr-el-Ghazal and Western Equatoria established municipalities in Bor and Wau in 2012 and in Yambio in 2015. In each case, the establishment of these municipalities involved the annexation of surrounding landholdings and the transfer of administrative functions from county administrations to the newly created municipalities.²⁴ In Western Bahr-el-Ghazal, the establishment of Wau Municipality and the transfer of Wau County headquarters from Wau to Baggari sparked public protests. Eight people were killed when security forces opened fire on the protesters.²⁵ Although it was primarily an administrative matter, competition among communities for control over decision-making in Wau is critical to understanding dynamics around land governance in the area. In Bor, lingering resentment with the way in which the municipality was established among communities residing in Makuach and Anyidi payams continues to drive competition over land between the municipal and county administrations to this day. As a chief in Bor explained:

“In principle, land belongs to the state and the municipal council, though they work together. The county government is supposed to be outside town. But now the communities have seen that they are being chased outside; the land belongs to them, but they are not benefiting, so it has brought a clash between community and government.”²⁶

While the situation in Yambio does not entail the same assertion of community land rights as in Bor, similar competition is nonetheless apparent between the municipal and county administrations. In recent months, the state government decided to transfer authority for land survey and registration from the county to the municipal administration, generating confusion among residents over which institution carries primary responsibility for land registration in Yambio.

A second inflection point came with a series of presidential orders that increased the number of states from 10 to 32 in 2016/17.²⁷ While the 32 states did not fundamentally change dynamics with respect to land in Wau or Yambio, it had a major impact on the situation in Bor. Makuach and Anyidi payams which hosted Bor Town were elevated to the level of counties, and ‘Greater Bor’ comprising the former counties of Bor, Twic East and Duk, was made into the new Jonglei State. Makuach and Anyidi proceeded to establish their own CLAs and assert their authority over land survey and registration processes in Bor Town. With the reversion to 10 states in February 2020, the municipality has sought to reclaim its powers over land administration, but the delay in appointing the new state government left the local administrations without the oversight and supervision needed to resolve the matter. As a local government administrator in Bor explained:

²³ See Oyono PR, Galuak DA (2015), ‘Land Governance, Local Authorities and Unrepresentative Representation in Rural South Sudan: A Preliminary Exploration’, Responsive Forest Governance Initiative (RFGI) Working Paper No. 27 (https://codesria.org/IMG/pdf/rfgi_27_oyono_galuak.pdf)

²⁴ In Bor and Yambio, the boundaries of the municipality were set at a 5km radius from the centre of town and in Wau at 7km radius.

²⁵ Human Rights Watch (2013), ‘South Sudan: No Justice for Protester Killings: Full and Impartial Investigations Needed for Wau Deaths’, May (<https://www.hrw.org/news/2013/05/24/south-sudan-no-justice-protester-killings>)

²⁶ Interview with traditional authority in Bor, 23 Aug. 2021. According to an official in the state government in Bor: “The boundaries of Bor Town as the capital city of Jonglei state were clear but were not recognized by the hosting communities of Anyidi and Makuach. ...[T]his is why they are still encroaching to the land that belongs to the municipal council.” Interview with state government official in Bor, 24 Aug. 2021.

²⁷ For additional information on the impacts of the changes in the number of states, see Pritchard M, Verjee A (2021), ‘South Sudan: From 10 States to 32 States and Back Again’, United States Institute of Peace (USIP), March (<https://www.usip.org/publications/2021/03/south-sudan-10-states-32-states-and-back-again>)

“Now the government decided to go back to 10 states. At the moment, there is wrangling over the responsibility of land. The municipality is complaining. So this is the dynamic. The county commissioner and the mayor there is wrangling over two issues: the land distribution issue and then taxes within Bor Town.”²⁸

In the face of dwindling revenue at the national level, state and local governments have few alternatives and rely heavily on income from land formalisation processes. Land surveys and registration present opportunities for public authorities to control land and the fate of people living on that land, which not only creates opportunities for rent-seeking, but can also serve to legitimise their authority in a context where they are unable to offer much else in terms of public goods and services. As a result, this trend towards increased competition over land among government institutions and between government institutions and communities will likely continue for the foreseeable future.²⁹ As van der Haar and van Leeuwen explain, aid actors operating in such an environment should be aware of the ways in which their interventions can reinforce different power centres in these contests:

“Land-related interventions in settings of displacement need to give particular attention to how local land disputes represent and feed into wider contestations over power and authority, citizenship, and belonging. Any intervention in land governance affects local debates over who is in charge of what, and who has the legitimacy to make certain claims, and impacts the relations between local citizens and the state.”³⁰

This insight may also favour an approach that seeks to engage land governance directly, rather than shying away from institution-building and focusing more on emergency-oriented interventions as is currently the norm in South Sudan. Aid interventions in the land sector are going to channel resources to land administration institutions one way or another, whether it is through paying the registration fees for vulnerable households or providing an opportunity for government institutions to formalise landholdings to distribute to IDPs or returnees. If aid actors do not consider the institutional reforms that are needed to make land administration fairer and more effective, they run the risk of entrenching dysfunctional systems and possibly contributing to longer-term conflict. The importance of incorporating investments into land governance alongside a more substantial investment in humanitarian programming on housing, land, and property (HLP) rights is discussed in more detail in Section 4.4 below.

2.3 National and Regional Initiatives on Durable Solutions

The Government of South Sudan and the aid community are currently pursuing several initiatives that seek to promote durable solutions for problems associated with war and displacement. In 2018, the Standing Specialized Committee on Lands and Physical Infrastructure in the National Legislative Assembly reinitiated a process to adopt a National Land Policy that has been under consideration since before independence. In 2019-20, the policy document underwent a technical review after which the Committee made changes to address new challenges that have arisen due to the conflict. But before the policy could be tabled for adoption, it was recalled by the Ministry of Lands, which is now conducting additional reviews with other relevant ministries. The reconstitution of the Transitional National Legislative Assembly in September 2021 has kept alive hopes that the policy document may finally be adopted. The Legislative Assembly is also considering the enactment of

²⁸ Interview with local government official in Bor, 20 Aug. 2021.

²⁹ As the Town Mayor in Yambio explained: “My question is what can I, as mayor, do for the community? It’s not all about money, but money is the source of what I can do for services. That’s why we want the issue of boundaries to be solved, and the municipality’s responsibility to be given to municipality. All my plans, if I don’t have money, I can’t do them.” Interview with Town Mayor in Yambio, 20 Sep. 2021.

³⁰ van der Haar G, van Leeuwen M (2019), ‘War-Induced Displacement: Hard Choices in Land Governance’, *Land* **8** (6): 88 (<https://www.mdpi.com/2073-445X/8/6/88>)

Protection and Assistance to Internally Displaced Persons Bill, which provides specific protections for the land rights of displaced populations.

Other initiatives have originated from the regional level. In October 2020, the Governments of Sudan and South Sudan, together with the Intergovernmental Authority for Development (IGAD), the United Nations High Commissioner for Refugees (UNHCR) and a number of other international partners, launched the 'Two Sudans' initiative that seeks to find durable solutions for the seven million people displaced in and from the two countries.³¹ The initiative has resulted in the development of a National Durable Solutions Strategy and Plan of Action for South Sudan, which is meant to complement an Action Plan on Return, Reintegration and Recovery that was prepared by the Ministry of Humanitarian Development. A representative of an international organisation questioned whether these processes were really putting in place the necessary measures to support durable solutions or whether they were instead a tick box exercise that were seeking to advance short-term interests around returns:

*"I think that people do not fully understand durable solutions and are just talking about [ordinary] solutions and short-term thinking. Usually, they're focused on a particular agenda, which now is about returns, and this has a political angle. There has definitely been a move to not involve all the key individuals that would have to have a say on issues having to do with durable solutions. So whatever is being shared is short-term to satisfy a particular agenda."*³²

The interviewee continued:

*"It's more or less the same approach that we've been seeing. They're pushing returns and not thinking of resettlement for those individuals who want to stay in urban areas or choose to go somewhere else...The meetings have been held, but are they sure they're talking to the right people before returns happen? ...Why this push for returns without first assessing the situation and putting in measures for due diligence? Why not address issues of HLP? And they expect that they're being conflict sensitive?...This strategy is being validated up here and it's for people down there to implement."*³³

Lastly, the Government of South Sudan has been involved in another IGAD initiative to develop a Women's Land Rights Agenda, 2021-2030. As part of this initiative, the IGAD Land Governance programme has held a series of meetings in the region, including a regional women's land rights conference in June 2021 and a meeting of ministers responsible for land and gender in IGAD member states in July 2021.³⁴ The Land Rights Agenda includes specific commitments from IGAD member states that relate to issues such as the policy and legal environment for gender equality, cultural, religious, and customary practices that hinder women's land rights, and gender mainstreaming in land institutions, among others.³⁵ As a regional initiative, the Land Rights Agenda offers opportunities for

³¹ IGAD (2021), 'IGAD Convenes Ministerial Follow-up Meeting on the Solutions Initiative for the Displacement Situation in Sudan and South Sudan', 5 April (<https://igad.int/divisions/health-and-social-development/2016-05-24-03-16-37/2652-igad-convenes-ministerial-follow-up-meeting-on-the-solutions-initiative-for-the-displacement-situation-in-sudan-and-south-sudan>)

³² Interview with INGO representative in Juba (29 Sep. 2021).

³³ Interview with an INGO representative in Juba (29 Sep. 2021). Several interviewees expressed the view that HLP assessments were not being conducted properly for return processes in South Sudan. According to a representative of a UN agency in Wau: "I have come to a conclusion based on the data that was on the ground that there was no thorough assessment conducted prior to facilitating returns from the POC site, IDP site, and other collective centres. On the ground, the conditions are not as ripe as they were made to look and then people were facilitating returns to riskier areas. You issue multi-purpose cash, and before you know it, you see they are back to the POC. You'll see HLP issues arise. They went home and found their land occupied and the person is aggressive and from a military background and not willing to vacate. Or my shelter is damaged, and I have children and I couldn't stay." Interview with representative of UN agency in Wau (10 Sep. 2021).

³⁴ IGAD (2021), 'Communiqué on the IGAD Regional Women's Land Rights Agenda (2021-2030)', Meeting of Ministers Responsible for Land and Ministers Responsible for Gender/Women Affairs of the IGAD Member States, 28 July (<https://igad.int/attachments/article/2764/COMMUNIQUE%20of%20the%20IGAD%20Regional%20Women%27s%20Land%20Rights%20Agenda.pdf>)

³⁵ The IGAD Regional Women's Land Rights Agenda, 2021-2030 ([https://igad.int/attachments/article/2764/IGAD%20Women%27s%20Land%20Rights%20Agenda%20\(2021-2031\).pdf](https://igad.int/attachments/article/2764/IGAD%20Women%27s%20Land%20Rights%20Agenda%20(2021-2031).pdf))

cross-learning among IGAD member states and creates a new space to advocate for progressive reforms, but for it to translate into tangible changes for the lives of women in the region, the Agenda must be domesticated through programs that are tailored to suit the local context.

The challenges that some of these efforts to promote policy reforms from the national or regional levels face highlight an important point about the inherently local nature of land issues. Responsible engagement in the land sector requires a deep familiarity with the histories, practices, norms, and political dynamics in the area in question. Any effort at reform that does not account for contextual specificities and does not manage to secure strong local ownership is unlikely to succeed. As such, interventions in the land sector are particularly well-suited to area-based approaches that have been gaining prominence in South Sudan in recent years.³⁶ While initiatives at higher levels of government can provide space for important discussions to take place and may help to generate momentum around the reform agenda, more needs to be done to complement these top-down initiatives with bottom-up engagement and to put in place the necessary measures ahead of time to make sure that policy interventions from the national or regional levels do not exacerbate conflicts at the local level.

3 Trends in Land Governance

3.1 Land Tenure Formalisation in Urban Areas

The history of state formation in South Sudan can be seen in the spread of land survey and registration processes over the years. As an important regional hub between north and south in Sudan, land registration processes have been present in Wau for generations. As a result, land administration systems in Wau are more established than in the other study locations. Yambio too has a long history of land registration dating back many decades, though it was fairly limited in scope until the establishment of the Western Equatoria State government in the years following the signing of the Comprehensive Peace Agreement (CPA). Bor provides a more extreme example in that there was little to no land registration at all until 2006-7 with the establishment of the Jonglei State administration. The novelty of land registration in Bor as compared to Yambio and Wau is apparent in how contested the process is both between local and state government institutions as well as among state institutions, communities, and individuals.

Land formalisation in South Sudan increased dramatically after the signing of the CPA and with the return of large numbers of displaced people around the time of independence in 2011. Respondents indicate that almost all of Wau and Yambio Municipalities and approximately two-thirds of Bor Municipality have been registered, with much of this happening over the past decade. The 2018 Revitalized Agreement on the Resolution of the Conflict in South Sudan (R-ARCSS), if fully implemented, would expedite land registration processes across South Sudan. Chapter IV on Resource, Economic and Financial Management calls upon the Revitalized Transitional Government of National Unity (R-TGONU) to establish “an independent registry of lands at all levels of government for issuance of title deeds” within the first eighteen months of the transitional period.³⁷ While the deadline for implementation of this provision passed in July 2021 without any tangible progress being made towards its implementation, its presence in the peace agreement provides evidence of a

³⁶ Other funds and platforms that have adopted area-based approaches include the South Sudan Multi-Partner Trust Fund for Reconciliation, Stabilization and Resilience (RSRTF), the Partnership for Recovery and Resilience (PFRF), the World Bank’s South Sudan Enhancing Community Resilience and Local Governance Project (ECRP), and the new USAID country strategy for South Sudan. See Press Release, World Bank (2020), ‘World Bank Continues Support to South Sudan Local Service Delivery Improvement, Strengthening of Community Institutions’, 3 August (<https://www.worldbank.org/en/news/press-release/2020/08/03/world-bank-continues-support-to-south-sudan-local-service-delivery-improvement-strengthening-of-community-institutions>); United States Agency for International Development (USAID), ‘South Sudan: Strategic Framework: July 31, 2020 – July 31, 2024’ (<https://www.usaid.gov/sites/default/files/documents/Strategic-Framework-SouthSudan-July-2024-public-version.pdf>); Partnership for Recovery and Resilience website, <https://www.southsudanpfrf.org>.

³⁷ R-ARCSS, Ch. IV, Art. 4.8.2.1.2. Eighteen months since the start of the transitional period elapsed in July 2021 without any tangible progress being made towards the implementation of this provision.

preference for developmental approaches based on rapid land formalisation among key political leaders in South Sudan.

In terms of process, the generally accepted approach when authorities would like to survey unregistered areas is that they should first consult with the communities residing in the area and that residents in the area should benefit with preferential access to newly registered plots and in terms of service delivery. As a chief explained in relation to land surveys in Bor:

*"The first step is for the government to identify people who need land, then the government approaches the county to liaise with the communities. The commissioner calls the civil [payam] administrator and the chiefs and asks if there is land around. If there is piece of land, we inform the commissioner who will now revert to the state government that the land is there. Once that is done, the Ministry of Physical Infrastructure will send out engineers who will then survey that land and distribute to the people."*³⁸

Individuals or groups may also request that surveys be conducted in particular locations, though they are often required to bear the cost of the survey. As a lawyer in Bor explained:

*"Nowadays there is a new culture. People are suffering. There are no salaries, no business, no culture, people are displaced. So the chiefdoms that are near to that land, they try to link themselves with engineers because they are looking for money. Sometimes they are called by the community to survey the land while the land was already surveyed long ago, and the owners ran away because of insecurity. When the new commissioners come, they go and agree with another community and make another survey."*³⁹

A former representative of the Western Bahr-el-Ghazal State government observed a similar dynamic in Wau:

*"Sometimes you find a group of people forming themselves from a community and asking government to demarcate their area. This shouldn't be encouraged. It should be a government plan, not communities to ask. They just form a committee and ask the Ministry to demarcate their area so that they will have control over that land. It will then be difficult to get others to settle in that place unless you pay something more than usual."*⁴⁰

Surveys impose other costs as well. In many instances, people residing in areas designated for survey and demarcation are not notified in advance and only learn of the activity when they find the surveyors on their doorsteps.⁴¹ In addition, if any landholding falls on a road, an area designated for a public space such as a public field, school or health centre, or if it is part of a number of smaller plots that are to be combined into one larger plot, the individual may be evicted from his or her landholding. Typically, the government will claim a certain number of plots from among those surveyed to provide alternative land for resettling evicted individuals and families. But according to interviewees, these plots are usually sold off and are rarely used to compensate people who have lost their land in a survey. As a female subchief in Yambio explained in relation to survey activities in her area that had started in 2014:

*"Since the demarcation up to this time it has been hectic. Those who are affected by the road or those who are two or three in one plot, up to today, they have not received compensation. All the complaints come to my office. I have nowhere to put them. The government cannot give any land for compensation. I have taken 17 years in service with the same work. But as a woman I am facing a lot of headaches from people on the road and people with small plots."*⁴²

³⁸ Interview with traditional authority in Bor (23 Aug. 2021).

³⁹ Interview with lawyer in Bor (18 Aug. 2021).

⁴⁰ Interview with former state government official in Wau (9 Sep. 2021).

⁴¹ As a chief explained in Yambio: "There are some plots that the government has taken without consultation with owners or chiefs. The owners are complaining that the government took our plot, and they don't know what to do. They have already made buildings that are concrete. If the government is settled, they need to address this thing. Even me I am affected. There is a school in a certain place, and they took part of our plot to build it, but they didn't ask us." Interview with traditional authority in Yambio (18 Sep. 2021).

⁴² Interview with traditional authority in Yambio (21 Sep. 2021).

A chief in Wau expressed a similar viewpoint:

“You know, compensation in South Sudan, it is a problem. No one can give you compensation. In our regulation, if someone’s house falls on the road, the government should give compensation. But you know our people here, they do it by force, destroy your property and chase you away. That is a decision of those people in government. What will you do?”⁴³

A female resident in Bor recounted how she and her son had been rendered landless by a survey in 2019. Upon returning to Bor from Kakuma refugee camp in Kenya in 2012, the woman was told that she would have to vacate her plot because part of it fell along a road and part of it fell on a plot that was being allocated to someone else. When she contested the decision, the surveyor reportedly asked her, “Why do you talk like that when your husband isn’t here,” to which she responded that her husband was in Australia and that she and her child had nowhere else to go. Despite being promised alternative land for resettlement, the woman said the local authorities failed to provide her and others displaced by the road with land, and she was forced to settle in an informal dwelling along the side of the road. As she explained:

“I just left it like that because I am a peaceful woman and cannot go to court to follow up and down with a man who insults me and wants to fight me. I just say, God will help me and show me another place. So I am just staying like that. I have no land.”⁴⁴

In another example from Yambio around the time of independence, respondents narrated a story involving a survey in a residential area adjacent to a local football stadium. The authorities convinced residents on land designated for public purposes, including a market, school, and health facility, to resettle elsewhere. After the survey, however, a senior official in the state government reportedly constructed his house in the area, which prompted the individuals who had been evicted to return and reclaim their land. Many proceeded to sell their plots to others and now the area is held entirely by private residential landholders without any areas designated for public use.⁴⁵

The aid community could take several factors into account as it considers how it relates to the injustices and structural violence of land formalisation processes. First, it is important to acknowledge that aid actors have been involved in efforts to address the harmful consequences of land surveys for many years. In Bor and Wau, for example, national and international organisations are involved with ongoing programmes to provide legal assistance to vulnerable groups whose HLP rights have been infringed upon, and the Protection Cluster and the HLP Technical Working Group often lobby government institutions around particularly contentious land issues.⁴⁶ These initiatives provide critical support to populations that are in need and should be scaled up and expanded to other locations.

Second, as they seek to provide durable solutions to problems of displacement, aid organisations should ensure that necessary changes are made prior to supporting return, resettlement, and reintegration programmes. This may involve identifying HLP issues such as secondary occupation or land grabbing in likely areas of return and working with state and local governments to put in place a plan to address those issues before, during, and after the return process. In the absence of such initiatives, there is a heightened risk that returnees may be subjected to repeated episodes of displacement at the hands of land survey and registration processes that do not comply with South Sudanese law. The ability of government institutions to tackle these issues in advance can also serve as an important indicator of their willingness to create an environment that is conducive to the voluntary, safe, and dignified return of displaced populations.

Lastly, as noted in Section 4.4 below, aid interventions that focus disproportionately on the demand side of land administration in terms of assisting people to obtain land documents and to resolve their

⁴³ Interview with traditional authority in Wau (10 Sep. 2021).

⁴⁴ Interview with resident in Bor (22 Aug. 2021).

⁴⁵ Interview with civil society representative in Yambio (17 Sep 2021).

⁴⁶ There were no ongoing HLP initiatives in Yambio when this research was conducted.

disputes without supporting land institutions in their efforts to deliver services risk reinforcing dysfunctional systems over the longer-term. Aid actors should therefore consider deploying longer-term conflict-sensitive land governance programming alongside the already existing emergency oriented HLP programming.

3.2 Land Tenure Formalisation in Peri-Urban and Rural Areas

As noted above, the normative influence of the idea that ‘land belongs to the community’ is felt in both urban and rural areas as individuals and groups seek to assert their land rights in an otherwise chaotic land formalisation process. In peri-urban and rural areas, however, the stakes are raised considerably as land formalisation entails the privatisation of ancestral lands that communities have held for many generations and that are central to their sense of identity. The acquisition of such land for the purposes of urban expansion is thus susceptible to protracted and potentially volatile disputes.

In one example from Wau, a portion of land on the eastern bank of the Jur River was annexed from Roc Roc Dong Payam to become part of Wau Town in 2010. The survey was reportedly done without consulting traditional authorities or residents in the area. In the process, the engineers demarcated plots on land that housed the graves of the forefathers of the paramount chief. The chief has been serving in his role since 1971 and his father and grandfather were chiefs before him. According to the paramount chief:

“The problem now is that some people just come and grab the land by paying a lot of money without proper consultation. And if that one is not settled well, it will create another problem. Eastern Bank, that is Block E, it is my grandfather’s land. My father took the power from Arabs. During the British, my grandfather was also a chief from there. When you investigate, that land belongs to me. The people in the state government just grabbed it and gave to some people, including the graves of my father.”⁴⁷

The traditional authorities and local government from the area have submitted complaints to state authorities, but they say they have not received a satisfactory response. According to a local government official: “We told the government that there is nobody who can build there. Anyone who tries to build, we will stop it by force if the government doesn’t stop it.”⁴⁸ Until today, the plots in question remain vacant.

In rural areas that are further removed from the towns, the dynamics are slightly different. Although accurate statistics are not available, the vast majority of rural landholdings are known to be unregistered and administered according to local principles of customary land tenure.⁴⁹ As noted in Section 3.1 above, the Land Act calls for the registration of community lands, but the legislation does not provide sufficient detail to be operationalised on its own and is ambiguous about whether community lands must be registered to be legally recognised.⁵⁰ There is ample reason to exercise caution in formalising community landholdings in the South Sudanese context. Not only does the registration of community lands undermine the principle that “community and individual customary land rights should be enforceable regardless of paper documentation,” but the process of registration necessarily alters the nature and foundation of community land rights, as well as the institutions responsible for enforcing them, in potentially regressive ways for community landholders.⁵¹

Despite the risks, rural communities often pin their hopes of development and access to services on land formalisation processes. Of the four villages visited over the course of this assessment, none had

⁴⁷ Interview with traditional authority in Roc Roc Dong, 13 Sep. 2021.

⁴⁸ Interview with local government official in Roc Roc Dong, 13 Sep. 2021.

⁴⁹ See Deng DK (2014), *South Sudan County Report: Findings of the Land Governance Assessment Framework (LGAF)*, SSLS, January (<https://openknowledge.worldbank.org/bitstream/handle/10986/28520/119635-WP-P095390-PUBLIC-7-9-2017-10-34-1-SouthSudanCountryReport.pdf?sequence=1&isAllowed=y>)

⁵⁰ See Land Act, Ch. VIII, § 58 (2009), *supra* note 9.

⁵¹ *Statutory recognition of customary land rights in Africa*, *supra* note 18, p. 221.

conducted any land surveys but all of them had discussed the possibility with the state authorities and were hopeful that they would be done soon. As the paramount chief in Roc Roc Dong explained:

*"It is important to be organised so that some development activities will be done like in Wau. And to demarcate land it gives a lot of opportunities because different communities will come and invest in the area."*⁵²

However, the chief qualified his endorsement of the registration process upon the return of displaced populations to the area:

*"We suspended the demarcation of Roc Roc Dong because we need the local people to come back from the POC [protection of civilians site]...Some of the people ran to America, some to Juba, some outside. We hope that if security is okay, they will come back, and we can distribute the land... If we distribute it now and they are not there, it will create problems."*⁵³

A youth leader in Basunguwa Payam outside of Yambio also expressed concern that an extensive survey process could restrict their access to agricultural land:

*"If a survey is to come it is per the request of the community, but we would wish that it would start from the gazetted area where there is teak. It should start there and end at the payam headquarters. Not the whole land to be surveyed. Our parents did it so to allow for vast land for cultivation. If it is surveyed like in the town, one will remain with small plots. If we do this, how will we cultivate to sustain ourselves?"*⁵⁴

South Sudan is relatively rare among African countries in that it inherited a rather equitable distribution of land ownership at independence. People's ability to freely access their ancestral land is an important social asset that contributes to people's resilience in terms of livelihoods and their ability to access economic opportunities. In many other African countries, land ownership is concentrated in the hands of a small number of elites. Aid actors in South Sudan should be conscious of how their interventions interact with the various narratives that are being deployed to support or oppose land formalisation processes in peri-urban and rural areas, as well as the impacts they have on proposals to formalise landholdings in specific locations.

3.3 Mechanisms for Dispute Resolution

Ever since the Judiciary of Southern Sudan was established in 2005, it has been inundated with land disputes. The conflict that erupted in December 2013 has exacerbated the situation by introducing a whole new series of land problems while also undermining the independence and administrative capacity of the Judiciary. Interviewees for this study estimated that land disputes comprised anywhere from 70 percent of the cases in the statutory courts in Bor to 40 percent of the cases in the statutory courts in Wau.⁵⁵ According to a representative of a UN agency in Wau:

*"If you listen to the radio in the morning, they allocate like 10 or 15 minutes just to announce land dispute cases in the court. They also announce the summons of people who are having land cases in the court. On a daily basis you hear the announcement that so and so is requested to come to the court on this date and to come with documents for this dispute."*⁵⁶

In all three study areas, a range of administrative, customary, and statutory mechanisms were available to individuals involved in land disputes. For disputes involving registered lands, litigants are typically required to first submit their complaints to the administrative mechanisms, such as the CLAs in Bor and Yambio or the dispute committee in the Ministry of Lands in Wau. If they are not satisfied with the judgment from these mechanisms, the disputing parties can appeal to the statutory courts. In practice, however, these procedural requirements are not always adhered to, and litigants

⁵² Interview with traditional authority in Roc Roc Dong (13 Sep. 2021).

⁵³ *Ibid.*

⁵⁴ Interview with youth leader in Basunguwa (21 Sep. 2021).

⁵⁵ Interview with civil society representative in Bor (19 Aug. 2021); Interview with former local government official in Bor (20 Aug. 2021); Interview with INGO representative in Wau (9 Sep. 2021).

⁵⁶ Interview with representative of UN agency in Wau (13 Sep. 2021).

sometimes submit complaints to customary or statutory courts in the first instance.⁵⁷ Although land issues do arise from time to time in customary courts, the customary system mainly deals with minor disputes, such as those associated with borders between two plots or inheritance, and it does not experience the same caseloads as the administrative mechanisms and statutory courts.⁵⁸

Dispute resolution actors face a host of challenges in trying to address land disputes. According to Ibreck, Logan and Pendle:

“Judges and chiefs handle land cases cautiously and decisions are often postponed or prolonged while they call upon external authorities for advice, sources of legitimacy, or documentation. This unusual hesitancy occasionally produces good practice, but typically land disputes prove very difficult to resolve and complainants may bring the same case to court over a period of years, either in pursuit of a final judgement, or because a previous decision was not implemented. Land disputes tend to involve complicated and disputed paperwork, accusations of bribery and the use of force by people in positions of power or owning firearms.”⁵⁹

In the face of increasing pressures on land in urban areas and the breakdown of rule of law due to the conflict, dispute resolution actors often find themselves in very precarious positions. In Yambio, for example, a member of the dispute resolution committee in the CLA was reportedly attacked in his home after ruling against a powerful individual in a land dispute. The man’s finger was shot off and he fled to a refugee camp in a neighbouring country where he remains to this day. Another member of the dispute resolution committee observed how this event and other threats they have experienced has generated fear among committee members:

“It is a very risky job. When you give rights to the person who is the right owner, he can also act with a bad way to kill you at night with a gun or even box with you. The government doesn’t mind our issue...They are just sacrificing us. For this month, we have not gotten any money. Our donors are just those bringing new cases...When there is no one to come with a case, you will be left without anything.”⁶⁰

Moreover, dispute resolution actors typically have few remedies at their disposal to provide mutually satisfactory solutions to the disputing parties. Land disputes in conflict settings tend to be very complex,

A Contested Survey in Naivasha, Bor Town

There is an area in the centre of Bor Town where several thousand people had settled during the 22-year war (1983-2005). After the end of the war, the area was renamed Naivasha to commemorate the town in Kenya where the Government of Sudan and the Sudan People’s Liberation Movement and Army (SPLM/A) signed the CPA.

When Bor had stabilised again following the December 2013 crisis, individuals in the state government approached the county administration to ask that they evict the people who were living in Naivasha and survey the land for public use. Several interviewees voiced a suspicion that the officials wanted to secure the land as their private property. When the residents heard that they would be evicted, they brought a complaint to the High Court which ruled in their favour in 2019. The government is appealing the decision and the case is currently with the courts in Juba.

While dispute resolution mechanisms are not immune to political interference and to being instrumentalised for the narrowly defined interests of powerful individuals, they also provide one of the few forums where people can assert their rights and ideally find mutually satisfactory solutions. Increasing support to institutions of dispute resolution thus provides a logical entry point for efforts to reengage with land governance programming in the transitional context.

Source: Interview with traditional authority in Bor (23 Aug. 2021)

⁵⁷ As a lawyer in Bor explained: “Some of the cases in the court they are handling fresh cases. They are supposed to be exhausted first in administrative procedures and it is the mandate of the court to review the decision.” Interview with lawyer in Bor (19 Aug. 2021).

⁵⁸ Interview with INGO representative in Wau (9 Sep. 2021).

⁵⁹ Ibreck R, Logan H, Pendle N (2017), *Negotiating Justice: Courts as Local Civil Authority During the Conflict in South Sudan*, Justice and Security Research Programme (JSRP), London School of Economics and Political Science (LSE) (<https://www.csrfsouthsudan.org/repository/negotiating-justice-courts-local-civil-authority-conflict-south-sudan/>)

⁶⁰ Interview with member of CLA in Yambio (20 Sep. 2021).

involving events that may have transpired over extended periods of time and amidst institutional upheaval, and as a result it can be difficult to reach a well-reasoned decision for or against a particular party.⁶¹ As a local chief explained:

*"In the [County] Land Authority, even this court, if they put my name there, I will not go. The cases can be known well, and they will still be pending for a very long time. And then to resolve the case, it needs us to demarcate all the way to the next town. All these places have many people who are staying on land meant for the roads. For now, we are just letting people stay in their plots. But when they are needing to go it will cause a problem. Sometimes soldiers are in the plot with civilians. It causes problems."*⁶²

As seen in a case involving a retired soldier in Bor, litigants must be resilient to see their case through to completion. In 2006, while the man was deployed in Yambio, surveyors with the Jonglei State Ministry of Physical Infrastructure surveyed his land and allocated it to another individual. The man went to court in 2010 and 2011 in Bor and lost the case. He appealed many times, at one point reaching the appeals court in Malakal, and has recently been to court again in 2019, 2020 and 2021. The case is currently resting with the High Court in Juba. According to the interviewee:

*"In a court room, if I am not a citizen of this country, then let me be shown where to go. I settled here on this land, and someone said, 'Get away from here, let me sit,' while I was not shown any place to sit. There are those who are in power and those who are not. I was a soldier and outside the state. But those people working in the government at the time had the privilege to get land. Most of the people who have gotten plots in this area were MPs [Members of Parliament] who were working in government at the time."*⁶³

Supporting vulnerable groups with access to justice for land-related issues is among the areas where aid actors are active in the current context. Both national and international partners in Bor and Wau are implementing programmes to provide legal advice and representation, assistance with processing of land documents, and some capacity-building activities for authorities involved with land administration. To contribute more effectively to durable solutions, these types of interventions need to be scaled up and situated in context-specific strategies that aim to address both the short-term needs of populations in HLP hotspots as well as the longer-term structural problems that pervade institutions of land governance. As mentioned in Section 4.3 below, dispute resolution mechanisms may provide an entry point for efforts to reengage with institution-building in the South Sudanese context in that they do not carry the same level of risk as land survey, registration, or town planning processes that are more susceptible to instrumentalisation in the context of intergroup conflicts.

4 Towards a Conflict-Sensitive Approach

4.1 Lessons Learned from Return, Resettlement and Reintegration Programmes

The return, resettlement and reintegration of displaced populations poses a major dilemma for the Government of South Sudan and its international partners.⁶⁴ The signing of the R-ARCSS in 2018 has

⁶¹ According to van der Haar and van Leeuwen: "One of the most complex issues around displacement-related land problems is that there may be no evidently just or fair solution to the multiple, overlapping entitlements and competing claims that arise. In the cases we studied, different groups of people had good reasons to claim something as theirs. We also found that there is often no undisputed legal principle that can serve as a yardstick to solve this problem." War-induced Displacement, *supra* note 30.

⁶² Interview with traditional authority in Yambio (18 Sep. 2021).

⁶³ Interview with resident in Bor (20 Aug. 2021).

⁶⁴ According to UNHCR: "While political, security, human rights and rule of law changes are underway in South Sudan, the impact of these changes on the ground are not uniformly witnessed across the country and may compromise the feasibility of return under conditions of safety and dignity in some locations. Therefore, UNHCR reaffirms its call on States to refrain from forcibly returning South Sudanese nationals or habitual residents of South Sudan to any part of the country...The bar on forcible return serves as a minimum standard and needs to remain in place until such time as the security, rule of law, and the human rights situation in South Sudan has significantly improved to permit the promotion of safe and dignified returns of those determined not to be in need of international protection." UNHCR (2021), 'UNHCR Position on Returns to South Sudan, Update III', October (<https://www.refworld.org/docid/617676f04.html>) This recent update somewhat softens the

led to a decrease in open violence among signatories to the agreement and raised hopes that displaced populations may soon begin returning to their homes.⁶⁵ The transitioning of the UN-administered protection of civilian sites (POCs) to IDP settlements under government control has also increased the pressure on IDPs living there to return to their homes. Yet, many parts of the country remain severely insecure. Sub-national violence, much of it linked to the interests of political elites at the state or national levels, has surged in recent years, and the last two rainy seasons have brought floods of historic proportions.⁶⁶

Government policies at the national level reflect international norms that recognise the right of displaced populations to choose whether to return to their places of origin, integrate into the places where they have been displaced, or resettle elsewhere. However, like their counterparts at the national level, political actors at the state and local levels often show a bias towards returning displaced populations to their places of origin. This position is problematic on several fronts. Experience has shown that even if security were not an issue, many returnees will not want to return to their homes in rural areas. As a representative of a UN agency in Wau explained:

“The claim we hear from the government is that everybody coming back should return to the place from where they are displaced. They are claiming that everyone has a place of origin. But they don’t consider that people have stayed in cities for long and cannot go back to remote villages. There will still be issues of that kind when people return.”⁶⁷

The current political environment also differs from that of the pre-independence period. Before independence, the Government of Southern Sudan had an interest in returning as many people as possible to shore up the vote in the 2011 referendum on self-determination. But in the current situation, most IDPs and refugees have been displaced from their homes by government forces and are often perceived to sympathise with armed opposition groups. Tensions between communities in urban areas can present additional complications. In Bor, for example, IDPs in the former POC have submitted an official request to the state government for their landholdings in a neighbourhood called Ci Nuer Ben (‘the Nuer have come’ in Dinka) to be surveyed and distributed to them so that they may return to their homes. A local government official said that they had decided that only IDPs with land documents will be permitted to return to their landholdings and that those that had been

language from Update II in 2019 in which UNHCR had taken a more unequivocal position on returns, stating: “Under the current circumstances, UNHCR cannot facilitate, promote or otherwise organize returns to South Sudan.” UNHCR (2019), ‘UNHCR Position on Returns to South Sudan, Update II, April (<https://www.refworld.org/pdfid/5cb4607c4.pdf>)

⁶⁵ According to UNHCR, 375,000 South Sudanese refugees and 1.6 million IDPs have voluntarily returned to their homes since November 2017. UNHCR (2021), ‘UNHCR calls for renewed commitment to South Sudan’s peace, development, and future’, 9 July (<https://www.unhcr.org/news/briefing/2021/7/60e814d14/unhcr-calls-renewed-commitment-south-sudans-peace-development-future.html>)

⁶⁶ UNMISS documented the killing of 2,421 civilians in 2020, more than double the number from the previous year. According to UNMISS, this sub-national violence cannot be dissociated from political and military dynamics at the national level: “While sub-national violence, particularly cattle-raiding, is historically rooted in the social fabric of pastoralist communities in South Sudan, the violence now being documented involves civil defence groups and/or community-based militias with a level of organisation, capable of conducting planned and coordinated military-style attacks, independently as well as with the support of members of Government or opposition forces.” UNMISS Human Rights Division (2021), ‘Annual Brief on Violence Affecting Civilians: January – December 2020’, March (<https://reliefweb.int/report/south-sudan/unmiss-annual-brief-violence-affecting-civilians-january-december-2020>); see also, CSRF and WFP (2020), ‘Guidance framework for understanding different forms of violence and their implications in South Sudan’, October (<https://www.csrf-southsudan.org/repository/guidance-framework-for-understanding-different-forms-of-violence-and-their-implications-in-south/>)

⁶⁷ Interview with a UN agency representative in Wau (13 Sep. 2021). An INGO representative made a similar assessment: “This is not like the situation under Khartoum, where there was massive return and there was interest for the government to help people. Here they are saying we are encouraging urbanisation, and that will not work. They’re saying let’s encourage people to go to their own place.” Interview with INGO representative in Wau (14 Sep. 2021).

residing on unregistered land in Ci Nuer Ben would not be permitted to return, in part due to plans to survey the land and distribute it to others.⁶⁸ According to the local government official:

“In South Sudan, people stay amicably when they are mixed, not for certain tribes to be alone. We decided that it is better for [the IDPs] to be distributed among the people rather than for them to be in the same area...If they stay alone, conflict will escalate, but if they are mixed, they can make friends with their neighbours.”⁶⁹

In addition to the tensions that may complicate returns in urban areas, other political interests favour population flows towards rural areas. For public authorities in rural areas, people are a resource that can attract public funding and humanitarian services. Population levels also have longer-term implications for how political constituencies are determined. This is particularly important in the current context as the government considers plans for a census and national elections at the end of the transitional period. A representative of a UN agency in Wau recalled how this dynamic played itself out in Aweil around the time of independence. State authorities had temporarily settled a group of several thousand returnees at a place called Apada near Aweil Town. After staying there for some time, the returnees asked that the land be surveyed and distributed to allow them to settle there permanently. The commissioners from counties outside of Aweil complained that their people were being used to increase the population of Aweil Town and that it was taking resources away from the counties. But when the government asked the returnees to go back to their original villages, they refused. According to the interviewee in Wau:

“It almost came to political tension with the commissioners to the extent that the government wanted to use force [to send the returnees to their original villages]. The returnees stayed for five years without getting the land permanently. It impacted negatively on their integration and stability to the extent that many decided to return to Sudan.”⁷⁰

The example of Apada notwithstanding, state governments tended to show more of an interest in formalising landholdings to distribute to returnees in the previous return process as compared with the current setting. For example, in Bor, shortly after independence, a group of returnees from Khartoum requested that they be allocated land to settle along the road to Juba.⁷¹ Community leaders in Bor refused, preferring to have the returnees integrate into society rather than staying in a separate settlement. With the support of the UN, the governor at the time, Kuol Manyang, approached his own community in a place called Mathiang and arranged for 1,500 plots to be surveyed, but the plans were interrupted by the December 2013 crisis. The neighbourhood of Khartoum Jedid in Wau provides another example. In 2008, with the support of the International Organization for Migration (IOM), the state government acquired land from communities in the area and distributed it to thousands of returnees from Khartoum.⁷² According to a state government official, many of the returnees have since sold their landholdings and returned to Khartoum: “They didn’t get what they expected. They were expecting land of milk and honey and they got the opposite. Either they left their relatives on the land, or they sold it.”⁷³

⁶⁸ According to a local government official: “Those who are in [the] POC and have their official lands, they will return to their original places. Those who have left without official documents will be given alternative lands. If the land was given to other people with official documents, those people will remain there.” Interview with local government official in Bor (20 Aug. 2021). A former local government had a similar assessment: “Now the war has created enmity. Unless one [of the IDPs] has an old plot that was issued, it will be difficult to get their land back.” Interview with retired local government official in Bor (20 Aug. 2021).

⁶⁹ Interview with local government official in Bor (20 Aug. 2021). In response to their request to have their landholdings surveyed, a state government official replied: “What I told them is don’t go to your land by force. It is the government to address that issue. If it is your right, you will be given back your right. If it is not, you will apply for a new piece of land.” Interview with state government official (24 Aug. 2021).

⁷⁰ Interview with representative of a UN agency in Wau, (13 Sep. 2021).

⁷¹ Interview with retired local government official (20 Aug. 2021).

⁷² Interview with former state government official in Wau (9 Sep. 2021).

⁷³ Interview with state government official in Wau (10 Sep. 2021).

While there are a few similar efforts underway to acquire land for resettling IDPs in the current context, the scarcity of unregistered landholdings in urban areas makes this more difficult now than it was in the past.⁷⁴ As noted in Section 3.1 above, most land in the three towns included in this study has been registered and vacant land is in short supply. Communities in peri-urban areas are also feeling the pressure of land formalisation processes and urban growth and are likely to be more resistant to such land acquisitions. Moreover, given the high levels of displacement that persist in South Sudan, there is a risk that the acquired land could itself belong to individuals or groups that are still displaced. Indeed, the allocation of land belonging to IDPs or refugees to third parties is a relatively common occurrence in other survey and registration processes.⁷⁵ A returnee in Wau explained how he and his family fled to the POC in 2016 to escape the violence that had erupted in Wau Town. In 2019, they tried to return to their home only to find that someone else had been issued documents for the plot. According to the returnee:

*"We cannot negotiate with them because they had a full document, built a fence, and had a concrete house. Most of us are staying in the POC. They convinced us [that we could not regain our property] with the full document. We had to return to the POC."*⁷⁶

Aid actors should be attentive to the trade-offs that are involved with formalising landholdings as a means of accommodating returnees. While land documents may help to ensure that the investments that humanitarian actors are making are sustainable, they can also complicate matters if the land housed people who have not yet returned home or was otherwise the subject of a dispute before the displacement occurred, as is so often the case in South Sudan. If suitable alternatives are not readily available, aid actors should ensure they conduct their due diligence before supporting the formalisation of landholdings to accommodate returnees. This may include stand-alone HLP assessments to identify any pre-existing claims in the area, the provision of support to dispute resolution mechanisms to address any problems that arise in the process, or the identification of alternative landholdings with which

Flooding and HLP Rights in Bor

Many parts of South Sudan have experienced historic floods in recent years. According to the UN Office for the Coordination of Humanitarian Affairs (OCHA), more than 466,000 people were affected by flooding between May and September 2021. People living in and around Bor have been particularly hard hit. The authorities from Makuach and Anyidi payams have made land available to temporarily resettle people whose homes have been flooded. In most cases, IDP settlements have been established in public spaces, such as public squares, schools, or churches. However, in some cases, flood-affected IDPs have reportedly settled on land that has been registered to other people. As a flood victim in Bor explained:

"Since that land was flooded, we just came to settle here. We got permission from the elders of the community. The land has been surveyed on one side but not on the other side. We found the land empty, so we settled there. We don't know where the owners are."

Whether they have settled on public or private land, the longer the displacement persists, the more likely that the temporary accommodation of IDPs in this area will become increasingly permanent. In the long-term, the superimposition of land issues associated with two crises, one natural and the other human-made, may prove very difficult to resolve. A similar risk was identified in relation to flood victims who were accommodated in Mangalla payam in Central Equatoria State.

Sources: Interview with IDP in Bor (23 Aug. 2021); regarding Mangalla payam, see David K. Deng (2020), 'Conflict Sensitivity Analysis: Considerations for the Humanitarian Response in Mangalla', CSRF, October.

⁷⁴ Community leaders in Naivasha camp indicated that they were in discussions with the state government about the possible allocation of alternative land for the resettlement of those who are remaining in the POCs, but that such land had not yet been identified. Interview with traditional authority in Wau (14 Sep. 2021).

⁷⁵ See Deng DK, Pritchard MF (2019), 'Cracks in the Foundation: Rapid Assessment of Housing, Land and Property (HLP) Issues in Bentiu, South Sudan', Danish Refugee Council (DRC), October (on file with author); Secondary Occupation and Indefinite Displacement, *supra* note 5.

⁷⁶ Interview with traditional authority in Wau (11 Sep. 2021)

to accommodate individuals who may be forced to move or otherwise lose access to landholdings in the formalisation process.

4.2 Complexities of Secondary Occupation

Secondary occupation is widespread in South Sudan.⁷⁷ Typical situations range from IDPs seeking refuge on land belonging to relatives that have fled, to opportunistic occupation of landholdings, to more coercive situations of land grabbing where secondary occupants threaten or attack owners that try to reclaim their landholdings. In most situations, secondary occupants are willing to leave if asked by the landowner, but when the secondary occupant has invested resources into the property he or she may be unwilling to leave without some form of compensation. As a chief in a village called Malek, about 15km south of Bor Town, observed:

“For those who return, if their homes are occupied by others, we ask those who occupied their homes to leave. If someone has constructed huts in the homes, there is negotiation between the returnee and those who have built their homes. In the negotiation, the returnee can compensate those who have built their buildings.”⁷⁸

Secondary occupation is generally less of a problem in rural areas as vacant land is often available to accommodate IDPs. However, given high levels of insecurity in many places, IDPs in rural areas often gravitate towards the payam or county headquarters where they feel better protected. As a female returnee in Malek explained, this can sometimes generate problems. The returnee came back to Malek in 2021 after having spent seven years at a refugee camp in Uganda to find her brother-in-law staying on her land. Her husband, who had since married another woman, had invited the brother-in-law to stay on his displaced wife’s land due to insecurity associated with attacks by Murle militia in the area. When the woman returned to Malek, the local chief provided her with another plot of land not far from her original house, but she did not have any resources with which to construct a new home. As the aggrieved returnee explained: “My brother-in-law and his family are my people. I cannot chase them from the land so I will have to relocate.”⁷⁹

One factor that helps to facilitate a mutually satisfactory outcome is shared identity between the primary landowner and the secondary occupant.⁸⁰ A former state government official explained how the highly segregated settlement patterns in Wau may have helped to facilitate land restitution for displaced populations:

“Those who went to the POC in Wau were from a certain ethnic group. If you are not from that ethnic group, it is difficult to settle in those places. Their houses were dismantled, but the land remains there. After that, IOM came and gave them iron sheets and they went back. In some instances, there are people from the same group who can occupy your house, but when it is settled through the elders in your area, it is amicable.”⁸¹

⁷⁷ See e.g., See David K. Deng, *Housing, Land and Property Disputes in South Sudan: Findings from a survey in Nimule, Torit, Wau and Yei*, South Sudan Law Society (SSLS), available at https://docs.southsudanngoforum.org/sites/default/files/2020-11/SSLS_HLP-report_final-003.pdf; Cracks in the Foundation, *supra* note 73; Secondary Occupation and Indefinite Displacement, *supra* note 5.

⁷⁸ Interview with traditional authority in Malek (21 Aug. 2021). Although researchers did not come across a specific example of a secondary occupant offering to purchase a plot of land from a returnee so that he or she could remain on the plot, given the flexible nature of negotiations in these circumstances this would likely be an alternative solution.

⁷⁹ Interview with returnee in Malek (21 Aug. 2021).

⁸⁰ As van der Haar and van Leeuwen explain: “When new-coming families stay longer, they seek to turn their temporary entitlements into more definite claims. Newcomers’ presence affects local life, but whether this turns problematic may be expected to depend on the scale of in-migration, but also on the degree of affinity (cultural, political) between the different groups of population.” *Hard Choices in Land Governance*, *supra* note 30

⁸¹ Interview with former state government official in Wau (9 Sep. 2021).

Decisive action by the Western Bahr-el-Ghazal state government to evict people that have occupied the homes of IDPs may have also played a role in reducing the volatility of land disputes associated with secondary occupation. According to a civil society representative:

“During Covid, the awareness was done that [IDPs] should go back and if they find someone on their land, then the other inhabitants should leave...The government tried hard to evict those who came illegally. So, the cases are a little bit minor because the government announced that if you get someone trying to stay on your land, you bring it to the police. Most of [the secondary occupants] that are still there now are security personnel. The army just might move into your house. But they are not civilians.”⁸²

As these interviewees indicate, secondary occupation does not appear to be the primary factor preventing IDPs in Naivasha camp in Wau from returning to their homes. Rather, most of the IDPs that remain in the camp were either renting accommodation when they were displaced and cannot currently sustain the cost of renting in town, or else they were displaced by violence between cattle-keepers and pastoralists in Jur River County, or among factions of armed opposition groups in Raja County, and security concerns prevent them from returning to their villages.

However, other instances of secondary occupation are more intractable. When secondary occupants have been able to obtain land documents from the state or local government, it is often more difficult for landowners to retrieve their landholding. A widow in Wau’s Naivasha IDP camp explained how she had been working to register a landholding that had belonged to her grandfather and where she had been living for 18 years before being displaced by violence in Wau in 2016. According to the widow:

“I went to the Ministry and saw that the land was registered in the name of another man with all the documents including the land deed. Those who are working in the Ministry said that I should go to the media to call that person, but I don’t have any money for the media, that’s why I’m staying here like this.”⁸³

Land disputes in conflict-affected countries often present very complicated fact patterns that do not lend themselves to easy solutions. Underlying disputes, some that arose from the conflict and some

A Temporary Period of Displacement Becomes Increasingly Permanent in Yambio

In 2009, when the Lord’s Resistance Army (LRA) still had a presence in Western Equatoria, a group of civilians was displaced from Bangura payam, because of the LRA’s attacks on their community and sought refuge on land belonging to the Catholic church in a Yambio neighbourhood called Chimbiro. The church approached the state government and asked that the IDPs be given land to settle on, but the government did not reply to their requests. Feeling that they could not chase the IDPs away, the church agreed to allow them to settle temporarily.

Twelve years later, the people remain on the church’s land and the community has swelled from 1,300 people to more than 4,000. A community leader explained how residents in the area struggle with tenure insecurity and fear that at any point they could be evicted from their homes to make the land available for a church project. Residents are not permitted to formalise their landholdings and have settled in a disorganised fashion. As the community leader explained, disputes are common:

“This place was not surveyed by the government or by professional surveyors. It was just given randomly by the church. Now there are lot of problems of the boundaries among the people staying here. They are often disputing to the point where people start fighting. Since it is not surveyed and demarcated well, someone will put the toilet in their plot next to their neighbour’s bedroom. When you complain, you end up in a conflict.”

The community leader was recently arrested at the request of another resident who accused him of distributing plots to others in the area. He spent three days in prison before the church intervened and secured his release. As this example demonstrates, what starts as a temporary solution can become increasingly permanent over time. Aid actors should be sensitive to such trends when responding to both natural and human-made disasters in South Sudan.

Source: Interview with traditional authority in Yambio (18 Sep. 2021).

⁸² Interview with civil society representative in Wau (8 Sep. 2021).

⁸³ Interview with IDP in Wau (14 Sep. 2021).

that predate it, arbitrary administrative actions such as those associated with land survey and registration processes, ambiguous legal frameworks, and the importance of land to people's livelihoods all contribute to make land issues particularly contentious and intractable. When resources from international aid are introduced into such an environment, they can interact in unpredictable ways with underlying disputes.

The difficult operating environment should not dissuade aid actors from engaging. To the contrary, it is important for aid actors to engage early to try to address land-related problems before they become too deeply entrenched. Consistent and sustained consultations with a diverse array of stakeholders, carefully crafted contextual analyses that assess the ways in which their interventions may interact with drivers of conflict and coordinated engagement around longer-term objectives can help to limit the potential for unintended consequences due to aid interventions in the land sector.

4.3 Bridging the Gender Gap in Land Rights

Despite constitutional and statutory provisions that safeguard women's rights to own and inherit property, women across South Sudan face systematic infringements on their land rights.⁸⁴ One component of the problem relates to customary norms that only allow women to access land through their male relatives. As women are expected to marry outside of the clan or tribe and to thereby join the community of their husbands, customary norms do not typically protect the right of women to own or inherit land from their birth families. Norms such as these greatly disadvantage women from obtaining land in their own right, whether in the form of leaseholds in urban areas or landholdings under customary land tenure in rural areas. As a chief in Pariak, a village situated about 30km south of Bor Town, explained:

*"Culturally, women do not have the right to own land here because women marry from other sections, so it is the men who owns the land, and it is the women who stay with them. The only instance when they can own land is when the man is dead, and the women remain there with the children. We don't give land to girls because they will be married off to other communities."*⁸⁵

A chief in Basunguwa observed a similar viewpoint in his community:

*"For their sisters of the same family, the boys do not cater about them. They say you are just a mere girl. You are a market. Go and marry so that I get my money and you remain with your husband. You have no right to get a piece of land here."*⁸⁶

These norms are deeply embedded in the socio-economic fabric of society and as such are resistant to change. In this context, bridewealth payments, which vary greatly across communities, serve to inhibit women's ability to choose whether to remain with their spouses, in that if they opt for divorce their family must return the payment. As a chief in Wau explained: "According to our community, we don't have divorce. When you marry someone, you will stay until you die."⁸⁷ While this may be something of an extreme position, it nonetheless reflects the difficulty that women face in trying to get a divorce. In this context, land ownership grants women power in the context of a marriage that can be threatening to some men. For example, a woman who has her own plot does not have to rely on the goodwill of her birth family to provide land for her and her children if she wants to leave her husband. Indeed, interviewees in Yambio cited women's access to land as a factor contributing to increased divorce rates in recent years.⁸⁸

But discriminatory and harmful customary norms are only part of the problem. As much as customary norms disadvantage women and limit their ability to make choices independently of the men in their

⁸⁴ See Land Act, Ch. IV, § 13(4), stating that Women shall have the right to own and inherit land together with any surviving legal heir or heirs of the deceased as stipulated in Article 20(5) of the Constitution.

⁸⁵ Interview with traditional authority in Pariak (24 Aug. 2021).

⁸⁶ Interview with traditional authority in Basunguwa (21 Sep. 2021).

⁸⁷ Interview with traditional authority in Wau (11 Sep. 2021).

⁸⁸ Interview with traditional authority in Yambio (18 Sep. 2021).

lives, they also guarantee them access to land for their essential needs. Women are typically not rendered landless until these customary norms break down. The prospect of landlessness increases when women lose their husbands, either due to death or divorce. In situations of divorce, women are theoretically expected to go back to live with their birth families, but in practice, the stigma of divorce often means that this is not a viable option. As a civil society representative in Yambio explained:

“When a man divorces a woman and she is trying to go back, she will be abused by her family. They will ask, ‘What did you do to your husband that caused divorce? Where will you sit? All this land is occupied.’ This causes challenges. You will see women struggling to get land from their families... Others, if they divorce, they will go and rent from somewhere.”⁸⁹

Customary norms governing inheritance for widows present a similarly difficult situation for many women. According to Dinka customary law, for example, the male relatives of the deceased husband ‘inherit’ the widow and her children, and they are allowed to continue residing on the land that they occupied with their deceased husband. If the woman is still of child-bearing age, one of the brothers-in-law may continue to have children with her in the name of the deceased husband. This norm should theoretically protect a widow from landlessness, even if it imposes other costs on her in terms of her freedom to live with a person of her choice. But widow inheritance is increasingly breaking down in Dinka society, particularly in urban areas where land has considerable economic value and vacant land is in short supply. A widow in Bor recounted how her brother-in-law wanted to take the plot that she had been staying on with her late husband to give it to one of his neighbours.⁹⁰ When she refused, the brother-in-law reportedly had her arrested and put in prison. Her son and one of her co-wives came to visit her and they were imprisoned as well. The widow subsequently brought a case to the town bench court which ruled in her favour. Her brother-in-law appealed to another chief’s court which also ruled in the widow’s favour. The land had been registered in the widow’s name, but after having lost both court cases, the brother-in-law reportedly went to the local government administration and had the land documents transferred to his name. At the time of the interview, the distraught widow was staying in a second plot that had been registered in the name of her son.

The situation is slightly different but equally difficult for widows in Yambio. According to Azande customary law, when a person’s spouse dies, whether man or woman, they are permitted to stay in their marital home for a short period of time after which they must vacate the premises lest they experience some form of spiritual affliction. But while a man retains ownership of the property, a woman is expected to cede ownership of the property to her in-laws. A widow in Yambio related the struggles that she faced in trying to maintain ownership of her marital property. The woman, a Bari from Central Equatoria, spoke strongly against what she viewed to be the harsh customs governing inheritance among the Azande:

Women’s Land Ownership Under Customary Law

According to most customary law regimes in South Sudan, women derive their right to access and use land through their husbands, or other male relatives, and they are not permitted to own land in their own right. This position assumes that women will one day marry out of the community and that if they owned land, every marriage would entail the alienation of their family’s ancestral lands to whatever community they married into.

But customary norms also protect women against landlessness. For example, widowed women are typically permitted to remain on the land they occupied with their husbands, even if the ownership of land reverts to the male in-laws. As noted in Section 4.3, the Azande have adopted a different practice in which widows and their children are expected to leave their marital homes. This has greatly increased the pressure on widows whose birth families are unable or unwilling to accommodate them or their children.

⁸⁹ Interview with civil society representative in Yambio (18 Sep. 2021).

⁹⁰ Interview with resident in Bor (20 Aug. 2021).

*"The culture here is like they run seriously after materials. No one will ask for a child. They tell me as a widow to go with my children and they take everything in the house to divide among themselves. I am just waiting for any relative to come and tell me to leave this place and to take my things and put them outside. I will go to court and open a case because I don't know where to go. I don't know anybody here."*⁹¹

The widow, who is a retired police officer, continued:

*"There are two things people are dying for here – land issues and women issues. These are the two things I see causing death here. My fear is in the future it's still going to be a problem between my relatives and this land of my husband."*⁹²

Out of desperation, the widow sought assistance from a group of four bishops who intervened because her husband had been a prominent person in the government. According to the widow, her in-laws grew furious and said that she must quit the plot. "I am just staying here with the hard mind of Juba people," she said.

As these examples indicate, there is a close connection between the dispossession of women from land and gender-based violence. Outsiders will rarely intervene in situations of domestic violence and male relatives are often given considerable leeway to intimidate or physically assault women who are trying to assert their rights. As a widow in Yambio explained:

*"As women we also fear, because if you are one and many mouths come talking on you at once, you will even feel embarrassed. You do not want to be intimidated like this just for assets. And if you cling to the plot and they kill you, no one will come and raise your children. So you feel that you better quit so that you remain alive."*⁹³

Women who are persistent and determined enough to overcome these obstacles often face systematic discrimination in land administration institutions. A woman in Bor recounted the response she received from the authorities involved with land surveys when they evicted her from her home, part of which was lying on an area designated for a road:

*"He said, 'You don't have a husband. Why do you talk like that?' I said, 'My husband is not around. He is in Australia.' I said, 'I am here with my child. Where will I go?' He said, 'If you are complaining, then I don't hear. You'll be shifted to other areas where the people of the roadside are shifted.' Then he sold that plot which is having part of my home to another person...This is what made me confused. Why do you involve someone's husband? Even a woman without a husband can get a plot and get married later on."*⁹⁴

In another case, a lawyer in Bor explained how one of his clients had her plot seized by the local government and allocated to another person. The reason the local authorities gave was that she was an elderly woman and that she should go and join her son in his house. The lawyer contested the decision in court and obtained a ruling in the woman's favour:

*"This was an older woman who had nothing to do with the son and has a right to own land. The law says that the person can be disabled, can be young, old, man, or woman. It doesn't say that if you have a son, you can be chased to his land. This woman wasn't affected by any road or public interest. It is discrimination. The payam cannot take the land to give to another person."*⁹⁵

Despite the major challenges that women continue to face, there are some signs of progress. Women in certain parts of Wau and Yambio have increasingly begun registering property in their own names in recent years. A representative of an INGO in Wau estimated that women may comprise as much as 20 percent of landowners among Fertit groups in the town and similarly high levels were apparent in

⁹¹ Interview with resident in Yambio (19 Sep. 2021).

⁹² *Ibid.*

⁹³ *Ibid.*

⁹⁴ Interview with resident in Bor (22 Aug. 2021).

⁹⁵ Interview with lawyer in Bor (19 Aug. 2021).

Yambio.⁹⁶ While the reasons for these changes are not immediately apparent, they may be linked to the impact that conflict and displacement have had in terms of increasing the number of female-headed households. Women who can secure independent sources of income are better positioned to purchase land in the market even if they may be discriminated against in the context of land survey and registration processes. Awareness-raising and legal assistance programmes in which NGOs cover the registration costs for vulnerable populations may also be having an impact. According to a representative of an INGO that supports vulnerable women to formalise their landholdings:

“In South Sudan, I think a lot of movement has happened in recent years. Since I’ve been here, workshops have been held by the parliamentary land committee, and what’s being done by IGAD and the Ministry of Lands...I can’t say it’s easy for women in any community, but in some communities, it’s easier than others...We’re a bit better off than we were but far from equal. That’s why I’m saying the problem is structural to South Sudanese society.”⁹⁷

However, efforts to promote women’s land rights are being strongly opposed in some areas. A representative of a civil society organisation in Wau said that his organisation tried to launch a programme to support women’s land registration in Lakes State, but the chiefs and the Ministry of Lands refused their proposed intervention, saying that they could only proceed if they were going to issue documents to men and not to women.⁹⁸ The organisation moved the project to Aweil and Warrap where it reportedly proceeded smoothly.

Changing attitudes that are as deeply embedded and personal as those relating to gender relations and gender equality is necessarily a long-term endeavour. As a widow in Yambio explained:

“The Azande say, ‘A fish can’t drop its smell completely’, meaning the culture can’t change easily. If the law [protecting women’s land rights] is there, it is there. But it will be difficult for the elderly people with this culture to drop it. If it’s going to change, maybe the grandkids of our children can adopt a new culture of favouring women to have land. What we need now is to support those of us who are suffering.”⁹⁹

Aid actors seeking to support women’s land rights should educate themselves on the cultural nuances of the issue. Being able to understand when cultural norms favour women’s land rights and when they violate them is critical to developing a strategic approach to progressive change. Conversely, a decontextualised appeal to statutory or international standards that have little relevance to people’s lived experiences can cause people to become more rigid in their thinking for fear of the destabilising impact that the wholesale change of customary property systems could bring. Aid actors should also identify strategic areas where their interventions can contribute to challenging and transforming harmful gender norms, or where they can achieve structural changes, such as the registration of land in women’s names, and apply steady and consistent pressure over time until people are able to appreciate the benefits that come with women’s empowerment.

4.4 Opportunities for Conflict Transformation in the Land Sector

The development of a conflict-sensitive approach requires consideration of both the intended and unintended consequences of aid as well as the potential for aid to help transform conflict and contribute to stabilisation and recovery efforts. The transformative potential of international aid necessarily invokes longer-term considerations than those that typically drive emergency responses.

⁹⁶ Interview with representative of INGO in Wau (9 Sep. 2021). By way of comparison, it is estimated that 17 percent of the documented land is owned by women in Malawi, 11 percent in Tanzania while in Niger it goes as low as 5 percent. See Antonio D, et al. (2020), ‘Working to Achieve Sustainable Development Goals Through Enhancing Women’s Access to Land in Post Conflict Context: The Case of Wau State in South Sudan’, https://www.fig.net/resources/proceedings/fig_proceedings/fig2020/papers/ts07f/TS07F_wanyonyi_antonio_et_al_10509.pdf

⁹⁷ Interview with representative of INGO in Juba (29 Sep. 2021).

⁹⁸ Interview with representative of civil society organisation in Wau (8 Sep. 2021).

⁹⁹ Interview with resident in Yambio (19 Sep. 2021).

Humanitarian actors in South Sudan did not begin devoting attention to HLP issues until the last few years. As a result, they may have missed an opportunity to mitigate some of the obstacles to durable solutions in the land sector, such as the dispossession of urban landholdings belonging to displaced populations. As a representative of an INGO recalled:

“When I was last in Wau, driving downtown with a national colleague, he was talking about which group lives on each side of the road and that town is more divided than it had ever been before. We were joking about which direction to run if there’s a problem and he said everyone knows which neighbourhood is safe and which isn’t. It points to the problems that there have been in urban areas. We lost an opportunity when POCs were created that there wasn’t a focus on securing areas for returns. The narratives of the POC sites have got caught up in going back to locations of origins which doesn’t make sense in the urban setting...I think we need to take stock of what happened and deal with them as urban displacement. People aren’t going back to a pre-2013 situation in the villages...We need to create a plan for urban planning on how to deal with these things. It will bring us directly into challenge with institutions, but we need to think about it.”¹⁰⁰

The inclusion of HLP issues in the humanitarian response is a welcome development and much more needs to be done to adequately address these issues in the emergency context. But eight years into the crisis, aid actors may need to begin considering longer-term, more development-oriented objectives as well to promote the conflict transformation potential of programming in the land sector. An approach that seeks to scale up HLP programming in the humanitarian response while also looking beyond HLP to a more comprehensive approach to land governance would have to address several strategic considerations. First, as van der Haar and van Leeuwen observe, a careful examination of local innovations could help to identify entry points for how aid might be strategically deployed to address structural shortcomings in the land sector:

“Land governance cannot wait for state-building to be completed or for local societies to have fully recovered from war, but neither should one come to hasty solutions that undermine structural answers in the future. Outside assistance may be needed, but the answer cannot rely on international intervention only or primarily. Ways forward would need to work towards solutions for concrete problems on the ground in ways that feed into fair, equitable, and ‘future-proof’ systems of land governance.”¹⁰¹

Several such “solutions for concrete problems” were apparent in the study locations. In Yambio and Wau, for example, governors had recently put in place temporary freezes on land transactions to address malpractices in land administration institutions. Freezes such as these have been used in other countries as a means of limiting the harm that malpractices in the land sector pose in transitional contexts.¹⁰² In Wau, the freeze was put in place when the incoming governor, Sarah Cleto Hassan, assumed office in June 2020. As a representative of a UN agency in Wau explained:

“Putting land transactions on hold was a positive step. It was like you are putting on an injunction. No party, whether malicious or innocent, can do irreparable harm because all things are put on hold...She did so because most of the citizens were complaining of land grabbing, multiple registration, and also you own a land in one location, and you see in the books that you are placed in another location. It sounds ridiculous because you were living in a village since time immemorial and how is your name somewhere you’ve never stayed? She wanted the Ministry to put its house in order.”¹⁰³

In Yambio, the former Governor of Gbudwe State put in place a freeze on new surveys in 2018 for the same reason. The incoming governor lifted the ban when he assumed office in June 2020, but the

¹⁰⁰ Interview with INGO representative in Juba (2 Sep. 2021).

¹⁰¹ *Hard Choices in Land Governance*, *supra* note 30.

¹⁰² In Iraq, for example, when the Islamic State captured a city, they would seize land and property belonging to non-Sunni religious sects and redistribute it among their fighters. Among the first things coalition forces would do after recapturing a city was to place a freeze on property transfers. Callimachi R (2018), ‘The ISIS Files’, *New York Times*, 4 April (<https://www.nytimes.com/interactive/2018/04/04/world/middleeast/isis-documents-mosul-iraq.html>)

¹⁰³ Interview with representative of UN agency in Wau (10 Sep. 2021).

freeze provided space for public authorities to consider several reforms to try to address malpractices in the land sector, including the creation of new lease documents that are reportedly more difficult to forge and the shifting of responsibility for land survey and registration from the county administration to the municipality.

Another local innovation can be seen in efforts to develop a land policy for Western Bahr-el-Ghazal State. The land policy was an initiative of a state-level land commission that was formed in Wau State, a national consultant in the Ministry of Lands, and a regional civil society organisation called the Greater Bahr-el-Ghazal Land Alliance. The initiative did not receive direct external support from the aid community. According to a state government official:

“When the Land Commission was formed, it was very much appreciated by this Ministry, because apart from the Land Act of 2009, we wanted to formulate local land policies for the state, such that it is taken to the parliament and becomes a law and a guideline for land administration in the state...When the Land Commission was formed, they came to our Ministry, we stayed with them for three months. We formulated the policies and guidelines and we finished everything, and then it was typed and bound and then when it was going to be presented to the Council of Ministers and taken to parliament, the government was dissolved.”¹⁰⁴

There are many such local initiatives that seek to find solutions to land-related problems that people are experiencing across the country. In a neighbourhood called Hai Dinka in Wau, for example, a group of community leaders took it upon themselves to solicit the government to survey a part of the neighbourhood and to sell the plots to third parties without discussing it with residents of the area.¹⁰⁵ The community formed a steering committee to address the issue, arguing that the surveyed land was intended to accommodate families that had been displaced to Khartoum, Australia and elsewhere and could not be allocated to third parties.¹⁰⁶ Initiatives such as these could provide strategic partnerships for aid actors. Rather than focusing on the creation of new community-level institutions that operate under a conventional protection mandate, aid actors could identify home-grown initiatives and create space for communities to develop their own innovative responses to local problems. Such an approach would not only help to develop people’s ability to better respond to problems at the local level, but it could also lead to more sustainable outcomes.

Second, in addition to supporting local innovations in the land sector, aid actors could begin factoring longer-term, development-oriented programming into their work on land governance. The short-termism that is inherent in humanitarian programming is particularly problematic in the land sector where problems are deeply structural and require long-term investments to effect meaningful change. Organisations involved with HLP programmes are often forced to work under short six-month or one-year timeframes that barely provide sufficient time to launch the project before they are expected to report on its outcomes. Incorporating more development-oriented programming is admittedly a tall order in South Sudan where the humanitarian response remains a priority and many donors are prohibited from partnering with government institutions. Nonetheless, new thinking around resilience and the humanitarian, development, and peacebuilding (HDP) nexus could provide opportunities to address some of the longer-term challenges of land governance in the context of the humanitarian response. The recent reengagement by development actors such as the World Bank in South Sudan may also provide opportunities in this regard.

Lastly, aid actors could better harness their collective efforts if they are better able to work jointly towards shared objectives. The HLP Technical Working Group that was established at the national level in 2018 and the state-level HLP Working Groups that are present in some locations are a

¹⁰⁴ Interview with state government official in Wau (Sep. 10 2021).

¹⁰⁵ Interview with youth leader in Wau (15 Sep. 2021).

¹⁰⁶ The committee also began addressing the misappropriation of land belonging to vulnerable populations that have not fully completed the land registration process. Some individuals were reportedly identifying such households and going to the Ministry of Lands to complete the registration process so that the documents could be issued in their names.

welcome development. These coordination mechanisms have improved information-sharing among organisations and helped galvanise support for important initiatives, including the development of the National Land Policy and thinking around women's rights. However, one criticism that interviewees expressed about these platforms is that actors with a strong humanitarian mandate, particularly in shelter programming, tend to be overrepresented among their members. The platforms could thus be strengthened by broadening their thematic focus beyond HLP to consider some of the institutional and peacebuilding challenges that permeate the land sector and involving organisations with more specialised experience in land governance. Interviewees also thought that organisations could do a better job of allocating responsibilities among themselves according to their specific strengths, rather than operating in siloes where they are unable to learn effectively from one another and as a result, often end up recreating programs from scratch rather than building off what was done before.

As aid actors consider the possibility of incorporating more development-oriented programming into their work, a word of caution is warranted. Given how contested land rights are across South Sudan, an approach that seeks to develop the government's capacity for land formalisation could risk entrenching problems and skewing development patterns in favour of the more powerful interests in society. At this stage in South Sudan's transition, the most important thing is to create as much space as possible for open dialogue on land issues among various sectors of South Sudanese society. Support to dispute resolution processes could also provide an entry point for institutional engagement in the short-term as it would align well with stabilisation and rule of law programming.

5 Conclusion and Recommendations

Rapid land tenure formalisation in the context of conflict and widespread displacement has a number of destabilising impacts that can serve as obstacles to durable solutions for displaced populations, returnees, and host communities. Land registration may improve tenure security for some, but it undermines tenure security for others, particularly the more vulnerable segments of society. At the same time, processes of land formalisation are one of the few areas where citizens regularly engage with government to benefit from public goods and services in the form of land documents and improved infrastructure. Land formalisation is also an important source of revenue for state and local governments that are in dire need of income. For aid actors operating in the land sector, the complexities may be overwhelming. Several recommendations to help limit the potential for unintended consequences and support more constructive outcomes are outlined below.

1. **Increase HLP programming within the context of the humanitarian response.** As they seek to provide durable solutions to problems of displacement, aid organisations should ensure that necessary changes are made prior to supporting return, resettlement, and reintegration programs. This may involve identifying HLP issues such as secondary occupation, land grabbing, or the misappropriation of landholdings by community leaders or political elites in likely areas of return and working with state and local governments to put in place a plan to address those issues before, during, and after any return process. The ability of government institutions to tackle these issues in advance can also serve as an important indicator of their willingness to create an environment that is conducive to the voluntary, safe, and dignified return of displaced populations. At the same time, much more needs to be done to integrate HLP considerations into other sectors of the humanitarian response and to deploy stand-alone HLP programmes in hotspots.
2. **Begin incorporating a longer-term land governance perspective alongside HLP programming in the emergency context.** Support to the demand side of land administration while neglecting the supply side carries longer-term risks, particularly when institutions are as inefficient and dysfunctional as those in South Sudan. Aid actors should identify strategic areas for reengaging with land administration institutions, such as with mechanisms of dispute resolution, and in doing so, they should try to learn from mistakes that have been made in pre-conflict state-building interventions. Local innovations, including efforts by public authorities to address problems of

land or other solutions that communities may have devised at a local level, may provide an entry point for complementary programming that ‘goes with the grain’ and reinforces the local solutions that people have found for themselves. In terms of longer-term policy directions, aid actors should be cognisant of the risk that rapid formalisation of land tenure carries in contested and insecure environments. Their interventions should also acknowledge the plural nature of land governance in South Sudan in which statutory, customary, and administrative responses coexist in the same space. Customary land rights should be recognised whether or not they have been registered, and aid actors should be aware of the risk that formalising community lands may have in terms of reinforcing exclusionary notions of identity and exacerbating land conflicts.

3. **As aid actors continue to try to help the more vulnerable groups in society to obtain land documents, they should take steps to address the harmful impacts of land formalisation,** including misappropriation of landholdings through land survey and registration processes, forced evictions, landlessness, and gender discrimination. This may entail more concerted efforts to raise awareness and advocate on behalf of individuals and groups whose rights are being infringed upon in land formalisation processes. Legal awareness-raising programmes, including the stationing of paralegals in land administration institutions and campaigns in affected communities, can help to prompt systemic changes and support land governance programmes that are working to build and reform institutions from the inside. Perhaps most importantly, existing programmes should be scaled up in the few places where they currently exist, expanded to other locations, and situated in a broader strategy that enjoys the support of all key stakeholders.
4. **Incorporate a longer-term perspective on effecting structural changes on women’s land rights alongside more focused interventions on areas that emerge as priorities** either because they involve threats to safety (e.g., the intersection between gender-based violence and land rights) or because a window of opportunity has opened for more far-reaching change (e.g., registration landholdings in women’s names). As important as international and national standards are in proscribing norms around women’s land rights, they cannot substitute for open and inclusive dialogue at a local level. In helping to enable such dialogue, aid actors should be cognisant of the ways in which customary law disadvantages women as well as the safety nets that it provides against landlessness, particularly for widows and divorcees. This will enable people to hone in on the most problematic aspects of customary law while harnessing its strengths in efforts to reinforce women’s land rights. A more contextualised approach will also strengthen programming by establishing more specific and realistic indicators of change and channelling resources towards those areas.
5. **Ensure that aid interventions in the land sector are deeply grounded in the contextual realities of the places where they are being implemented.** More so than many other issues, land issues are highly localized. As such, interventions in the land sector are well suited to the area-based approaches that have been gaining prominence in South Sudan in recent years. The creation of an enabling environment at the national level can help, but it must be grounded upon the specific histories, experiences, dynamics, and norms that exist at the local level. To achieve an accurate understanding of the context, aid actors should make sure that their engagements with communities emphasise the principles of inclusivity, equity, and downwards accountability. This will help them to be more aware of the impacts that they may be having on less visible sectors of society and to adjust their interventions accordingly. A carefully considered plan for community engagement is particularly important for activities in the land sector, which often touch on the interests of many different stakeholders and where the rights and responsibilities of the various groups may be contested or otherwise unclear.

Bibliography

- Antonio D, et al. (2020), 'Working to Achieve Sustainable Development Goals Through Enhancing Women's Access to Land in Post Conflict Context: The Case of Wau State in South Sudan', https://www.fig.net/resources/proceedings/fig_proceedings/fig2020/papers/ts07f/TS07F_wanyonyi_antonio_et_al_10509.pdf
- Benjaminsen TA, et al. (2006), 'The Emerging Formalisation Agenda and Some Empirical Evidence from Africa', Paper presented at the international symposium *At the Frontiers of Land Issues: Social Embeddedness of Rights and Public Policy*, École National Supérieur Agronomique Montpellier (<https://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.566.2614&rep=rep1&type=pdf>)
- Callimachi R (2018), 'The ISIS Files', *New York Times*, 4 April (<https://www.nytimes.com/interactive/2018/04/04/world/middleeast/isis-documents-mosul-iraq.html>)
- Chauveau JP (2003), 'Rural Land Plans: Establishing relevant systems for identifying and recording customary rights', International Institute for Environment and Development (IIED) (<https://pubs.iied.org/sites/default/files/pdfs/migrate/9297IIED.pdf>)
- Conflict Sensitivity Resource Facility (CSRF) and World Food Programme (WFP) (2020), 'Guidance framework for understanding different forms of violence and their implications in South Sudan', October (<https://www.csrf-southsudan.org/repository/guidance-framework-for-understanding-different-forms-of-violence-and-their-implications-in-south/>)
- Deng DK (2011), 'New Frontier: A baseline survey of large-scale land-based investment in Southern Sudan', Norwegian People's Aid, March (https://dev.landmatrix.org/media/uploads/npa_new_frontier.pdf)
- Deng DK (2014), 'South Sudan Country Report: Findings of the Land Governance Assessment Framework (LGAF)', South Sudan Law Society, January (<https://openknowledge.worldbank.org/bitstream/handle/10986/28520/119635-WP-P095390-PUBLIC-7-9-2017-10-34-1-SouthSudanCountryReport.pdf?sequence=1&isAllowed=y>)
- Deng DK, Pritchard MF (2019), 'Cracks in the Foundation: Rapid Assessment of Housing, Land and Property (HLP) Issues in Bentiu, South Sudan', Danish Refugee Council (DRC), October (on file with author).
- De Simone S (2015), 'Building a Fragmented State: Land Governance and Conflict in South Sudan', *Journal of Peacebuilding & Development* **10** (3), pp 60-73.
- Hirblinger AT (2015), 'Land, political subjectivity and conflict in post-CPA Southern Sudan', *Journal of Eastern African Studies* **9** (4), pp 704-722.
- Human Rights Watch (2013), 'South Sudan: No Justice for Protester Killings: Full and Impartial Investigations Needed for Wau Deaths', May (<https://www.hrw.org/news/2013/05/24/south-sudan-no-justice-protester-killings>)
- Ibreck R, Logan H, Pendle N (2017), 'Negotiating Justice: Courts as Local Civil Authority During the Conflict in South Sudan', Justice and Security Research Programme (JSRP), London School of Economics and Political Science (LSE) (<https://www.csrf-southsudan.org/repository/negotiating-justice-courts-local-civil-authority-conflict-south-sudan/>)
- IGAD (2021), 'IGAD Convenes Ministerial Follow-up Meeting on the Solutions Initiative for the Displacement Situation in Sudan and South Sudan', 5 April (<https://igad.int/divisions/health-and-social-development/2016-05-24-03-16-37/2652-igad-convenes-ministerial-follow-up-meeting-on-the-solutions-initiative-for-the-displacement-situation-in-sudan-and-south-sudan>)
- IGAD (2021), 'Communiqué on the IGAD Regional Women's Land Rights Agenda (2021-2030)', Meeting of Ministers Responsible for Land and Ministers Responsible for Gender/Women Affairs of the IGAD Member States, 28 July (<https://igad.int/attachments/article/2764/COMMUNIQUE%20of%20the%20IGAD%20Regional%20Women%27s%20Land%20Rights%20Agenda.pdf>)
- Justin PK, van Dijk H (2017), 'Land Reform and Conflict in South Sudan: Evidence from Yei River County', *Africa Spectrum* **52** (2).

- Kindersley N, Majok JD (2020), 'Breaking Out of the Borderlands: Understanding Migrant Pathways from Northern Bahr-el-Ghazal, South Sudan', Rift Valley Institute (RVI), November (<https://riftvalley.net/index.php/publication/breaking-out-borderlands-understanding-migrant-pathways-northern-bahr-el-ghazal-south>)
- Knight RS (2010), 'Statutory recognition of customary land rights in Africa: An investigation into best practices for lawmaking and implementation', Food and Agriculture Organization of the United Nations (FAO) (<https://www.fao.org/3/i1945e/i1945e00.pdf>)
- Leonardi C, Santschi M (2016), 'Dividing Communities in South Sudan and Northern Uganda: Boundary Disputes and Land Governance', Rift Valley Institute (RVI) (<https://riftvalley.net/publication/dividing-communities-south-sudan-and-northern-uganda>)
- Oyono PR, Galuak DA (2015), 'Land Governance, Local Authorities and Unrepresentative Representation in Rural South Sudan: A Preliminary Exploration', Responsive Forest Governance Initiative (RFGI) Working Paper No. 27 (https://codesria.org/IMG/pdf/rfgi_27_oyono_galuak.pdf)
- Pritchard MF, Deng DK (2020), 'Secondary Occupation and Indefinite Displacement: Rapid Assessment of Housing, Land and Property (HLP) Issues in Greater Koch, South Sudan', Danish Refugee Council, April (on file with author).
- Pritchard M, Verjee A (2021), 'South Sudan: From 10 States to 32 States and Back Again', United States Institute of Peace (USIP), March (<https://www.usip.org/publications/2021/03/south-sudan-10-states-32-states-and-back-again>)
- Sudan Rural Land and Governance Project, Land Portal website (<https://www.landportal.org/community/projects/sudan-rural-land-and-governance-project>)
- Thomas E (2015), *South Sudan: A Slow Liberation* (London: Zed Books).
- Thomas E (2015), 'South Sudan's Slow Liberation', African Arguments, 15 January (<https://africanarguments.org/2015/01/south-sudans-slow-liberation-by-edward-thomas/>)
- UNHCR: South Sudan Refugee Crisis (<https://www.unrefugees.org/emergencies/south-sudan/>)
- UNHCR (2021), 'UNHCR Positions on Returns to South Sudan, Update III', October (<https://www.refworld.org/docid/617676f04.html>)
- UNHCR (2021), 'UNHCR calls for renewed commitment to South Sudan's peace, development, and future', 9 July (<https://www.unhcr.org/news/briefing/2021/7/60e814d14/unhcr-calls-renewed-commitment-south-sudans-peace-development-future.html>)
- UN News (2020), 'Slow progress, stubborn cycles of violence, as South Sudan turns 10', 21 June (<https://news.un.org/en/story/2021/06/1094462>)
- United States Agency for International Development (USAID), 'South Sudan: Strategic Framework: July 31, 2020 – July 31, 2024' (<https://www.usaid.gov/sites/default/files/documents/Strategic-Framework-SouthSudan-July-2024-public-version.pdf>)
- van der Haar G, van Leeuwen M (2019), 'War-Induced Displacement: Hard Choices in Land Governance', *Land* 8 (6): 88 (<https://www.mdpi.com/2073-445X/8/6/88>)
- World Bank (2020), 'World Bank Continues Support to South Sudan Local Service Delivery Improvement, Strengthening of Community Institutions', 3 August (<https://www.worldbank.org/en/news/press-release/2020/08/03/world-bank-continues-support-to-south-sudan-local-service-delivery-improvement-strengthening-of-community-institutions>)