Sanctuary in the city?
Urban displacement and vulnerability in Yei, South Sudan

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Acknowledgements

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Map of Yei town, South Sudan

Source: GFA/Gitec (financed by GIZ).

Chapter 1
Introduction

In recent decades, many cities and towns around the world have seen dramatic population growth, with significant inflows from rural areas. A prominent feature of this global trend of urbanisation is forced displacement triggered by armed conflict, violence and political instability and slow- and sudden-onset disasters – or a combination of these factors. Many of those forcibly displaced have moved to urban areas in search of greater security, including a degree of anonymity, better access to basic services and greater economic opportunities. Today, approximately half of the world's estimated 10.5 million refugees and at least four million internally displaced people (IDPs) are thought to live in urban areas (UNHCR, 2009; Fielden, 2008).

While a number of studies in recent years have sought to analyse urban livelihoods and governance, little is known about how displaced people negotiate their way in the urban environment, their relationships with host communities and governance institutions and their specific vulnerabilities as compared with other urban poor. Likewise, the role of humanitarian and development actors in supporting these populations, and the strategies and approaches best suited to address the assistance and protection needs of urban IDPs, are poorly understood.

This study of displacement and urbanisation in Yei in South Sudan is part of ongoing work on urban displacement conducted between 2010 and 2012 by the Humanitarian Policy Group at the Overseas Development Institute (ODI), in cooperation with the Internal Displacement Monitoring Centre (IDMC) and the International Committee of the Red Cross. The project, which is primarily supported by the Ministry of Foreign Affairs of Denmark, will explore the phenomenon of displacement in the urban environment and the implications and challenges it poses for humanitarian action. Through field research in eight urban centres in Africa, the Middle East and Central Asia, the project considers the reality of life for displaced people, investigates the policy and operational challenges that confront national and international stakeholders when responding to the needs of urban IDPs and refugees and offers recommendations for strengthening support to these groups.

1.1 The study and methodology

This study was undertaken in partnership with the Internal Displacement Monitoring Centre (IDMC) and with the support of the Norwegian Refugee Council offices in Juba and Yei. The study aims to:

- Deepen understanding of the drivers and history of displacement in Yei.
- Review policies and legal frameworks for displaced populations and other urban poor, including protection, housing, land and urban development policies.
- Discuss the specific protection threats affecting displaced populations in Yei and how they compare with the threats facing other groups of urban poor.
- Assess the specific vulnerabilities of displaced people in the town, particularly in relation to access to basic services, urban infrastructure and livelihood opportunities, and how they compare with the vulnerabilities of other groups of urban poor.
- Identify how international aid actors can best engage with the urban poor and displaced populations living in Yei.

A team of three international and three local researchers carried out field research during a three-week period between September and October 2010. This was complemented by follow up interviews in March 2011 to enable the study to take into account the immediate post-referendum period. As with the other case studies in this series, this study is based on a qualitative research methodology. Data came from both primary and secondary sources.

The study locations were identified by conducting a profiling of the town. This included a review of existing data and consultations with community representatives and national and international aid agency representatives with extensive knowledge of the area. Seven locations were selected, with an emphasis on obtaining a representative sample: Atlabara, Hai Gabat, Hai Tarawa, Lomuku Extension 1, Lupapa, Lutaya and Mahad.

Focus group participants were identified with the assistance of community representatives, including area chiefs and headmen, community elders and representatives of displaced communities. Focus Group Discussions (FGDs) were carried out separately with men, women and youth. The study team collected detailed information regarding the displacement history of the participants, including their areas of origin, duration of displacement, where they lived during that time (whether a camp, with relatives or host communities), their ethnic group, their reasons for living in Yei, their arrival date, their relationship with the town and whether they intended to stay or leave, and if so where they intended to go.

A total of 160 individuals participated in the study. Twenty-one focus group discussions were conducted and 40 interviews were carried out with representatives of local community organisations and NGOs, government officials, judicial authorities, church institutions, international aid representatives (including NGOs, UN and donors) and private sector actors, including traders and business owners. The study was supplemented by key informant interviews undertaken by IDMC in June 2010. Both

FGDs and key informant interviews were semi-structured, conducted using a checklist of guiding questions.

A number of challenges were encountered during the research. Lack of documentation on displacement in Yei means that the study relies substantially on information collected during interviews and focus group discussions. In some locations it was difficult to manage the number of women participating in FGDs, resulting in very large groups of up to 30 people. Identifying refugees from the Democratic Republic of Congo (DRC) was difficult because they were reluctant for it to be known that they had left the refugee camp in Lassu, and only one team member spoke French, limiting the number of interviews that were possible. It was also difficult to distinguish between soldiers and displaced civilians amongst the Dinka community.

1.2 Terminology

This report uses the definition of 'internally displaced persons' articulated in the UN Guiding Principles on Internal Displacement (1998):

persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border.

It uses the definition of refugee contained in the 1951 Refugee Convention, namely a person who 'owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality, and is unable to, or owing to such fear, is unwilling to avail himself of the protection of that country'. While there is no equivalent legal definition of 'returnee', this report uses the term to describe 'former IDPs and refugees who return voluntarily to their homes of origin in South Sudan, whether spontaneously or in an organised manner' (UNHCR, 2005; IOM, 2009).

Chapter 2
Internal displacement and urbanisation

Yei is the second largest urban centre in Central Equatoria State (CES) (the largest is Juba, the capital of the new Republic of South Sudan), with a population of around 172,000. It is bordered to the north by Maridi County, to the south (towards Uganda) by Morobo County, to the east by Lainya County and to the west by the DRC. The town lies within Yei River County, one of six counties in CES. Yei River County is divided into five administrative sub-units, or *payams*. The main part of the town lies within Yei Town *payam*, which consists of five *bomas* – Yei, Ronyi, Gimunu, Pokula and Minyori (GTZ, 2010).

Yei features prominently in the history of Southern Sudan. During the colonial period it was a vibrant commercial hub, and a centre for trade between Uganda and the DRC. The surrounding areas were considered the breadbasket of South Sudan thanks to their fertile soil and reliable rainfall (GTZ, 2010). Reportedly, the town had a well-developed infrastructure including roads and electricity supplies, and water and sanitation systems in the town centre during the 1970s.

The administrative boundaries of the town were established in 1978. At that time just 15% of its inhabitants originated from the town itself. The majority were Kakwa, a Nilotic ethnic group. Almost 70% originated from different parts of Equatoria, while 5% came from other provinces in South Sudan. The remaining 10% were Northerners or foreign nationals. Twenty per cent of the inhabitants were employed as soldiers, whilst 18% were engaged in entrepreneurial activities. The rest, including many Kakwa, worked predominantly in agriculture. The town's diversity and prosperity led its residents to nickname it 'Little London' (USAID, 2006).

The war between the Khartoum government and the Sudan People's Liberation Movement/Army (SPLM/A) reached Yei in 1985. For much of the next decade the town was controlled by the Sudanese government, while the surrounding rural areas were in the hands of the SPLM/A. Between 1994 and 1997, the government took control of the wider area around Yei, pushing the SPLM/A towards the DRC border some 15km away (IDMC interviews, 2010). With the alleged support of Ugandan forces, the SPLM/A retook control of Yei in 1997, pushing government forces towards Juba. The town became the centre for military and international humanitarian relief operations in South Sudan, and was administered by the SPLM/A. Most of its infrastructure and economy was destroyed during the years of fighting. As one international agency representative working in the area at the time put it, 'the town had disappeared as if it had never existed' (HPG interviews, 2010). The conflict finally ended with the signing of the Comprehensive Peace Agreement (CPA) in 2005. Six years later, in February 2011, a referendum on secession overwhelmingly backed statehood

for the South, and Southern Sudan became an independent republic on 8 July 2011.

2.1 Patterns of displacement

During the two decades of conflict displacement occurred in cycles, with waves of movement out of Yei towards Uganda, DRC and the surrounding rural areas, and influxes of people into the town from other parts of South Sudan. The first wave of displacement followed the outbreak of fighting in 1985, when Yei's inhabitants fled to surrounding rural areas or crossed the border into Uganda and the DRC. At the same time, people displaced by fighting north of Yei made their way into the town. A second wave of displacement followed intensified fighting in 1993. Equatorians did not play a prominent role in the SPLM/A (Branch et al., 2005), and after the SPLM/A gained control of Yei in 1997 men joined the flow of refugees into Uganda and DRC, rather than joining their ranks (Schomerus, 2008). The SPLM/A did little to gain the support of remaining residents, many of whom fled to the Ugandan border, escaping bombardments and fearing forced conscription into the SPLA.

Many refugees eventually settled in the UNHCR-run camps of Rhino Adjumani, Mbesi and Adama in Uganda. According to respondents, the standard of living was relatively good, with 'access to markets, safe water to drink, schooling for the children and health centres' (HPG interviews, 2010). Thousands of Southern Sudanese refugees also settled outside camps in northern Uganda, living amongst the local population (Hovil, 2010). Others fled to the Aba and Ataki refugee camps in DRC (HPG interviews, 2010). Refugees often moved from one camp to another, or alternated between living in and outside of camps. A number of respondents described moving from DRC to Rhino camp in Uganda because they were looking for better education opportunities for their children or themselves, or to flee attacks by Ugandan rebels.

2.2 Patterns of return and settlement

The first people to settle in Yei town after it was 'liberated' by the SPLA in 1997 were soldiers and their families. Over the next 15 years, influxes of IDPs and Congolese refugees as well as economic migrants have significantly increased the town's population, though the extent of this increase is difficult to gauge as there is a shortage of reliable demographic data for Yei County, and Yei town in particular. By 2005 approximately 8,500 IDPs were living in Yei *payam* (NSCSE, 2005). In 2006, the UN High Commissioner for Refugees (UNHCR), the International Organisation for Migration (IOM) and the South Sudan Relief and Rehabilitation Commission

(SSRRC), the government body responsible for coordinating return, officially registered 5,735 IDPs in Yei *payam* from Warrap, Lakes, Northern Bahr el Ghazal and Upper Nile (HPG interviews, 2010). There have been no assessments of the total number of IDPs in Yei *payam* since then, though one IDP leader told the study team that there were around 7,000 IDPs of Dinka origin living in Yei, and that that figure was increasing as people were continuing to arrive (HPG interviews, 2010).

The vast majority of refugees and IDPs returned to Yei town after the signing of the CPA in 2005. The organised repatriation of refugees to Yei town began in 2006, led by the Government of Southern Sudan (GoSS) in collaboration with UNHCR. It is not clear to what extent refugees were informed of the situation in Yei town prior to their return. A team of government officials visited refugee settlements in neighbouring countries to assure people that it was safe to return to Southern Sudan (Hovil, 2010; HPG interviews, 2010), but several respondents told the research team that what they found when they did go back did not live up to their expectations. In Lupapa, one woman said she was disappointed not to find the safe drinking water, schools and health centres that had been available to her in the camps. Another woman complained that Yei's schools were so inferior to those in Uganda that she had decided to send her children back to Uganda for their education.

As in the rest of South Sudan, the number of IDPs and refugees returning to Yei town tailed off after 2009. While over 2 million of an estimated 4 million IDPs and refugees were thought to have returned to the South between 2005 and the end of 2009, more than 1.5 million IDPs remained in Khartoum, while 20,000 Southern Sudanese refugees were still registered in Uganda (UNHCR, 2010; Hovil, 2010). The referendum on secession in February 2011 led to a new wave of returns to South Sudan, but this had limited impact on Yei town. In March 2011, sources monitoring the referendum process in the town reported that they had registered around 1,000 returnees. In addition to returnees, Yei town has also received large numbers of displaced people from elsewhere in Southern Sudan since the signing of the CPA in 2005. In 2006, Yei town received a number of IDPs who had fled recent fighting in Greater Bahr el Ghazal and Upper Nile states (HPG interviews, 2010). In 2009, attacks by the Ugandan rebel group the Lord's Resistance Army (LRA) forced 1,500 people to flee their homes in a nearby village in Tore *payam* and seek refuge in the town (*ibid.*).

According to the head of the Yei Youth Association, more than half of the new arrivals in recent years have been young men. Some are staying with relatives, but many have come on their own, in some cases leaving their families behind in the villages. Many are demobilised soldiers or were displaced within South Sudan. Most have no education or skills and have only been able to find work as casual labourers or with the police and prison authorities. Although many have become disillusioned

with life in Yei few intend to leave the town because 'it is better than outside'.

Offensives against the LRA by Uganda and the DRC have also led to influxes of Congolese refugees. The majority arrived in 2009, and a number of refugee camps were set up by UNHCR in response. One camp in Lasu *payam*, 32km from Yei town, currently hosts almost 7,000 refugees (HPG interviews, 2010). While some Congolese refugees have also settled in Yei town, no figures are available as UNHCR only monitors the camps. In Yei town itself it is difficult to distinguish refugees from the wider Congolese community because many do not want to be identified as refugees. Those Congolese respondents the study team were able to interview said that there were 'many like them'. They had settled in Yei because insecurity in DRC prevented their return, and because livelihood opportunities seemed more promising in the town than in the refugee camp, where they were not allowed to work and where living conditions were difficult.

For many respondents the prospect of better work was the main reason for moving to Yei, even before the CPA was signed in 2005. Improved security following the town's 'liberation' in 1997, and its border location, enabled economic recovery to start much earlier than in other Southern Sudanese towns such as Juba, and cultivation was possible due to the large number of vacant plots. One youth in Hai Tarawa described moving to Yei in 2000 to try to find work. He eventually decided to stay because Yei was 'peaceful, the economy transforming' and 'access to plots was good'. Since the signing of the CPA, improved security and the slow but steady revitalisation of the economy have encouraged more people to settle in the town. Returning refugees feel that they can use skills or education acquired in Uganda as Yei offers greater potential for jobs with local government and NGOs. Yei has also attracted traders from South Sudan and neighbouring countries.

A final pull factor encouraging migration to Yei is the availability of basic services such as healthcare, which are largely unavailable in rural areas. The absence of services and viable livelihoods opportunities in rural areas are important factors influencing people's decisions to leave their home areas. According to the Yei County Health Department, people come to Yei from as far away as Morobo (65km distant) and Lanya (50km) counties, and even from DRC, to seek treatment. Often they end up staying as they cannot afford the cost of transport home, or they have accompanied a relative who is too ill to travel. They often need to pay for medical treatment in addition to supporting themselves, and therefore have to find employment in the town (HPG interviews, 2010).

2.3 Population growth and urban expansion

A significant military presence following the establishment of the SPLA regional headquarters in Yei, displacement to Yei and inflows of people from the countryside have all contributed

to massive population growth in the town. According to the Southern Sudan Commission for Census, Statistics and Evaluation (SSCCSE) (now the National Bureau of Statistics), 1,548,821 people were living in Central Equatoria State as of 2005/2006. Since then, population growth has averaged around 3% a year, the result of a natural rate of increase, the return of refugees and IDPs and migration from other areas of South Sudan (UNIFEM, 2009). Yei Town *payam* is thought to be home to over 172,000 people, up from some 40,000 in 2004 (NSCSE, 2005). If peri-urban areas (3–5km from the town centre) are included, the figure rises to 250,000 (Yei County

Council, 2010). According to GTZ (2010), the total population in the seven study locations is 33,076, approximately 20% of the total estimated population of the Yei urban area.

Settlement patterns have changed markedly in Yei in recent years as a result of the cycles of displacement and return and population growth. As one respondent put it, 'areas are compressing', particularly in the town centre, while the expansion of the town outwards has transformed the formerly rural periphery into a semi-urban landscape. The return of the town's original inhabitants, most of whom are from the Kakwa ethnic group, has put increasing pressure on IDPs, who are predominantly Dinka. Where previously IDPs and soldiers (also mainly Dinka) had congregated in the centre of the town and around the SPLA barracks in Mahad, as land has been reclaimed by its original occupants and friction over land has increased the displaced have increasingly dispersed throughout the town, or have moved out altogether. Over the past year, for example, several hundred IDPs have relocated to Kembe, three miles from the town centre.

Table 1: Available population figures for Yei County, 2004–2010[1]

Year	Yei County	Yei town *payam*
2004–2005	150,050	39,470
2008	201,443	–
2009	427,140	–
2010	c. 400,000	–
2010	c. 171,412	

Table 2: Total population in each study area (GTZ, 2010)

Area name	Total population	Total number of households	Total number of plots (20x20m)
Lomuku 1 Extension	15,751	2,079	1,883
Lupapa	3,955	522	512
Hai Tarawa	3,814	357	357
Atlabara	6,386	729	729
Lutaya	3,758	479	479
Hai Gabat	3,616	341	341
Mahad	19,316	2,557	2,557
Total	33,076	7,064	6,858

1 Data compiled on the basis of figures drawn from NSCSE, Yei County authorities and the Yei Concept Land Use Plan, the 2008 Population and Housing Census, the Southern Sudan Relief and Rehabilitation Commission (SSRRC) and GTZ.

Chapter 3
Legal and policy frameworks

This chapter examines the policy and legal frameworks relevant to displacement and urban development in South Sudan, and the implications of secession for Southern Sudanese IDPs and refugees living in South Sudan. The present executive, legislative and judicial functions of the GoSS are set out in the Transitional Constitution of the Republic of South Sudan (TCSS, 2011). The new Constitution, signed by the President on 9 July 2011 – the day South Sudan gained independence from Sudan – will run for four years, during which time a permanent constitution is to be developed and agreed.

3.1 Citizenship and IDPs

The Transitional Constitution states that 'every person born to a South Sudanese mother or father shall have an inalienable right to enjoy South Sudanese citizenship and nationality' and that 'citizenship shall be the basis for equal rights and duties for all Sudanese' (GoSS, 2011). The Constitution also allows for dual nationality and the acquisition of citizenship through naturalisation. These provisions imply that IDPs from South Sudan residing in Khartoum or other areas of the north are eligible for Southern Sudanese citizenship. They also suggest that Southern Sudanese, many of whom have acquired citizenship from other countries which permit dual nationality, will be allowed to retain these nationalities after becoming citizens of South Sudan. Refugees who have had uninterrupted domicile in South Sudan for ten years should also be eligible for naturalisation. These provisions are enshrined in the Nationalities Act, enacted on 7 July 2011. The regulations that pertain to this Act were being finalised at the time of writing.

Following independence the government in Khartoum declared that the status of Southerners would be changed from 'citizens' to 'foreigners' within nine months, effectively stripping them of their nationality and their recognition as internally displaced people. Those affected will not necessarily become stateless as they will still be able to claim South Sudanese nationality if they have a South Sudanese parent. The only obstacle will be whether they are able to acquire Southern documentation without having to return to the South. At the time of writing UNHCR and the GoSS were discussing the deployment of documentation teams to the North for this purpose. However, there may be some ethnic groups who are not seen as an 'indigenous ethnic community' of South Sudan, such as pastoralists like the Mbororo, who cross national borders regularly. These groups may be at risk of genuine statelessness, depending on how the GoSS implements regulations pertaining to the transition.

3.1.1 Identity documentation

The vast majority of Southern Sudanese residing in Yei town have no national identification documents or other legal papers, such as birth certificates, proving their citizenship. Studies by the South Sudan Protection Cluster suggest that, for many people in South Sudan, national identity documents are hard to acquire, either through lack of facilities for issuing them or due to the cost (UNHCR, 2011a). Although a small number of respondents had acquired ID cards in Juba, at a cost of between 120 and 300 SDG, this is prohibitively expensive for most people. On several occasions, respondents brought whatever documents they possessed to FGDs, including in one instance a participation certificate for a workshop on environmental issues in Uganda and another on domestic violence. For former refugees in Uganda the most common form of documentation was their UNHCR refugee card.

The lack of national identification documents has affected the ability of IDPs to access key services in Yei town. For example, children who were internally displaced to Yei and who arrived with documentation proving their level of education were placed in corresponding classes in the town. Those without documentation had to sit an assessment test in English, in which many performed poorly. None of the Congolese refugee respondents in Yei town possess legal documents relevant to their present situation. Refugee cards are issued by UNHCR free of charge to all recognised refugees, but Congolese refugees said that neither Congolese ID cards nor UNHCR refugee cards were of any use 'outside the camp'. Refugees with identity cards are reportedly free to move within South Sudan, and can apply for jobs as well as access services.

In theory documents proving citizenship are necessary to guarantee the right to education and legal rights such as access to justice and land, as well as access to jobs and assistance. In practice, although the vast majority of South Sudanese citizens do not have these documents they still manage to access these services. As the state bureaucracy develops the lack of identity documentation, and the different entitlements and challenges displaced people face in securing documents, may become more of a problem. In addition, in light of Yei's proximity to the DRC and Uganda and the constant flow of people and goods between the three countries, identity documents will also be key in determining the rights accorded to national citizens and foreigners within future migration laws.

3.2 IDP rights and government responsibilities

Prior to the CPA, IDPs in South Sudan were the responsibility of the Commission for Humanitarian Aid (HAC) of the Government of National Unity (GNU) (Pantuliano et al.,

2011). In 2004 the HAC and the South Sudan Relief and Rehabilitation Commission (SSRRC) signed a joint policy framework which articulated the rights of IDPs in relation to return. The HAC ceased to operate in the South in 2007, and since then the SSRRC has dealt with all humanitarian assistance in South Sudan. In 2009, the GNU adopted a new national IDP policy setting out the rights of IDPs and defining appropriate responses to their needs. In the same year the GNU also ratified the 2008 Pact on Security, Stability and Development in the Great Lakes Region (the Great Lakes Pact), including the protocols on protection and assistance to IDPs and the property rights of returning populations. The GNU IDP policy recognises the UN Guiding Principles on Internal Displacement and promotes all three durable solutions: return, settlement and resettlement. During the interim period, the GoSS interpreted and applied the policy in accordance with the Interim Constitution, and the customs, norms and local traditions of South Sudan (GoSS, 2009).

After secession on 9 July 2011, ensuring voluntary, safe and dignified returns became the sole responsibility of the GoSS. The Ministry of Humanitarian Affairs and Disaster Management is expected to coordinate government and other national and international actors on matters relating to displacement in South Sudan and to provide overall technical support for relevant programmes and plans, to be implemented by the SSRRC (GoS, 2009; Brookings, 2010). However, prior to independence, the focus of the SSRRC was limited to monitoring returns and relief coordination and, to a lesser extent, food security monitoring and assessment. In Yei town, IDMC interviews confirmed that a number of SSRRC officers in Yei town are not familiar with the GNU IDP policy or the UN Guiding Principles on Internal Displacement (IDMC interviews, 2010).

The UN Guiding Principles and Framework for durable solutions state that IDPs should not be forced to return if their lives, safety, liberty or health are at risk, or if minimum living standards are not guaranteed (Pantuliano et al., 2008). In practice, these principles have been largely ignored. The GoSS has several times been accused of promoting IDP returns (after the CPA was signed in 2005, pre-census in 2008 and pre-referendum and independence in 2010) for political purposes including boosting population figures for the census and referendum and ensuring sufficient labour for agricultural development. The focus on rapidly returning as many people as possible within short periods of time, and a general dearth of capacity and services, also made it difficult for the GoSS and the international community to prepare for reintegration. As a result, many Southern Sudanese who returned in the pre-independence period have been unable to secure durable solutions (Pantuliano, 2008).

In 2010 the GoSS issued guidelines for the Procedures on Return, Reinsertion and Early Reintegration. These instruct states to develop their own Reintegration Plans covering return, reinsertion and early reintegration phases, which take into account longer-

term aspects of reintegration. The guidelines stipulate basic standards for registration, reception and assistance to facilitate 'reinsertion' in rural and urban areas (GoSS, 2010). While state authorities are required to provide law enforcement, a school, a primary health unit and livelihood support in all communities 'where there are returning populations' (GoSS, 2010), there are as yet no guidelines covering when and how these should provided. Given the many development challenges facing the various organs of the GoSS, state authorities' ability to adhere to these guidelines, and whether they would be sufficient to create conditions for sustainable return, is questionable.

As of mid-2011, it is not clear whether the GoSS will continue to apply the GNU IDP policy or whether it plans to adopt a national IDP policy specific to South Sudan (HPG interviews, 2011).[2] The Transitional Constitution commits the GoSS to upholding 'all rights and freedoms enshrined in international human rights treaties, covenants and instruments ratified or

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Box 1: Returns: principles or politics?

In September 2010, the GoSS launched the 'Come Home to Choose' campaign designed to facilitate the return of 1.5 million Southerners living in the North before the January 2011 referendum. International donors and agencies did not support the plan, believing that the GoSS was promoting return for political reasons ahead of the referendum (as it had done before the signing of the CPA and prior to the last national census in 2008). The SSRRC, tasked with implementing the return process, was rapidly overwhelmed, ran out of money and formally requested financial and technical support from the UN (Refugees International, 2011).

The GoSS has provided little or no information to IDPs on what they can expect upon returning to South Sudan (IDMC, 2011). Having been invited to return by the GoSS, many expected access to adequate basic services, to livelihoods opportunities and, most importantly, to land (*ibid.*). In many cases, these expectations have not been met. Although research carried out by Refugees International in March 2011 found no signs of political motivation or any evidence of involuntary returns, international donors and agencies initially remained reluctant to support large-scale return (*ibid.*) (BBC, 24 August 2010; RI, 2011). In recent months the IOM, funded through the UN Central Emergency Relief Fund (CERF), has facilitated some large-scale movements from North to South. Given the time limits and the number of people still in need of support for repatriation, funding is insufficient (Reliefweb, 2011).

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2 A legal handbook released by the GoSS in December 2009 (*Southern Sudan: A Guide to Critical Post-2011 Issues*) states that 'an examination of international legal principles demonstrates that a successor state, such as Southern Sudan, has the option of choosing which treaties signed by the predecessor state (the Republic of Sudan) it would like to uphold. However, based on recent state practice, the international community will likely expect a breakaway successor state to continue its treaty obligations'. See http://www.scribd.com/doc/40343514/Southern-Sudan-a-guide-to-critical-post-2011-issues.

acceded to by the Republic of South Sudan' (GoSS, 2011). However, apart from a provision for the establishment of a Southern Sudan Reconstruction and Development Fund 'for the resettlement and reintegration of internally and externally displaced persons' there are no specific references in the document to the rights of IDPs and refugees (*ibid.*). While IDPs will still be protected under international human rights treaties, a policy framework setting out the specific commitments and responsibilities of the GoSS is essential to ensure that the rights of IDPs are upheld, demonstrate the government's commitment and hold the GoSS to account.

The absence of a clear policy on land allocation for returnees is particularly worrying (Refugees International, 2011). Neither the GoSS nor government at state levels has formulated or publicised a clear policy on who is entitled to land where, which forces people to try to keep their options open. This is despite the large body of analyses carried out on this issue both before and after the signing of the CPA (De Wit, 2004; Pantuliano et al., 2008; Deng, 2010; IDMC, 2011; RI, 2011). Many returnees remain in transit sites because they hope to be allocated land in these areas, while others stay because of delays in the allocation of plots (IDMC, 2011). Furthermore, the number of returnees expected to move to urban areas has been underestimated and there have been reports of government miscommunication about land availability, with people being settled around the town centre, only to be told later that the plots are not permanent settlements (RI, 2011).

Most returnees were expected to return to their original rural areas, where customary institutions would largely be able to facilitate land administration and dispute resolution for original residents (Odhiambo, 2009). However, as some returnees voluntarily choose to settle in urban areas there is increasing pressure on land administration systems in towns such as Yei. Customary systems are also not equipped to deal with claims by people who are not indigenous to their communities or to arbitrate fairly on behalf of the many female-headed households (45–50% in 2009) who make up returnee flows (Odhiambo, 2009).

In addition, most of the legal framework and institutional structures (such as county land authorities) envisaged by the 2009 Land Act have yet to be put in place or are very poorly resourced, and the capacity of local authorities to manage and administer land is very limited. Policy and practice on land issues varies considerably from state to state, and there is currently little sign that the central government, and in particular the South Sudan Land Commission, has any plans to issue policy documents on the subject or to prevent states from passing potentially contradictory land laws.

3.3 Legal frameworks governing refugees

Sudan is party to the 1951 Convention relating to the Status of Refugees, its 1967 Protocol, and the 1969 Convention governing the Specific Aspects of Refugee Problems in Africa (the African Refugee Convention). Sudan retains a reservation to the 1951 Convention's right to freedom of movement. The Asylum Act of 1974 appoints a Commissioner of Refugees, and defines refugees broadly according to the 1951 and African Refugee Conventions. However, it does not prohibit *refoulement*, nor does it outline clear criteria or procedures for expulsion (USCRI, 2009). In 2010, however, the Government of National Unity embarked on a review of its Asylum Bill which, when enacted, will repeal the 1974 Regulation of Asylum Act, and reflect its obligations under the 1951 Refugee Convention and the 1969 OAU Refugee Convention in Sudan's domestic law (UNHCR, 2011b).

Following independence the legal status of refugees in South Sudan remains unchanged: as before, they fall under the legal mandate of UNHCR whether they are in the North or the South. However, although the GoSS has assumed de facto responsibility for refugees in its territory for the past six years, and has followed various principles relating to asylum, such as respecting the principle of *non-refoulement*, no strictly legal responsibility was entailed. As an independent state, therefore, the GoSS now needs to adopt a comprehensive asylum policy and reflect this in national legislation. The GoSS will work on developing an asylum regime over the coming year, with the assistance of UNHCR (UNHCR, 2011b). In the meantime the Transitional Constitution guarantees the rights of refugees in South Sudan. UNHCR and other observers report that both the government and host communities in the South are sympathetic towards refugees and asylum-seekers, and refugees recognised as having a *prima facie* case in principle face no restrictions on their movements in the South, and can apply for jobs and access services.

Chapter 4
Protection and access to justice

In recent years, Yei, like Juba and other urban areas in the South, has seen an escalation in violence and insecurity. This rise in violence – criminal, ethnic and domestic – relates to several factors, including poverty, lack of access to essential services and employment and weak rule of law. Whilst these threats impact on all residents there are also specific threats facing displaced people, including the harassment of Dinka residents and Congolese refugees by traders and the police.

4.1 Protection threats

4.1.1 Crime

Rising levels of criminal violence are a concern for residents in all of the study locations, with reports of thieves armed with knives or guns breaking into homes at night to steal cash, furniture and food. Areas near roads and markets are reportedly the most insecure. The majority of traders interviewed in the Dar el Salaam market said that they slept in their shops at night to prevent burglaries. Traders report that police patrols and the installation of electric light have reduced the threat of violence. Previously 'thieves were killing, they knocked [on the door] and sometimes [would] shoot you if you resist, or tie you down. This has not happened recently'.

Several youth mentioned a rise in attacks on *boda boda* drivers. Typically the assailant will stop a driver late in the evening, pretending to want a ride, and then steal his money and motorbike. There are reports of motorbikes stolen from Yei being sold in the Central African Republic (HPG interviews, 2010). In Mahad, respondents said that gangs were surveying the area, and moving back and forth between Yei and Juba. They referred to them as 'Niggaz', which is one of the best known youth gangs in South Sudan. It is often accused of being behind the rising rates of violent criminal activity in other cities in the region (see Martin and Mosel, 2010 and LSE, 2010).

When asked about the sources of crime, discontented youth and ex-soldiers were cited as the main perpetrators. A Yei Youth Association representative used the term 'moral degeneration' to describe how many young people ended up drinking, taking drugs and committing acts of violence, including rape (HPG interviews, 2010). One youth said that 'if the government could help us with jobs, and loans to set up businesses, we would be busy and there would be no more thefts'. One man in Lutaya observed that the perpetrators of criminal offences 'are from Sudan, they are our own children, but they do this because of the war and because there are no payments, because they drop out of school for lack of money, and also because they are angry with the government – they all do these bad things'. A group of youth in Atlabara said that the same applied to the police and soldiers, stating that 'even soldiers steal when they patrol the

area due to delayed salaries'. Likewise, men in Lutaya reported that 'people who work with the local police don't earn enough so search for other ways to feed their families, it might be them themselves who disturb us'. Allegations of criminal violence are also made on the basis of ethnicity, often by returnees, and often on the basis of rumour. In both Hai Tarawa and Lutaya, women participants stated that Dinka residents were responsible. Another stated that Dinka residents were attacking *boda boda* drivers.

4.1.2 Ethnic tensions

The willingness to blame Dinka for rising crime in Yei reflects broader ethnic divisions within communities. The SSRRC representative observed that scarce water resources and a lack of basic services are a growing obstacle to integration. In Mahad, for example, there is a borehole next to the community church which Dinka residents are able to access at no charge. But in another area of Mahad, home to a Nuer community, a Dinka woman reported being asked to pay 10 SDG to access the borehole, twice the amount charged to Nuer residents. She noted that even then she would sometimes be denied access. In a discussion in Hai Gabat, women respondents from DRC said that they were regularly pushed to the back of the queue at water points. In Atlabara, respondents mentioned scuffles between women queuing at the borehole. One group of Kakwa respondents in Hai Tarawa blamed Dinka women for causing problems at the boreholes by bringing their soldier husbands with them, who would then help them get to the front of the queue.

These tensions may escalate. There is already open harassment of Dinka and Congolese people on the streets and discrimination against them in the job market. According to a senior representative of the Episcopal Church, conflicts between communities are much more common than they were during the war, and groups that had previously coexisted are now in dispute over land boundaries. He also emphasised that the Church was increasingly called upon to resolve local disputes over water, which were at risk of escalating because of the widespread availability of small arms. The government was ineffective, he added: 'they like saying to donors that there is no problem here' (HPG interviews, 2010).

4.1.3 Domestic violence

Across South Sudan women face a range of gender-based protection threats, from within the family unit and from conflict actors (UNHCR, 2011c). While domestic violence is infrequently reported, it is considered to be a widespread problem, exacerbated by women's low status; more prevalent in partnerships formed through early marriage; and frequently related to conflict over money, jealousy and, especially, the abuse of drugs and alcohol (UNHCR, 2011c). In Yei domestic

violence is perceived to be increasing, alongside increasing alcohol abuse. In Mahad, one respondent said that women were 'the ones contributing foodstuffs and supporting our families, our husbands are idle, drinking from morning to evening, and getting involved in violent behaviour'. Youth interviewed in Atlabara noted that 'sometimes husbands will beat their wives for spending so long at the borehole and not managing to get water'. A male respondent from the same area questioned why micro-finance loans provided by NGOs such as the Bangladesh Rural Cooperative (see below, Chapter 5) were only accessible to women, concluding with some bitterness 'is it wrong if I get angry and beat my wife?'. While customary law can provide some protection against domestic violence its potential is very limited, particularly for non-returnee populations. One woman in Mahad, commenting on the rise in domestic violence, stated that 'no one cares, they come and look and laugh'.

4.1.4 Prostitution

While the commercial sex trade in South Sudan is not new, the increase in foreign commercial sex workers arriving from countries such as Uganda and DRC after 2005 has made it much more visible, particularly in Juba (Carrington, 2009). It is a growing source of unease and worry in the town, not least in relation to HIV/AIDS. It is difficult to identify the women and girls involved because many Southern Sudanese consider sex work a 'foreign' problem; most respondents in this study insisted that commercial sex workers in Yei were exclusively Ugandan or Congolese. A mapping exercise of commercial sex workers in Juba, Yambio and Yei counties being undertaken by the International HIV/AIDS Alliance South Sudan is a positive step, and constitutes the first attempt in South Sudan to identify female commercial sex workers and assess their access to health services (World Bank, 2011).

4.2 National protection actors

4.2.1 Security institutions

State security institutions in Southern Sudan are weak and ill-equipped (Aaraba, 2007). There are too few professional police trained to deal with the law and order issues they face, including responding to violent crime (*ibid.*). As police respondents in this study explained, salaries are poor, equipment and working conditions are wholly inadequate and there is extremely limited coverage across the town. With the exception of Mahad, none of the study areas has a police station. One policeman in Yei explained that the police force only has one vehicle at its disposal, meaning that officers in most cases have to walk to crime scenes or ask people requiring their services to pay for transport. In turn, respondents noted that they could not afford to travel to police stations, or pay for the police to visit them. Police corruption was a major complaint. According to one youth in Atlabara, 'when thieves [are] caught and taken to the police, they're released and they come back. Criminals have savings for these cases so that they are able to pay themselves out of prison'.

The heavy SPLA presence in Yei town is a mixed blessing. Returnees in Mahad, where the SPLA has its barracks, remarked that 'We feel safer because of the SPLA presence nearby, as we know that the soldiers are here to protect us'. Conversely, several residents complained that soldiers often stole personal property and used weapons to threaten people who tried to claim it back. One resident in Mahad described how the SPLA intervene in criminal incidents which should be the purview of the civilian law enforcement agencies: 'the SPLA does not follow any procedure – they react immediately. The way the soldiers deal with small criminals is by torturing them and sometimes just shooting [them] on the spot, while the police would not do it in that way'. Although there have been attempts to integrate demobilised soldiers into the civilian police force (Lokuji et al., 2009), most receive no formal training and are unable to deal appropriately with civilian matters (UNDP, 2006).

Inadequate state provision means that, for their own protection, people often have no choice but to take the law into their own hands. In Lomuko Extension 1, respondents reported that the chief had ordered 'everyone to have security in their houses', and that 'everybody has to buy a bow to be ready to rescue themselves'. In Atlabara, one young man remarked that 'government needs to provide us with [arms] so that we can defend ourselves. We beat the thief first, and then call the police'.

4.2.2 The judiciary

Southern Sudan's legal structure is characterised by legal pluralism where statutory laws and institutions and customary laws, norms and practices exist in parallel. At the local level these systems overlap, often without a clear distinction between separate legal spheres (Leonardi et al., 2010). The 2005 Interim Constitution of Southern Sudan established the Judiciary of Southern Sudan, which is comprised of statutory courts from the national to the County level, including the Supreme Court of Southern Sudan and the Courts of Appeal at the national level, High Courts at the state level and County Courts at the County level (GoSS, 2005). Regarding customary structures, the court at the County level (C Court) is headed by the Paramount Chief, and at the *payam* (A Court) and *boma* (B Court) levels, by executive chiefs (*ibid.*; Martin and Mosel, 2011).

Unlike elsewhere in South Sudan, the County Court in Yei River County is functional, and staffed by two legally qualified judges (1st and 2nd Class Magistrate Judges), as stipulated by the Local Government Act (GoSS, 2009). However, the judiciary in Yei faces several challenges that affect the delivery and quality of justice (HPG interviews, 2010). It is heavily overburdened with cases, and criminal, civil and juvenile divisions within the court have not been established (HPG interviews, 2010). In addition, the 1st Class Magistrate judge in Yei said that the police force is not fully trained to perform its functions in the pre-trial process, trained court clerks are

lacking and there is no equipment or material for the court to conduct hearings. The Judge noted that 'in Yei we are lucky because at least we have a building' (*ibid.*).

The formal system is neither effective nor trusted by the majority of residents in Yei town. Returnees in Lomuko Extension 1 explained that 'when a criminal is taken to court, the first thing the courts do is to examine the [economic] status of the criminal and the claimant' (the victim); 'if they find the criminal is someone with money and business he is ordered to pay compensation to the police, not to the claimant'. In other instances, claimants were only allowed to recoup a certain percentage of compensation paid.

4.2.2 Informal justice mechanisms
The majority of respondents said that minor complaints are dealt with at the local level by traditional authorities, rather than by the formal justice system. However, traditional authorities are largely untrained in broader legal frameworks, and their decisions often contradict statutory law and international human rights standards, such as the right to equality and freedom from discrimination (HPG interviews, 2010).

Informal justice mechanisms include traditional Dinka courts, which hear cases of domestic violence, marriage disputes and minor criminal offences. Both the Catholic and Episcopal churches try to act as mediators between quarrelling individuals, but their focus is limited to Southern Sudanese communities. Congolese refugees have no access to formal or informal protection or justice mechanisms. One respondent described how her husband, a qualified doctor, was employed at the main hospital. He was willing to work for a meagre salary after international funding was cut. A patient died and the family demanded compensation from the hospital. When no money was provided, the Congolese doctor was imprisoned without trial. His wife has been unable to help him or even get any information about his wellbeing from prison authorities as they ask to be paid in exchange and she has no money (HPG interviews, 2010).

Chapter 5
The economy and livelihoods

5.1 The economy

Prior to the outbreak of the civil war, Yei was a prosperous town. Under the administration of the government in Khartoum, Northern Sudanese formed the core of the military and commercial elite, while Southerners typically engaged in subsistence farming and smaller-scale commercial agriculture. Significant numbers also worked as skilled labourers and craftsmen. Several respondents mentioned being employed in road and bridge construction for the local government, while others had their own businesses as tailors or carpenters (HPG interviews, 2010). Land surrounding Yei town was leased out to traders from the North, who engaged in large-scale production of cash crops. The River Nile acted as an important transport network as commercial activity and exports increased, and helped strengthen formal commercial links between Sudan and neighbouring countries (Carrington, 2009). Decades of conflict in Eastern DRC, Northern Uganda and Southern Sudan mean that refugee movements have played a key role in maintaining trading routes and have contributed to the growth of markets in urban centres such as Yei. Informal cross-border trade was also an important feature of livelihoods, and trade patterns reflected the shared ethnic ties between the agrarian communities living in the three countries (Meagher, 1990).

War led to a sharp drop in commercial activity. Trading routes between North and South Sudan became insecure, and small-scale cultivation was the main source of livelihoods. However, informal trading routes between Eastern DRC, Northern Uganda and Southern Sudan were maintained. Ugandan and Southern Sudanese refugees were active along the borders, importing commodities from Eastern DRC and Northern Uganda and selling them in Yei town, from where they were exported to other parts of South Sudan (Meagher, 1990).

After 'liberation' in 1997, Yei was the only place in South Sudan where goods from Uganda and DRC could be found. This cross-border trade, fuelled by the return of displaced people, helped kick-start economic recovery (WFP, 1997). From 1999 onwards, farmer and trade associations were created and a commercial bank branch office was opened. By the time the CPA was signed in 2005, the prospects for rapid economic recovery seemed very promising. Traders interviewed for this study said that business was particularly good in the years immediately following the signing of the CPA, with demand and profits both high. Security across South Sudan and Northern Uganda improved; the road leading from Uganda to Juba through Yei was one of the first to be rehabilitated and cleared of mines (USAID, 2005; HPG interviews, 2010). Food security was good, with over 50% of households selling surpluses to traders in Northern Uganda (OCHA, 2005).

Today there is a large market area in Dar-el-Salaam, where both regional traders and Sudanese and foreign businesses are located. Wholesalers and retailers import goods from Uganda, DRC and Kenya, including pharmaceutical drugs, clothes and shoes, packaged foods and soft drinks, fresh fruit and vegetables and stationery, as well as generators and electronic equipment such as mobile phones. Businesses include small hotels and restaurants and a hairdressing salon. Although larger private sector investors, such as brewing and food manufacturing companies, have not yet materialised, the County Commissioner hopes to stimulate local economic growth and employment opportunities in the private sector by capitalising on Yei's strategic location (HPG interviews, 2010). However, the town's social and economic infrastructure is too weak to support any significant economic development (GTZ, 2010). Commercial activity has declined and exports have fallen sharply, while the drop in the value of the Sudanese Pound (SDG) against the US dollar in 2010 has further limited economic activity (HPG interviews, 2010). Some traders, including some former refugees, are still making large profits (up to $500 per month), but this is largely because they have managed to retain their links across the border with Uganda. Southern Sudanese in Yei town who can import commodities at the same price as their Ugandan counterparts currently have an advantage as they are free to engage in both wholesale and retail trade, and pay less than foreign nationals at checkpoints.

Foreigners (primarily Ugandans, Congolese and Kenyans) are seen as 'killing local business' according to an HPG interview with the County Commissioner. To address this issue, a regulation preventing foreign wholesalers from engaging in retail selling has recently been imposed. Interviews with key informants in Dar-el-Salaam, however, suggest that the main problem is not competition from foreigners but high and informal 'taxes' levied by SPLA soldiers at checkpoints, along with fluctuating market prices. Taxes (and the number of roadblocks) have reportedly increased markedly since 2009, cutting profits by as much as half. Apart from the fees levied at border crossings into Southern Sudan traders can be charged three or four times before they come to sell their goods. A total levy of 800 SDG was reported for a truckload of agricultural products, and over 3,000 SDG for 100 crates of beer.

Yei's position as a trading town is likely to come under further pressure with the construction of a new road linking Uganda with Juba via Nimule, a small town on the border south-east of Yei. Expected to open in 2012, this will be the first paved road in South Sudan, and therefore the most efficient transport route between Juba and important trading centres such as Kampala and Mombasa in Kenya (Sudan Tribune, 11 February 2011). Traders who would normally go to or pass through Yei are

likely to take this new route instead, doing further damage to the town's economy. Whether the administration is sufficiently aware of the threat the new road poses is unclear; as one agency representative put it, the town authorities 'are focusing on their small world and are not able to see there are big problems that could threaten town livelihoods' (*ibid.*).

5.2 Livelihoods

5.2.1 Livelihoods during displacement

The Ugandan government and UNHCR began transferring refugees from transit centres to agricultural settlements in Uganda from the early 1990s (Merkx, 2000). Cultivation areas were made available through the opening of the Ikafe, Mbefi and Rhino Camp settlements. Household members in Lupapa, for example, reported that they had been employed in an agro-forestry scheme to transplant seedlings while living in Mbefi refugee camp in Northern Uganda. Other refugees established businesses in Ugandan towns (HPG interviews, 2010). IDPs displaced to Yei town practised small-scale cultivation on empty plots within the town or in the immediate surroundings. Trade was risky but profitable as very few commodities were available in Yei. Finally, many joined the SPLM/A or other armed groups, either voluntarily or under coercion.

5.2.2 Livelihoods in Yei town today

The main employers in Yei today are the public sector and the army. Salaries in the public sector are low and the government is struggling to pay them due to delays in the transfer of block grants from Juba; a number of respondents employed in the public sector, including teachers, said that they had not been paid for several months. Meanwhile the GoSS is struggling to support all the soldiers on its payroll (some of whom are 'ghosts' – non-existent soldiers whose 'salaries' are claimed by others). Allegedly salaries are frequently delayed and sometimes not paid at all. In an effort to increase employment the County authorities have threatened to revoke the registration of international NGOs unless they hire more Sudanese staff, but there is little scope for more local recruitment as agencies have reduced their presence significantly in the past three years, and more programme closures were taking place throughout 2011.

Agriculture, particularly subsistence agriculture, has traditionally been a highly important livelihood source. However, as the town's population has grown and pressure on land has increased many families are struggling to meet their household food needs. Residents in Lupapa, a relatively sparsely populated area, stated that 'before the war, cultivation was enough to sustain people, now it is not' (HPG interviews, 2010). Residents in the peri-urban area of Yei town farm larger plots 5km to 10km from their homes, but opportunities for scaling up commercial agriculture are limited. In Lomuku Extension 1, men said that because fruit and vegetables are transported on foot they sometimes perish before they can be sold in the town. People generally lack the tools with which to farm on a larger scale (HPG interviews, 2010).

Yei's most vulnerable residents rely on casual labour and petty trade for their survival and food needs, or cultivate small parcels of land to supplement food bought from the market. In Mahad, youth reported that they might be able to find work for one day a week, earning 3 to 5 SDG. In Atlabara, one youth said that, on the days when he could find work as a casual labourer, he would 'work half the day and receive half of my 5 SDG payment to go buy food. I then go back and work for the other half'. In Mahad, Atlabara and other areas women also do casual labour such as washing soldiers' clothes for 1 SDG per item, or collecting and selling water at 1 SDG per jerrican. Dinka IDP families living around the Kembe stream reported that women collected firewood for sale.

In Atlabara some youth reported earning a living driving *boda boda*. They usually rent the motorbikes, giving the owner five days' earnings and keeping two days' earnings for themselves. Youth are becoming more reluctant to do this work as *boda boda* drivers are increasingly being attacked and robbed in the evenings. Other casual labour opportunities men and youth engage in include bricklaying, where respondents reported earning 50 SDG per 1,000 bricks laid, or constructing *tukuls* for 70 SDG per day.

Returnees employed in non-agricultural trades reported facing competition from foreign labourers. Former construction workers said that Ugandan labourers charged lower prices and were more skilled. One respondent claimed that Ugandans charge half the daily rate that Sudanese labourers do.

A number of women reported being involved in small-scale retail activities, such as buying and selling fish or local greens, and brewing and selling alcohol.

5.3 Livelihood support

There is very little external support for livelihoods in Yei town. What initiatives do exist tend to focus on agricultural livelihoods in nearby rural areas, and are therefore of limited benefit to those who have no access to land for cultivation.

The only form of livelihoods support mentioned by respondents were micro-finance loans, most of which have been issued by the Bangladesh Rural Cooperative (BRAC), present in Yei since April 2009. (The other actor in this sector is the Sudan Microfinance Institute (SUMI), which targets farmers. Only one group of respondents, in Lomuku Extension 1, mentioned having received a loan from SUMI.) Micro-finance has been identified as a key means of supporting the livelihoods of poor people within the GoSS Private Sector Development Strategy (PSDP), which is supported by the Multi Donor Trust Fund (MDTF) and USAID. The five key objectives of the strategy are to encourage employment, increase assets and wealth, reduce the vulnerability of households to economic shocks and other risks, increase investment in education and health and promote the economic empowerment of women (GoSS Ministry of Commerce, 2007).

BRAC has issued loans to 179 women's groups, or a total of 2,900 women. The overwhelming majority of loan recipients are returnees. To be considered for a loan, one needs to own a house and the plot of land on which it stands, and to have been resident in Yei town for at least three years. Loans are issued on the basis of the assets the women have, including land and livestock, and tend to range between 300 SDG and 500 SDG for a group with five members. If the client repays the loan a second one is issued, ranging from 600 SDG to 800 SDG. Loans are usually repaid with interest on a weekly basis, over a ten-month period (40 weeks). BRAC's interest rate is over 25%, ten times higher than SUMI's. A similar rate is charged in Juba. According to women we spoke to in focus groups, to service a loan of 500 SDG, 14–16 SDG would have to be paid per week. This was confirmed by BRAC (HPG interviews, 2010).

According to BRAC representatives, 99% of people who had borrowed money had repaid their loans and increased their incomes after one year (HPG interviews, 2010). Despite this apparent success, many women in the focus group discussions did not want to take part in the scheme. Across all study locations, those women who had taken loans were worried about the consequences of not being able to repay loans on time. In particular they feared having their assets taken away if they defaulted (BRAC has detailed lists of the possessions of its clients). One woman in Atlabara said that she had fallen ill and could only repay what she owed by selling some of her assets. She said she was specifically told by BRAC that she would go to prison if she did not settle her debt. Similar concerns were raised in other locations, with women saying that they were not taking loans because BRAC had threatened to go to the police if they defaulted.

Chapter 6
Basic services and urban infrastructure

Basic services in Yei town are extremely limited, and as access to what services do exist is based primarily on ability to pay the most destitute and vulnerable typically go without. Much of the infrastructure was destroyed during the war and, while the County authorities have implemented a number of projects, including opening up roads and installing street lights in the town centre, services and infrastructure are under severe pressure from the rapidly expanding population. Both the CES and County authorities have failed to adequately plan for and invest in services largely because plans for service expansion and infrastructure in and around Yei have been based on the incorrect assumption that rural-to-urban migration can be stemmed by improving services in rural areas under the rubric of 'taking towns to the people'. Disputes over land ownership and tenure insecurity are further obstacles to service and infrastructure expansion, as this can only proceed once areas have been surveyed and demarcated. Churches, international aid agencies and private providers have tried to make up for the lack of state provision, mainly in healthcare. However, following the end of the war many international agencies phased out or handed over their activities to local government actors who did not have the resources or capacity to maintain the level of services previously provided.

6.1 Education

Before the war, Yei town was an important educational centre. The first secondary school in Equatoria region was built there, and following independence from the UK in 1956 the County had the highest literacy rate in the whole of South Sudan (GTZ, 2010). Access to education was severely disrupted during the war, with many children and young people recruited into the army, where they had virtually no opportunity to attend school.

Education is a priority for families in Yei and across the South as it is seen by parents, communities and authorities as key to accessing economic opportunities and to escaping from a life of poverty and hardship. The importance of education for Yei residents is clearly reflected in household expenditures. In the majority of cases, households spent more on education than on anything else apart from food. For some families access to education during displacement was a key factor in determining where they sought refuge, and is an important inducement to migration into Yei today. Several young people reported moving to Yei in order to attend school and improve their employment prospects.

6.1.1 Barriers to education
Despite a government policy of providing free education, the costs involved in attending school are still unaffordable for many families. School fees are often collected unofficially, and

families must buy uniforms and educational supplies for their children (SSCCSE, 2009). School fees were widely reported to be the main constraint to accessing education in Yei town. The cost of attending a government-run primary school is generally around 35 SGD per term, plus an extra 30 to 40 SDG per year on stationery and school uniforms. Fees are not fixed: if there is a shortfall in government funding, the cost is passed on to parents by increasing fees (HPG interviews, 2010). If parents cannot afford to send all their children to government-run schools they typically prioritise sons over daughters. The County education department confirmed that more girls than boys drop out of education, usually at the end of primary school, as they are expected to help with housework and child minding, or to marry to relieve financial pressure on their families. Encouragingly, however, some respondents who were refugees in Uganda said that their attitudes to education had changed as a result of their experiences in exile, and that both sons and daughters were now attending school.

In addition to government schools the church runs a number of private primary schools, which charge between 50 and 60 SDG per term, while secondary schools charge 200 SDG per term or up to 400 SDG for boarding school. The Episcopal Church runs a 'model school' which is considered one of the best in Central Equatoria (HPG interviews, 2010). The school has 35 pupils per class, a pupil–teacher ratio well below the Millennium Development Goal (MDG) benchmark of 40 to 1, and employs adequately trained teachers.[3] The fees – at 270 SDG to 400 SDG per term – are out of reach for most Yei residents. One Congolese refugee household in Hai Gabat reported that they restrict their food intake to cover school fees, being determined to keep all their eight children in school. Costs total 150 SDG per term.

IDP populations are also struggling to support their children's education. Soldiers' widows in particular find it hard to feed their families, let alone send their children to school as they are not receiving the pensions they are entitled to. One respondent noted that many children were not motivated to study because they were hungry. Despite this, the availability of schools in Yei town is enough to convince people to stay. One woman said that she was remaining in Yei because there were no schools in her home town of Bor.

Youth from rural areas, including migrants as well as IDPs and refugees, also struggle to access education. Following the signing of the CPA in 2005, many have sought to redress their lack of education and the average age of pupils in Yei town has

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3 The Episcopal Church runs a teacher training college in Yei town; students come from a variety of regions, including Unity, Lakes and Northern Bahr-el-Ghazal, as well as Darfur and Port Sudan in the North.

increased significantly. A representative of the Catholic Church gave the example of a nursery class where the age of students ranged from four to 19 years.

As adults, with few if any relatives in town, young people have to rely on themselves to generate the necessary funds to attend school. One young man in Atlabara explained how he had worked hard for many years as a refugee in Uganda to save up money to be able to attend a school in Kampala, and was now trying to save up for secondary-level education. Households in Lutaya were hosting secondary school students from rural areas, saying that 'we give them rooms out of sympathy, we don't take any money from them'. Several initiatives in Yei town are seeking to help this generation. SCOPE runs vocational training programmes in bricklaying, carpentry, tailoring and soap making, and the EWA runs adult literacy courses. Adult respondents showed great interest in such programmes, and there is a clear need to expand them as FGDs indicated that few people were aware of these programmes.

A number of community initiatives are also in hand. Residents in Lomuku Extension 1 have established a primary school, with some pupils being accommodated in a building erected by the residents and others being taught under a mango tree. Teachers are paid from a fund to which parents contribute 30 SDG per term for each child. When parents are not able to come up with the fees, teachers work on a voluntary basis. In Lupapa, which has no community school, one respondent explained that pupils who have attended school for a few years will take it upon themselves to teach younger children and pass on what knowledge they have been able to acquire.

Language is another barrier to education, particularly for IDPs and refugees. At present pupils from primary 1 to 5 are taught the Southern Sudanese syllabus, introduced by the government in 2005, while higher grades use the Ugandan syllabus, which is recognised by Southern Sudan's higher education programmes (GoSS, 2008). The language of instruction in both is English, which for returning refugees from Uganda does not pose a problem. IDPs from the north of Southern Sudan were however educated in Arabic. Dinka, Nuer, Nuba and Mundari children in Yei are therefore at a considerable disadvantage, facing the dual challenge of learning to read, write and speak English as well as Kakwa, the local language, which is spoken by most other children. To address this, IDPs in Lomuku Extension 1 have established their own primary school next to their church. The school serves just over 600 pupils, with lessons taught in Juba-Arabic and English. The school has also attracted Congolese children facing similar language barriers. While two-thirds of pupils are Dinka, the headmaster noted that a wide variety of other languages were spoken by students, including French and Lingala. The school does not teach children Kakwa.

6.2 Water, sanitation and waste management

Households obtain their drinking water from a variety of sources,

ranging from unprotected springs and wells to boreholes, protected wells and public taps. Boreholes constitute the main source of drinking water for the majority of people. A few wealthy households, NGOs, hotels and guesthouses have private boreholes (GTZ, 2010). Investment in clean water and effective sanitation and waste management is an urgent priority.

In Mahad respondents had access to just one borehole, meaning that women have to queue for many hours. The cost of using the borehole is 5 SDG per month. In the dry season, men reported having to fetch water from the river for drinking, or else had to travel to the centre of the town to purchase water from vendors at 1 SDG per jerrican. In Atlabara, residents used a borehole built by International Aid Services (IAS). They also reported waiting many hours to collect water, and that if the borehole needed fixing they had to call IAS, which charged additional fees for repairs. Each household has to contribute 5 SDG per month, and if they are unable to pay they are not allowed to use the borehole according to the rules drawn up and agreed by the community. No one is allowed to use the borehole between midday and 4pm each day, as a way of managing scarce water resources. Men reported digging wells to supplement water supplies; in the words of one respondent, 'we are supplying our own services'.

Lomuku Extension 1 is one of only two areas in Yei town (the other is Hai Simba) with public taps, serviced by a tank installed by MedAir. Around a quarter of residents in Lomuku rely on these taps for water, while the rest collect water from boreholes, streams and wells (GTZ, 2010). The water taps are managed and maintained by community committees, but respondents said that the taps had functioned for only eight months out of the previous 12. A GTZ-funded water infrastructure assessment conducted in Yei town confirmed this, and noted that spare parts had to be ordered from Kenya as they were not available in South Sudan (*ibid.*).

6.2.1 Sanitation and waste management
The majority of respondents reported using pit latrines. In Atlabara residents said that the area chief had ordered that a pit latrine be dug for each *tukul*, and that residents faced a 15 to 20 SDG fine if they failed to comply. Only widows were exempt. In Hai Gabat, the team witnessed local officials checking that each household had complied with this rule. Pit latrines are often built as a short-term solution, and in the absence of secure land tenure few are willing or able to invest in buying the cement necessary to construct more durable facilities. A group of around 50 IDPs living in a run-down compound in Hai Gabat, for example, reported that they all shared one latrine.

There are no mechanisms in place for emptying pit latrines. Once a latrine is full, another is dug. Systems for managing waste are largely absent, other than rubbish pits which households dig outside their homes. In Mahad respondents said that many had no pits and therefore disposed of waste

Table 3: Access to potable water in study locations (GTZ, 2010)

Area	No. water pumps	No. public taps	No. protected springs/ wells	No. private boreholes/wells	% of population with access to potable water
Lomuku Extension 1	3	6	1	5	28%
Lupapa	0	0	0	0	0%
Hai Tarawa	2				28%
Atlabara	1	0	0	0	8%
Lutaya	6	0	2	1	100%
Hai Gabat	15	0	0	0	100%
Mahad	7	6	0	0	31%

on the roadside. In market areas in the town centre large piles of rubbish accumulate in the middle of the road. Most waste is reportedly burned (HPG interviews, 2010; GTZ, 2010).

Under the Local Government Act of 2009, the County is responsible for the provision of electricity, water and waste management services, as well as the regulation, protection and control of public water resources, such as they are.[4] With regard to sanitation, it is only responsible for public toilets (LGA, 2009). While these activities are funded from the central government budget, the Local Government Act also allows County authorities to generate revenue through user service charges, as well as setting tariffs for water supply and sanitation services (*ibid.*). Local officials also generate revenues from the fines imposed on households in areas where local chiefs have ruled that every *tukul* must have its own pit latrine. Whilst these charges are relatively low, there is little evidence that the revenues raised by local authorities are being reinvested in services and infrastructure.

6.3 Health

The main health concerns raised by respondents were malaria, typhoid, respiratory tract infections, water-borne diseases such as cholera, diarrheal diseases and skin and eye infections. Rates of HIV/AIDS infection appear to be increasing, linked to the growing commercial sex trade in the town.

There are no clinics near any of the study locations. The government-run hospital is staffed by one doctor, and people who come to the hospital in the hope of receiving treatment have a very slim chance of being seen. Previously, the hospital was supported by Norwegian People's Aid (NPA), which funded the posts of several medical staff, including doctors. However, once management was handed over to the local authorities in 2009 salaries were cut and most staff left. Although health provision in Yei is poor, in surrounding rural areas it is virtually non-existent, and many people have no choice but to seek care in Yei town, putting further pressure on services.

4 The only location in Yei with access to electricity, apart from the town square and the main market in Dar el Salaam, is Hai Gabat. Residents there reported that installing one electricity pole costs 500 SDG, and the monthly fee for regular access is 50 SDG.

Cost is a further obstacle for people trying to access healthcare. As medicines are rarely available in the town hospital, patients are referred to private clinics and pharmacies to receive treatment. Treatment for malaria at a private clinic was reported to cost between 50 and 90 SDG; for typhoid, the cost was between 70 and 180 SDG. The two main Church institutions, the Catholic Church and the Episcopal Church, both run clinics and charge lower fees. The Catholic Church runs a clinic supported and staffed by Malteser International (MI), a German NGO. Consultation fees are 1 SDG, and the clinic runs tests for diseases including HIV. It also has the capacity to treat a range of diseases, including malaria, tuberculosis and leprosy. MI is to hand the clinic over in 2012, but it is not clear yet whether (or how) standards, services or fees will be maintained. The Episcopal Church runs a clinic for children, but it can only accommodate seven or eight patients. The clinic has some drug supplies and can treat common diseases such as malaria. Children that the clinic cannot treat are referred to the hospital, which, in the words of the Bishop's secretary, effectively means 'they are in the hands of God'. As far as HIV/AIDS is concerned, SCOPE is trying to promote awareness amongst secondary school students. Another initiative run by the Equatoria Women's Association is working to promote awareness through the churches. The impact of these initiatives is limited as few testing facilities or treatment options are available.

6.4 Housing

The vast majority of Yei's population live in *tukuls* they have constructed themselves. This traditional form of housing is a circular mud-walled construction supported by internal wooden posts, and covered with a woven thatched roof which needs annual maintenance. Building materials – mud, wood and grass – are sourced from the environment at no cost.

The majority of the population cannot afford to construct better-quality housing, and those who can are afraid to invest in more expensive structures that might be affected by the demarcation process (see Chapter 8). However, a small number of improved structures are visible in non-demarcated areas such as Atlabara, the majority of which belong to people

employed by international NGOs or the upper echelons of government. When asked why these people were willing to risk investing in these areas, respondents explained that owners had paid surveyors from the County to mark out and register an area on which they could construct their house, and where they would be certain to be protected from the threat of demolition once the official demarcation process begins. This contradicts the claim by the land department that no land titles are being issued yet, and that they should not be issued unless the entire area is demarcated.

Yei contains a relatively high proportion of female-headed households, many of them widows with no relatives or family to rely on. In closely-knit neighbourhoods such as Lupaya and Lutaya, some of the widows interviewed said they fetch water to help neighbours mud their walls in exchange for help with constructing or repairing their own houses. In Mahad, however, where the community is less cohesive, IDP women do not receive such support. Consequently, many of their *tukuls* are in poor condition, with holes in the roofs, crumbling walls and damp interiors.

The number of renters in Yei is increasing, particularly in and around the town centre, where up to 40% of residents are renting rooms (GTZ, 2010). A large proportion of renters are not originally from Yei town, and include Southern Sudanese residents who have arrived over the past three to four years, when plots of land were no longer easily available, as well as foreign workers from neighbouring countries. The average

monthly cost of renting a mud *tukul* is 20 SDG, while a more robust structure with a zinc roof will cost up to 70 SDG. For home owners, renting can be a good way of supplementing the household income, though many prospective landlords are reluctant to do this, especially to people they do not know.

A common complaint regarding housing standards was over-crowding. The average number of people sharing a single *tukul* of nine square metres is eight or nine (GIZ, 2010). In central areas such as Hai Gabat and Hai Police the average exceeds 13 people. This high density is due to a combination of factors, including families hosting relatives from out of town and polygamy (*ibid.*), as well as the shortage of housing. Overcrowding is not associated with greater impoverishment, however. In Hai Gabat, for example, because host families have secure tenure and generally earn higher incomes, they can afford to support relatives or several wives. In the more impoverished areas, such as Lutaya, there is no overcrowding.

The County has done nothing to address the shortage of available land on which to construct *tukuls*, and there has been no effort to map out housing needs in the town. A County official noted the need for regulation, but did not mention any plans for housing support. 'We need to put some regulations in place concerning housing, now you notice there are maybe 3–4 families living on one plot and in each *tukul* there may be up to eight people. This could cause a number of risks. But we can't focus on that now. Regulations need to be passed as law and for passing that it would take time' (HPG interviews, 2010).

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Chapter 7
Governance

Throughout the field work for this study, respondents consistently raised concerns regarding the efficiency and effectiveness of formal governance structures, notably in relation to corruption and a lack of accountability. FGD participants said that they did not trust the County Council authorities, whom they feel interact poorly with the population and do not serve their interests. Informal governance structures, including the army,[5] the Church, community organisations and local IDP leaders, have sought to fill these gaps, undertaking formal governance functions ranging from service provision to security, land administration and education.

7.1 Formal governance

7.1.1 Statutory authorities

Formal government refers to both statutory (official) and customary (traditional) authorities. Local government structures in South Sudan are based on a commitment to devolution and decentralisation, designed to help strengthen the legitimacy of the GoSS during the CPA period, ease administrative burdens at the central level and align the new administration with traditional modes of governance (Washburn, 2010). To that end, the government passed the Local Government Act in 2009, which established the local government structures at the County, *payam* and *boma* levels (GoSS, 2009). Yei falls under the administration of a Council Committee, headed by the County Commissioner. A *payam* administrator oversees the legislative and executive bodies of the *payam* Council and administers statutory law. Customary law is the province of the Paramount Chief (Branch and Mampilly, 2005; Leonardi, 2007). The administration of the *bomas* is split between a chief elected by the community and an administrator appointed by the County; *areas* – the smallest administrative unit – are led by sub-chiefs, assisted by headmen. Although elections in 2009 were intended to ensure the representativeness of governance structures in South Sudan, in fact key posts, including the County Commissioners and the *payam* administrators, are appointed by the President of South Sudan and by the state governor respectively (UNMIS, 2010).

Block grants from the GoSS to state ministries were meant to facilitate implementation of the Local Government Act, and strengthen local government structures. However, in practice little progress has been made, particularly in establishing structures at the lower *payam* and *boma* levels. Transfers from the centre have been irregular (Washburn, 2010; HPG interviews, 2010), and the majority of what does arrive

goes on staff salaries (Washburn, 2010; HPG interviews, 2010). Local government revenues in Yei River County are generated mainly from taxation on trade, agricultural and forestry products, but these are insignificant compared to the resources required (*ibid.*).

Given the delays in passing the Local Government Act, the extent of the GoSS' commitment to the policy has been questioned (Washburn, 2010). Importantly, decision-making power has been retained at the centre, and a situation has emerged whereby 'decentralization, while theoretically the best way to govern Southern Sudan, has in reality often become an instrument to entrench "tribal lines" over competition for resources. It currently mimics and reinforces damaging arrangements at the national level, rather than providing an alternative to them' (LSE, 2010: 9).

In Yei River County, all residents interviewed expressed deep frustration over the unresponsiveness of local authorities to their needs despite repeated demands. The County Commissioner was often described as being primarily interested in private economic gain. Returnees in particular were critical of senior Council figures, accusing them of serving their own economic and political interests rather than those of communities. Returnee resentment of local government has been fuelled by the Commissioner allegedly appropriating plots of land illegally and handing them to key political figures. Although a new Commissioner has been appointed since the field research was carried out, returnee attitudes are unlikely to change significantly in the short term. Many returnees and residents from surrounding areas in Equatoria continue to associate statutory authorities at central, state and county levels with the political dominance of the SPLM and military rule.

Although residents were frustrated by the lack of responsiveness and accountability of local authorities, overall they had very high expectations that this would change in the future. Women in Hai Gabat expressed hope that the referendum would result in new leaders being able to take up 'good positions and rid us of those who have no proper education but are taking over positions of authority and power'. In Hai Atlabara, youth were very vocal on the need for county authorities to take responsibility for supporting access to education, jobs, services and security. The most significant challenge lies in fulfilling people's expectations and supporting the emergence of a democratic state that is accountable to its citizens. Concrete steps need to be taken to reform local government structures, and allow residents in Yei town to elect their own Commissioner and *payam* administrator.

5 While the SPLA is part of the formal governance structure some commanders and soldiers have also assumed other 'informal' roles, as explained in Section 7.2.

7.1.2 Customary authorities

The customary authorities – chiefs and their headmen – interact with communities much more closely than the statutory authorities. They are responsible for communicating people's concerns and needs to the County, and for communicating County decisions to communities (HPG interviews, 2010).

Respondents were generally more positive about the leadership provided by the chiefs and head people where they were seen to be able to influence the statutory authorities, in addition to simply communicating the authorities' decisions back to them. In Atlabara, for example, the headwoman is the wife of the former Commissioner and therefore benefits from close contacts with the County departments (HPG interviews, 2010). In contrast, one respondent in Lutaya described how they had not received any communications from local government via their chief, and that 'if anything happens we no longer report to the chief, because it's as if there is no chief in the area' (*ibid.*).

During the war chiefs were appointed by the SPLM/A to mobilise food, provide conscripts and act as the interface between the civilian population and the army. Their ability to negotiate this relationship, and shield civilians from the brutality many suffered at the hands of soldiers, determined their legitimacy as leaders in the eyes of the local population (Leonardi, 2007; HPG interviews, 2010). This role continues today. However, many chiefs are not viewed as legitimate representatives because they were appointed by the SPLM/A during the war and represent or are perceived to represent the indigenous Kakwa population only, and not the IDPs and returnees also residing in the town. As Yei is a rural council, chiefs are considered 'customary authorities' (assumed to be from traditional Kakwa chiefdoms/ clans) and have formal administrative powers. To retain their influence, chiefs have promoted their roles as representatives of the predominantly Kakwa returnee population, deriving legitimacy from their historical role as well as their legal right to administer community-owned land. Grievances have resurfaced as many Kakwa returnees have come back to find their land occupied by Dinka soldiers. The Dinka have, as in the past, become associated with violence and power (HPG interviews, 2010; Leonardi, 2007).

Customary institutions in Yei town are derived from its status as a rural council (GTZ, 2010). While Yei town has urbanised rapidly over the past few years, the current model of local governance authority is still derived from the chieftainship structure of rural areas; additionally under the current administrative arrangements, Yei town is considered to be a rural area as it is administered by a rural council. However, under the Local Government Act, its population, infrastructure and services are more akin to a municipal council (Town Council), which Yei town is likely to become in the near future (GIZ, 2010).

The Local Government Act stipulates that chiefs and traditional authorities do not have an official role to play at the municipal council level, but that their administrative and customary functions should be exercised within the quarter council (the equivalent of the *boma*-level administration). Quarter councils are presided over by a chairman or *Sheikh-al Hila*, who is elected by the community every four years and performs his work voluntarily (GoSS, 2009; Martin and Mosel, 2011). A shift to a 'municipal council', where local leaders are elected by residents, would allow for greater political participation and may make it easier for residents to hold their leaders to account.

The capacity for supporting dialogue and reconciliation at the community level is especially important in view of the risk of conflict over land and the impact of this on local politics. However, the expanding size and diversity of the town – many newcomers have few if any ties to traditional chiefs in Yei – have opened up opportunities for change.

7.2 Informal governance

7.2.1 The SPLA

The SPLA is a powerful actor in Yei town and exerts significant influence in its administration. Its level of influence is perhaps best described by one international agency representative, who observed how the County Commissioner was promoted to the rank of Colonel so as to have a military rank senior enough to give him the upper hand in dealing with security personnel (HPG interviews, 2010). In the past, the core aim of the Civil Administration was to secure support for the SPLM/A, and the capacity of the Commissioner and the Councils to exercise political influence was limited. The SPLA also interfered in financial issues such as taxation (Rolandsen, 2005).

While the SPLA is now formally separate from local government structures, in practice the distinction between formal governance and the military is not always clear. The SPLA continues to play a key role in security provision in the town, and has been involved in town planning activities such as clearing roads and demolitions. Taxation and customs activities are also often carried out by former soldiers (HPG interviews, 2010), and a number of serving and former soldiers act as IDP representatives.

In Mahad, interaction between returnees and the SPLA is tightly controlled. According to returnee respondents represented by a Kakwa chief there is a strict dividing line between their settlement area and that of soldiers. If civilians cross over into the military zone 'the chief will have to go to the military chief and explain what was his business', and vice versa. Chiefs have been able to exploit these divisions by claiming to advance the interests of returnees against the threat of the Dinka. During referendum campaigning, for example, chiefs broadcast radio messages stating that Yei's residents did not want Dinka people to stay (HPG interviews, 2010).

The distinction between IDP populations and the SPLA is less evident. The majority of soldiers in Yei town are Dinka,

and as noted a number of IDP representatives are military actors or former soldiers. For example, one SPLA lieutenant referred to the communities he represented as IDPs. Other IDP representatives referred to themselves as 'Chief of the Warrap people', 'Deputy chief of the Greater Bahr el Ghazal people', 'Chairman of Lake State' and 'Chairman of Aweil State'. They say that they came to Yei in 1997 and 1998 and decided to stay, but several amongst them are really former soldiers, who arrived in Yei in SPLA uniforms (HPG interviews, 2010).

For the IDP population residing in Mahad, the SPLA provide a degree of protection, particularly from the threat of eviction. IDPs sometimes claim that the land they occupy belongs to a soldier so as to strengthen their position against returning residents seeking to reclaim their plots (HPG interviews, 2010). They also turn to the SPLA for security, rather than the police (*ibid.*). Residents who had returned to their original plots in Mahad close to the military barracks stated that 'the soldiers are never a problem'. Proximity to the barracks, respondents said, was a deterrent to crime but 'the problem is that they grab land'.

The strict rules governing movements between the two settlements are testament to the level of friction that exists over land. The path of urban development outlined by the County authorities in the Yei town plan, combined with the continuing heavy influence of the SPLA on town affairs, underscores the weakness and lack of initiative within the County leadership.

7.2.2 Local leadership

Not surprisingly respect for, and trust in, customary authorities has been severely undermined by the developments described above. Respect for the decisions of traditional authorities regarding dispute resolution, including on land matters, is weakening, and customary authorities have no powers to implement or monitor their rulings unless individuals feel socially bound to them.

Local leaders representing different ethnic groups have now emerged in several locations. Their level of integration into formal government structures varies. In Atlabara, for example, the chief is from the Kakwa group, while his deputies, the headmen, represent different ethnic groups (HPG interviews, 2010). Mahad has two chiefs, one representing the Kakwa residents, the other the Nuer. IDPs are represented by IDP leaders and the military by SPLA representatives.

7.2.3 Religious institutions

During the war, local churches were the main providers of health and education services in Yei town (HPG interviews, 2010; Washburn, 2010). Across South Sudan, local churches were seen as an important mechanism through which the SPLM could garner popular support. Officially, churches maintained a neutral position with regard to the conflict, but in practice many actively supported the SPLM/A, while also criticising its authoritarian approach in the areas it controlled (Washburn, 2010).

Local religious institutions, of which the Catholic and Episcopal churches are the largest, continue to play vital roles in Yei. One long-standing observer described them as more powerful than the County authorities, exerting significant influence on governance matters as they effectively carry out many of the roles officially assigned to the County (HPG interviews, 2010). They run a large proportion of services in Yei River County, including schools, clinics and livelihoods and vocational training support programmes. They also play a key role in peace and reconciliation activities at the local level, and led civic education initiatives around the secession referendum. They have access to financial support from international congregations, and own key assets in the form of land (*ibid.*).

Close relations with returnees give the churches a high degree of legitimacy in contrast to the County authorities. In May 2010, for example, when a priest was arrested for protesting about the County Commissioner's plans to build a guesthouse on land given to the Church by the previous Commissioner, public demonstrations forced his release and the plan was dropped (HPG interviews, 2010; Yei Radio News, May 2010).

7.2.4 Community organisations

Several initiatives in Yei town are dedicated to promoting particular issues, ranging from women's rights and education to HIV/AIDS awareness and conflict resolution. Examples include the Equatoria Women's Association (EWA) and SCOPE (Sustainable Community Outreach Programmes for Empowerment), as well as the Yei Youth Association, which supports the social and economic needs of young people (HPG interviews, 2010). The Youth Association is particularly noteworthy for its efforts to strengthen and improve relations between young people and formal governance actors, and between different community groups. The Association emphasises the value of civic duty regardless of background or level of education. To bring young people together it is completing the construction of a youth centre in the main town square, and has launched a range of inter-community activities including basketball and football teams and *boda-boda* (motorcycle) associations. The Youth Association is the only actor in Yei that has succeeded in bringing together residents of all backgrounds, regardless of ethnic group or displacement status. One young Dinka man told us that, even though most Dinka are not fluent in Kakwa, the Youth Association is still putting a lot of effort into engaging them in its programmes (HPG interviews, 2010).

Chapter 8
Land and the environment

8.1 Land laws and policies

During the war, land in Southern Sudan was subject to a number of different colonial and post-colonial laws and regulations, all of which stipulated that all unregistered land is owned by the central government.[6] In February 2009 the Southern Sudan Legislative Assembly finally passed a new Land Act, which in theory revoked all existing national land laws.[7] The Land Act recognises three forms of land ownership: public (government), community and private. It provides (s.7) that 'All land in Southern Sudan is owned by the people of Southern Sudan and its usage shall be regulated by the Government', a statement which in practice has been interpreted very differently by local communities and state governments. Previously land issues, including remedial measures, were dealt with under customary law. The new legislation recognised the co-existence of the statutory and customary legal systems. Customary institutions have jurisdiction over communal land allocated mainly in rural areas; statutory institutions have jurisdiction over public and private land in demarcated urban areas. Few records are available to help determine how much land in South Sudan is publicly, privately or communally owned. It is clear, however, that there is very little public land, a significant challenge for local governments trying to manage urban growth and development, which will be accelerated by the voluntary settlement of returnees in Yei.

8.2 Land ownership and urban planning in Yei town

8.2.1 Land ownership
All land within a 3km radius from the centre of Yei (Freedom Square) is considered a gazetted area or public land, and thus falls under statutory law. Land in this area can either be acquired through transfer of the lease title between two individuals, or through the official land allocation system by the land administration department (IDMC interviews, 2010).

The area identified as government land houses approximately 60% of the town's population (GTZ, 2010). The majority of the plots are currently used for residential purposes and some small-scale domestic agriculture. There are also large tracts of land in the city centre belonging to religious institutions and NGOs. (Senior County officials want to appropriate the

land of international aid actors preparing to leave the area (HPG interviews, 2010).) The neighbourhoods of Lutaya and Hai Mission are recorded as private land owned by the Church through leaseholds. Hai Sobe is partly owned through leasehold by the Church and partly owned by the government. Hai Police and Hai Simba are regarded as government land (GTZ, 2010). Land outside of the 3km radius is owned by the community and administered by traditional chiefs under customary law. A number of households, in particular from the original agrarian communities, farm this land as well as larger plots located about 8km from the town. This land is usually leased to them by a chief for a single farming season. The Land Act specifies that rural land belongs to communities that are acknowledged to be the 'traditional' or customary owners.

8.2.2 Urban planning
The GoSS has responsibility for a range of policy and legal frameworks related to urban development, including town planning, service delivery, taxation and local revenue-raising, the issuing of business and trade licences, security and reconstruction and development (ICSS, 2005). Functions are shared between the central, state and County levels, but the County authorities are responsible for town planning.

In 2010, the County authorities outlined plans for the future development of Yei River County and Yei town and its environs. These reflect the GoSS' vision of 'taking towns to the people'. Originally developed by SPLM/A leader John Garang, 'taking towns to the people' was adopted as SPLM/A policy in 2004. The idea is to promote rural development by prioritising investment in rural areas, thereby counteracting the flow of rural-to-urban migration and easing the pressure on services, housing, land and infrastructure in Juba and other urban centres (GoSS, 2010).

The Yei Concept Land Use Plan was developed by the Yei Department of Physical Infrastructure, with help from American urban planners. Its goals are to:

- Provide basic planning for future growth while managing current needs.
- Help promote a peaceful transition to sustainable growth patterns.
- Reduce stress on current infrastructure and facilities by designating appropriate land use areas.
- Promote the location of new facilities and infrastructure at sites that will serve the population in a more efficient and cost-effective manner.

The vision for Yei River County is that it will become a 'bread basket' for the region, with Yei town developing into an urban

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6 These include the Land and Settlement Ordinance (1925); the Village Lands Scheme (1948, revised in 1950); the Disposal of Government Lands for Building Purposes Regulation (1974); and the Town Planning Act (from USAID: 2005).

7 In practice, a number of institutions still use the old laws and reportedly some state legal documents continue to refer to them. Additionally, regulations made under previous laws still remain in force unless inconsistent with the Act. The revocation of the Land Act raises the most issues at the local level, where it has created confusion over standards and procedures in the surveying and demarcation of land.

hub for food processing and regional trading, capitalising on its proximity to Uganda and the DRC (HPG interviews, 2010). New road networks circling the town are planned, within which interspersed farmland for intensive agriculture is to provide inputs into food processing industries. These are then supposed to connect to regional roads, allowing goods to be transported to markets. There is no funding to support these ambitious plans, and no timeframe has been established.

The underlying intention of the Plan appears to be to decongest the centre of Yei town to enable infrastructure and commercial development, while encouraging agricultural development on the outskirts. As the County Commissioner put it: 'encouraging local people to return to rural areas and cultivate makes more sense than to stay in the city where you have a plot that is too small for any proper cultivation' (HPG interviews, 2010). The process of decongestion will involve surveying and demarcating the land on the basis of information contained in the old town plan, which was developed before the war (HPG interviews, 2010). Any structures that fall outside of plot boundaries or sit on areas reserved for roads and services will be cleared and old boundaries reinstated, with the ownership of plots ascertained and verified by a chief. While the local authorities plan to compensate households affected by decongestion by increasing the availability of residential plots on land outside of the decongestion area, only a limited number of plots will be distributed, with the rest kept by the County authorities for sale or rent to businesses and investors. There are also concerns about the clearance process itself, with several respondents saying that they had been given no notice that their homes would be demolished. One woman said that, when the clearing started in her area, she was not at home. When she came back she found that the four *tukuls* her family lived in had been destroyed, together with everything inside.

Implementation of the Yei plan is proceeding extremely slowly: at the time of writing it had taken the local authorities three years to demarcate just 11 central areas, or 30% of gazetted land (GTZ, 2010). Residents in these demarcated areas will receive legal titles (lease contracts) which will formalise land ownership and give them security of tenure (GTZ, 2010). Meanwhile, the price of land in attractive areas is rising rapidly. In Lomuku Extension 1, for example, prices are said to be reaching 12,000 SDG ($450) a plot, compared to 2,000 SDG ($800) in 2007. Back in 2005/6, when large numbers of people returned, plots were selling at an average rate of 20 SDG ($8).

In the majority of the study locations within the gazetted area, County authorities have not been involved in land distribution. Although it is not clearly condoned under customary law, chiefs have taken on the role (increasingly in exchange for a fee) of distributing plots to communities in these areas (HPG interviews, 2010). The majority of respondents reported that they had been allocated land by a chief but had not received a receipt for payment or any other documentation proving ownership. An estimated 70% of residents have no title to

land or other legal documentation, and are therefore at risk of eviction without compensation should County planning laws be fully enforced (GTZ, 2010). According to the Land Commissioner, 'chiefs shouldn't be giving land to anyone until the land is surveyed but they do it for money. Those who bought land will lose it. If you have no documents then it is the land of the county, you won't get compensation' (HPG interviews, 2010).

While the majority of residents have insecure tenure, displaced people and migrants not from nearby villages are particularly vulnerable to eviction. As noted, demarcation is proceeding on the basis of the original property boundaries shown in the old town plan. The survey department reports that it is confirming land ownership before surveying the area and clearing any structures. However, in the event of any dispute over ownership chiefs invariably rule in favour of the original occupant, even though they may have (illegally) sold the land to the other claimant. The procedure for allocating new plots within the gazetted area also privileges the original inhabitants. According to the County authorities the indigenous population will have first priority, followed by local communities from the surrounding rural areas (i.e. not IDPs and migrants) and, lastly, 'foreigners', by which the authorities mean international agencies, businesses and traders, not Congolese refugees. Significant numbers of residents are therefore excluded. Finally, only the original inhabitants of Yei town have access to customary tenure. This means that the only option for other inhabitants is to secure temporary tenure of a non-registered plot through chiefs and community leaders, or to secure a demarcated and registered plot. As the process of demarcation has not progressed, no new plots are being made available (Pantuliano et al., 2011).

8.3 Conflicting land ownership claims and restitution

Returnees, understandably, want to reclaim their land. However, the IDPs and soldiers (mostly Dinka) who settled on this land in the late 1990s feel that they too have legitimate claims, particularly where they have invested in constructing homes, and where it is difficult to identify the rightful owners. How conflicting land claims are resolved depends on whether the plot in question is on demarcated (urban) land or non-demarcated communal (rural) land.

If the land in question is in a rural area, customary authorities (the Customary Law Courts) will try to broker an agreement. Where the occupiers of the land are *bona fide* occupants and have constructed *tukuls* or otherwise invested in the land, these courts might rule that the returning resident must compensate the occupant, or they can allocate alternative plots to claimants where appropriate. These customary methods are popular and are usually the first step in resolving restitution claims. They are accessible, familiar to the communities involved and both cheaper and quicker than statutory procedures. Customary procedures are however also limited in their ability to deliver just outcomes. These limitations range from the difficulty local

courts have in enforcing decisions, particularly where they rule against military or ex-military personnel, to their tendency to reinforce existing inequalities 'in power, wealth, and status within families and communities' (Leonardi et al., 2010: 72).

When a disputed plot lies in a demarcated area, responsibility for mediation falls in the first instance to the Yei Department of Housing, Urban Planning and Public Utilities, which should act in accordance with relevant legislation such as the 2009 Land Act. If mediation fails, the case is referred to the Yei County Court.[8] There are some positive examples of restitution claims being resolved by statutory bodies in ways that accommodates the interests of both parties.[9] In several cases statutory bodies have decided that a claim should be upheld, but that the claimant should compensate the occupant as the latter had acted in good faith. Statutory authorities have occasionally ruled in favour of the claimant, but have awarded the *bona fide* occupant an alternative plot. In some cases where the plot was deemed large enough to accommodate both claimant and occupant, the plot was divided between the parties.

One of the most important limitations of the statutory authorities (including the police) concerns their reluctance to deal with land-grabbing by serving and former soldiers. This is a significant problem and has exacerbated the risk of eviction and renewed displacement for IDPs (NRC, 2010). In focus group discussions, several returnees said that they had renounced their land claims after receiving threats from the soldiers or ex-combatants occupying their plots. In Hai Tarawa, for example, residents reported that land grabbing by powerful military actors had been a problem in the previous year, and that if anyone complained they risked being threatened with a gun. Soldiers in turn justify their claim to land by emphasising the sacrifices they made in fighting to liberate South Sudan. While there has been some progress in dealing with the issue

8 Disputes over demarcated plots are managed by the following statutory institutions: 1st Class County Court Yei, 2nd Class County Court Yei, High Court (for appeal).
9 Examples taken from NRC Yei, ICLA Land and Property Cases, Customary and Statutory Courts Yei River County, 2010. Not public.

of SPLA forces illegally occupying land, such as through a Norwegian Refugee Council (NRC) dialogue with armed actors which successfully resolved a restitution claim, in many cases soldiers still act with impunity (*ibid.*). Law enforcement agencies should implement and monitor any decisions that are taken by statutory institutions, but the police are unable and reportedly also willing to act against the SPLA (*ibid.*).

8.4 The environment

The expansion of Yei town in recent decades has contributed to deforestation in surrounding areas as timber is used for firewood and in the building of *tukuls*. Collecting firewood for sale has also become an important source of income; many IDPs derive their entire income in this way, though competition is increasing as resources dwindle. According to IDP representatives, proximity to trees within Kembe was one reason for moving there, despite the lack of services nearby. In Lutaya one youth who had set up his own bakery said that competition for firewood meant that he spent more and more time outside town collecting fuel, rather than baking. For one woman living in Mahad, the increasing scarcity of trees means that she does not boil water collected at the river before drinking it because doing so was 'a waste of firewood' and she cannot afford the high price of charcoal.

The lack of effective waste and sanitation management means that water pollution has become a significant problem. Pollutants including domestic wastewater, garbage and faeces are all carried into Yei River, while the underground water sources that serve boreholes are contaminated by latrines (GTZ, 2010). The health consequences have been severe. Two cholera outbreaks were recorded in 2006 and 2008, affecting all but three of the locations in this study (the semi-rural and less densely populated Lupapa and Lutaya and Hai Gabat, which is demarcated (*ibid.*)). Respondents in various locations mentioned regular typhoid outbreaks, as well as rashes and diarrhoeal and respiratory diseases caused by water contamination. Few tests are carried out on water quality, making it impossible to identify and isolate disease vectors (*ibid.*).

Chapter 9
International assistance

There is a long history of international humanitarian and development assistance to South Sudan, and Yei town has served as the regional headquarters for many international actors over the years. British missionaries were running schools and clinics as early as the 1900s. By the 1990s Yei had become a hub for the coordination and delivery of emergency relief under Operation Lifeline Sudan (OLS). After the signing of the CPA in 2005, attention shifted towards monitoring and assisting return. Most aid has been directed towards rural areas; despite the high concentration of international actors in Yei and other towns across South Sudan, remarkably little attention has been paid to urban areas, and there is generally little awareness of the vulnerabilities facing the urban poor in South Sudan (see Pantuliano et al., 2008; Martin and Mosel, 2011).

9.1 International assistance during the war

In the 1980s a number of humanitarian agencies, including WFP and Action Africa in Need (AAIN),[10] were active in Yei, providing humanitarian assistance to Ugandan refugees. From 1989 until 2005, humanitarian aid was delivered primarily through the UNICEF-led Operation Lifeline Sudan (OECD, 2011). OLS consisted primarily of basic services delivered through INGOs and a large-scale food assistance programme (*ibid.*). In Yei County, UNICEF, together with Oxfam, International Aid Sweden and Action Africa Help (AAH), were the most active OLS agencies; Norwegian People's Aid (NPA) also provided substantial assistance but operated outside of the OLS agreement. NPA's interventions included the provision of seeds and tools and non-food items, as well as primary healthcare and vocational training programmes (UN, 1997).

By 2000, a few years after Yei came under SPLM/A control, agencies had begun implementing more recovery-oriented activities. For example, NPA ran an agricultural training centre and several agencies, including UNICEF and UNCHR, supported teacher training and providing school materials in Yei town. A number of agencies, including WHO, UNICEF, WFP and several INGOs including NPA, were also active in the health sector, supporting the running of the hospital as well as primary health clinics (OCHA, 2005).

9.2 International assistance during the CPA interim period

After the CPA was signed, the attention of international donors rapidly shifted to recovery and development, based on the assumption that Sudan was a post-conflict state (OECD, 2011). The establishment of the GoSS was seen as an opportunity for South Sudan to take responsibility for recovery and development programmes. Humanitarian funding was reduced, while support to recovery and development programmes increased (Pantuliano, 2009). Donors concentrated on building GoSS institutions and strengthening its capacity and legitimacy at the central government level in Juba (Bennett et al., 2011). However, the process of urbanisation itself was ignored, and international assistance focused on rural areas in support of the GoSS policy of 'taking towns to the people'.

9.2.1 Support to return and reintegration
Strategies to support the return and reintegration of IDPs and refugees after the signing of the CPA have suffered due to the emphasis on organised return, at the expense of programming to support reintegration (Pantuliano et al., 2008). Yei town was no exception: the focus was on providing logistical support for repatriation, alongside return packages consisting of three months of food rations and non-food items (HPG interviews, 2010). The majority of returning refugees and IDPs in Yei town did not qualify for this assistance because they did not participate in assisted return or repatriation operations. A handful of returnees repatriated from Uganda to nearby villages did report receiving the assisted return package, but their most immediate need was for farm tools. After three months they sold the assets they had brought from Uganda, including bicycles and furniture, in order to buy food, and eventually moved to Yei. IDPs in Yei who registered with the SSRRC and the IOM in 2006 also received three months of food rations, but few showed any interest in receiving transportation support to return to their home areas. While the assistance was appreciated by all respondents, it was of limited use in supporting sustainable return.

Several factors influenced the approach taken. First, the UN Mission in Sudan (UNMIS) was tasked with leading and coordinating support towards return and reintegration, which raised concerns amongst some humanitarian agencies that political considerations would take priority over the needs of local communities and returnees (Pantuliano et al., 2008). Observers have since commented that the political priority of the GoSS, namely getting as many IDPs and refugees as possible to return to South Sudan before the 2008 census, may have been at the expense of longer-term strategies and support towards reintegration (Pantuliano et al., 2008). Second, the challenges of shifting from humanitarian to recovery mode contributed to the focus on visible, but short-term, results.

10 The founders of AAIN worked in Yei in the 1980s, formally establishing AAIN in the early 1990s. In 1996 AAIN became Aktion Africa Hilfe. In 2003 the name was changed to Action Africa Help.

9.2.2 Support to recovery and urban development

Government-led recovery and development programmes, funded primarily through the World Bank-administered Multi-Donor Trust Fund (MDTF), were expected to provide the longer-term support necessary for people to rebuild their lives and livelihoods. The MDTF was also meant to promote government 'ownership' of these programmes and encourage and coordinate donor support; the Joint Donor Team (JDT) office in Juba (comprising the Canada, Denmark, Norway, Sweden, the Netherlands and the UK) was also mandated to promote donor harmonisation and support the MDTF. However, lack of leadership from the World Bank and limited GoSS capacity meant that disbursement rates were extremely slow and the Fund failed to deliver tangible impacts on the ground (Pantuliano, 2009; Bennett et al., 2011). The role of the MDTF and the JDT in helping to align donor support was further compromised by the fact that USAID, a key donor, continued to channel resources bilaterally (OECD, 2011).

In the absence of government-led development programmes, the majority of activities in support of service delivery and infrastructure development in Yei town, as in other urban contexts, was run by humanitarian actors. While limited in scope, this work filled critical gaps. NPA provided staffing support to the main hospital in Yei town, for example, while MedAir and IAS supported water interventions. Other international interventions were however less effective. Livelihoods interventions, for instance, focused on agriculture, which was of limited use in an urban context where many people lacked access to land and secure tenure. The shortcomings of micro-finance initiatives have been discussed earlier.

9.2.3 Assessing needs

Despite growing humanitarian needs and renewed pockets of insecurity in many areas of South Sudan, there has been little monitoring of the growing numbers of people moving to towns. Some monitoring is done by the South Sudan Protection Cluster, which produces rapid needs assessments and reports on key protection issues such as Gender Based Violence, but these focus on rural areas. SSRRC, with the support of UNHCR, is responsible for monitoring the needs of returnees in Yei River County. The focus of the SSRRC has thus far been limited to returns and relief coordination and, to a lesser extent, monitoring and assessment of food security. The SSRRC Annual Needs and Livelihoods Assessment (ANLA) measures the sustainability of livelihoods for both host and IDP communities, but focuses on rural areas (ANLA, 2010). Several *bomas* in Yei town *payam* were included in village return assessments carried out by UNHCR between 2007 and 2009 (UNHCR, 2009). A UNHCR representative reported that assessments now only focus on returnees in rural areas, and do not monitor population movements to Yei town (HPG interviews, 2010).

There is also little monitoring of displaced populations residing in Yei town, a symptom of broader issues around tracking displacement across South Sudan. The last assessment of IDPs was carried out by the SSRRC and IOM in 2006, following the arrival of IDPs newly displaced by conflict in states further north. The IOM tracked spontaneous returns to Yei town *payam* between 2005 and 2009. Although it sought to provide estimates for the number of secondary displacements at the state level, it did not include CES in its assessment (IOM, 2009). UNHCR intended to carry out an assessment in 2009 of the number of IDPs displaced by the LRA, but it was forced to abandon the plan because the logistical costs involved were deemed too great. Monitoring of refugees is limited to those entering and leaving camps (HPG interviews, 2010). There is therefore very little awareness of the vulnerabilities facing displaced populations currently living in Yei town, and of the pressures that urbanisation and displacement are creating across all communities.

9.3 International assistance strategies in 2011 and beyond

As South Sudan enters independence, many international donors and agencies are reviewing their funding and response strategies. Thirty-eight operational aid agencies have released a joint briefing paper outlining their key recommendations for peace-building, development and humanitarian assistance in South Sudan, aimed at the government, donors and implementing agencies (South Sudan NGO Forum, 2011). The report includes recommendations on the funding and integration of relief efforts, social protection and strengthening civil society and livelihoods through the allocation of land ownership rights to returnees and the displaced. The GoSS is preparing a South Sudan Development Plan as a basis for channelling support over the next three years, focusing on strengthening governance, anti-corruption efforts, civil society, gender equality, economic growth and the provision of basic services (GoSS, 2011). The European Union (EU) has pledged €200 million to South Sudan, part of which will be used to support this plan (Development Initiatives, 2011). The World Bank has committed $75 million for basic services and job creation, which it hopes to channel through a proposed Transition Trust fund (*ibid.*) The Australian government has likewise pledged $16.9 million over two years for basic services (*ibid.*). While several other donors are in the process of developing strategies for assistance to South Sudan, priorities, timeframes and approaches appear to differ considerably. In addition to the GoSS' development plan, a new framework for international cooperation will be needed to guide the interventions of key players, including the World Bank, the UN and donor governments.

Two other developments are worth noting. The first is the new mandate which will guide the work of UNMIS now that formal secession has taken place. In contrast to the focus on North–South relations during the interim CPA period, the internal conflict dynamics of South Sudan are receiving greater attention. As the May 2011 UN Secretary-General's

11 See southsudanprotectioncluster.org.

report on Sudan acknowledges, 'the main political driver of conflict in post-Comprehensive Peace Agreement South Sudan will be internal tensions' (UN, 16 May 2011). To reflect this shift, the UN has established a new UN mission, the United Nations Mission in South Sudan (UNMISS) under Chapter VII of the UN Charter (UN S/RES/1996 (2011)). As a multi-dimensional peace operation, UNMISS's mandate will include good offices and political support for peace consolidation and support to security sector reform and the rule of law, as well as other aspects of security, including conflict mitigation and the physical protection of civilians in South Sudan.

The second development is the renewed emphasis on humanitarian assistance. Coordination structures have been strengthened over the past year with the official roll-out of the cluster approach across South Sudan's ten states (OCHA, 2011). Two new structures have also been established in Juba, including a Humanitarian Coordination Team, or HCT-Juba, as well as the Inter-Sectoral Working Group (ISWG) (*ibid.*). An overarching humanitarian response strategy has been developed to guide the sectoral interventions described in the 2011 Sudan Work Plan. In previous years the workplan has been described as merely consisting of a list of projects, and humanitarian actors have been criticised for lacking an overarching strategy (Mowjee, 2009; IASC, 2008). This year, the plan includes seven overarching priorities developed specifically for South Sudan (OCHA, 2011).

Beyond the provision of reintegration support to IDPs returning from the North, the plan's priorities include developing better capacities for rapid response to new emergencies, ensuring that agencies have sufficient funding and capacity to maintain existing basic services, supporting livelihoods through the provision of inputs and resolving land tenure problems. Protection objectives include prioritising efforts to reduce sexual and gender-based violence, as well as advocating for better physical protection of communities in areas affected by LRA attacks and inter-tribal violence, or where forced disarmament programmes are under way (OCHA, 2011).

There is also evidence of greater awareness of the challenges posed by urbanisation. Humanitarian actors are recognising that many returnees coming back after the referendum will seek to live in urban areas. Young returnees in particular may not have the skills needed to make a living in rural areas or any interest in returning to them. UNHCR's 2010 submission to the Office of the High Commissioner for Human Rights (OHCHR), for example, stated that 'the realities of urbanisation should be taken into account in facilitating durable solutions' (UNHCR, 2010: 8). The conflict scenarios developed for the 2011 Work Plan also incorporate urban areas into their analysis. They note that, in the event of renewed violence, IDPs are likely to settle in urban and peri-urban areas, putting additional pressure on under-funded services and infrastructure (OCHA, 2011).

While these developments are encouraging, significant obstacles still need to be overcome if international assistance strategies are to translate into effective support for displaced populations and urban poor residing in Yei town. The first concerns identifying and assessing needs. Distinguishing between displaced and non-displaced populations in Yei town is no easy task. UNHCR aims to start monitoring the needs of IDPs in Yei River County and beyond. As one UNHCR representative in Yei acknowledged, the first question they need to answer is 'who is an IDP?' (HPG interviews, 2010). Agencies will have to consider the complex and varied patterns of population movements to Yei town and the scale of needs amongst the urban population as a whole. The distinction between IDPs and soldiers is not always clear, particularly in Mahad. Agencies will also have to contend with the way in which County authorities and local communities define IDPs and the fact that they view their presence as a temporary arrangement. The UNHCR representative in Yei noted how 'the county authorities believe that anyone who is not from Central Equatoria is an IDP' (HPG interviews, 2010). This is also problematic as people from nearby rural areas have been displaced to the town.

The assistance and protection needs of refugees in Yei town will also have to be taken into consideration. Identifying and responding to their needs presents several difficulties. How to distinguish between refugee and migration movements when defining their legal status as refugees is one. Another is the tendency of local authorities to articulate publicly the need for Congolese to leave the town and return to refugee camps (HPG interviews, 2010). As a result, refugees are increasingly reluctant to identify themselves as such. Congolese households in Hai Gabat, for example, were at great pains not to reveal that they had come from the refugee camp in Lasu *payam*.

The second issue concerns coordination. The co-existence of both acute and chronic vulnerabilities in Yei town, and critical gaps in service delivery and infrastructure, requires international actors to respond on a much larger scale than they have so far. In light of the weak capacity of local government and the limited resources being channelled from the central to the state levels, international support is also required to help strengthen the capacity of local authorities. In 2005, there were around 35 national and international humanitarian and development agencies operating in Yei. International actors included five UN agencies and major international NGOs such as the Danish Refugee Council (DRC), Norwegian People's Aid (NPA), Action Africa Hilfe (AAH) and Catholic Relief Services (CRS). They were joined by a GTZ donor office and UNMIS in 2006, and NRC in 2008 (HPG interviews, 2010). At the time of writing, the only remaining international actors with any significant financial or operational capacity are Malteser International, Jesuit Refugee Service, War Child, GIZ, UNHCR, UNMISS and DRC (which is due to leave soon), as well as international missionary organisations. However,

these agencies have not interacted much in the past, and the humanitarian coordination fora that did exist have been reduced along with the decline in the international presence. This limits the possibilities for actors to develop a more strategic approach to urban interventions in Yei town.

The third area of concern relates to protection. Although the GoSS has the primary responsibility for protecting civilians, UNMISS will also have a key protection role. However, there are questions over how effectively it can fulfil its protection mandate in practice. UNMIS (the previous mission) has come under severe criticism for its failure to protect civilians. The resolution governing the new mission explicitly directs UNMISS to 'protect civilians under imminent threat of physical violence, in particular when the Government of the Republic of South Sudan is not providing such security' (UN/RES/1996, 8 July 2011). While the recently appointed SRSG for South Sudan, Hilde Johnson, has emphasised the strengthened protection mandate of the new Mission, it will be unable to act effectively unless sufficient capacity and resources are invested. The large protection gaps that need to be filled can be seen at local level in the courts' inability to enforce decisions or bring defendants to court due to insufficient policing (Leonardi et al., 2010), and at the state level by the continuing conflict in Warrap, Unity and Jonglei. The difficulties that civilian security forces face in addressing this violence suggest that South Sudan will not have the capacity to protect its citizens adequately for some time to come (see ICG, 2011; Saferworld, 2011a, 2011b, 2011c).

9.4 Integration and durable solutions

Demographic settlement patterns have changed significantly in South Sudan. Social relations are also changing. In urban areas people from different ethnic groups, socio-economic backgrounds, life experiences, social networks and values are now living together. Urbanisation thus presents great opportunities for promoting sustainable social, political and economic integration, all of which are crucial to a lasting peace. However, many urban dwellers are struggling to survive. In Yei town, this has contributed to the marginalisation of displaced population groups, both economically and politically.

Helping IDPs and refugees to choose between the durable solutions available to them, and ensuring that genuine choices exist, is a critical priority for international assistance. For refugees, the options are repatriation to the country of origin, local integration or resettlement in a third country; for IDPs, reintegration in the place of origin, local integration in Yei town or resettlement elsewhere in the country. Legal and policy frameworks related to internal displacement recognise that people may continue to have specific needs related to displacement after conflict has ended, and that physical movement on its own does not constitute a durable solution (IASC, 2010). Similarly, UNHCR recognises that refugees may continue to require assistance after returning to their country

of origin (Collinson et al., 2009). However, the legal, political, economic and social conditions necessary to achieve durable solutions have not yet been secured, contributing to the discrimination displaced populations are exposed to.

Our FGDs revealed great uncertainty for the future among the predominantly Dinka IDP population. Some indicated that they wished to return to their home areas, while others wanted to stay in Yei or move to another town, such as Jonglei or Juba. Some IDPs displaced to Yei town from surrounding rural areas wanted to return to their homes, but were concerned about the possibility of renewed attacks by the LRA. Others were not prepared to return until they were certain of being able to secure livelihoods and access to education and health services. They plan to stay in Yei town and wait to see what the future might hold. Refugee respondents also wanted to remain as long as conflict in DRC prevented them from returning. They would only consider moving to other towns in South Sudan if they could be certain that they would find work.

Whatever their future plans, the majority of IDP and refugee respondents did not want to settle in Yei town permanently, but felt that staying in the town was their only option for the time being. Return may not be feasible in the short term. At the time of writing, violence has once more broken out in the states of Unity and Jonglei in the north of South Sudan, and the states of Warrap and Upper Nile are insecure. DRC has seen a surge in violence since early 2011, and thousands have fled LRA attacks (Oxfam, 2011). While displaced populations considering resettlement identified other towns in South Sudan, such as Juba and Jonglei, as possible options, in the short term at least they are likely to face similar obstacles to integration in these contexts given the lack of support to urban areas across South Sudan, alongside the additional pressures created by the return of IDPs from Khartoum (Refugees International, 2011). Supporting local integration in urban contexts such as Yei – even as an interim solution – will therefore be key, alongside efforts to explore other durable solutions. Based on UNHCR's definition of sustainable reintegration, this requires 'supporting those who have returned/resettled or integrated to secure the legal, political, economic and social conditions needed to maintain life, livelihoods and dignity' (UNHCR, 2004). Legal conditions include access to legal processes, and legal support for ownership of property, land and housing. Political conditions include stable government, full participation in political processes, gender equality in all aspects of political life, freedom of thought and expression and protection from persecution. Economic conditions include access to productive resources to support livelihoods (such as agricultural inputs). Social conditions include access to services, security, the absence of discrimination and the presence of community-level dispute resolution (UNHCR, 2004).

For refugees, 'local integration' is based on the assumption that they will remain indefinitely in their country of asylum; it is achieved when refugees are given rights by the host

country, preferably by becoming citizens, and no longer require international protection (Crisp, 2003). In contrast, the term 'local settlement' is used by UNHCR to refer to situations where it is assumed that refugees will not remain in the country of asylum indefinitely. While local settlement is regarded as a temporary or intermediate phase during which durable solutions are sought, some degree of social and economic integration is necessary to enable refugees to live with dignity and in safety in the meantime (Crisp, 2003). Therefore, criteria to help guide integration needs should emphasise economic, social and cultural factors. International actors need to consider the level of participation of refugees in the local economy; their ability to access land and local services; the degree of friction between refugees and host populations relative to that within the host population itself; and the levels of discrimination experienced by refugees relative to other groups living within the host community previously (Banki, 2004; Kuhlman, 1991).

When asked about relations between different communities, respondents across the study population highlighted the friction between the Kakwa and other local tribes from the surrounding area, and the Dinka. As highlighted in previous chapters, Dinka IDPs have become associated with the SPLA, most of whose soldiers are also Dinka. Many local inhabitants harbour grievances against the SPLA, both because of their often brutal approach towards civilians during the war and because of their illegal occupation of land in the town today. (IDPs displaced from surrounding rural areas face far fewer obstacles to integration in Yei town because they are not Dinka.)

The presence of the SPLA is clearly a significant obstacle to the integration of IDPs of Dinka background. Plans to relocate the SPLA barracks from Mahad to a site outside of town suggest that the authorities are seeking to tackle the issue. However, as many soldier families live in Mahad together with IDPs, and are likely to remain there, moving the barracks will not resolve the issue of land occupation and tenure insecurity, a key source of tension. The legal obstacles IDPs and other communities who are not from the area face in accessing land will have to be resolved if local integration is to be possible.

Refugee respondents in Hai Gabat indicated that relations with the host community were positive. The fact that refugees and returnee respondents who fled to DRC during the war share a common language may have helped facilitate social integration. The biggest obstacles to supporting greater integration of refugee households are economic and political in nature. For example, refugees will require support to acquire formal work permits. They also face significant protection threats in the form of harassment from local police authorities, which need to be resolved at the political level through strengthened governance and the rule of law. While refugees may not have the same legal rights as citizens of the host country, the host government has a responsibility to work with UNHCR to ensure the protection of refugees on its soil.

Ultimately, if support for the local integration of IDPs and refugees in Yei town is to be effective, responses need to reflect the fact that durable solutions through sustainable integration have not been achieved for the majority of urban dwellers, whether they are returnees, IDPs, refugees or migrants. Many lack any form of national identification or legal land titles. Insecurity affects communities across the town, and security and justice systems are ineffective. Large numbers face constraints accessing livelihoods and basic services, and water resources are scarce.

The specific threats and vulnerabilities facing displaced populations in Yei town do not arise from the experience of displacement per se. Rather, widespread poverty amidst scarce resources and weak rule of law has contributed to the marginalisation of Congolese refugees and IDPs of Dinka origin, who also face a range of specific protection threats associated with their ethnicity. At the same time, while displaced populations and refugees require specific support towards local integration and durable solutions, assistance needs to extend to all vulnerable urban dwellers in Yei town, displaced and non-displaced alike. Failure to provide such assistance risks undermining efforts aimed at long-term peace, as marginalised and disenfranchised populations pose a serious threat to stability and to the legitimacy of the new Republic of South Sudan.

Chapter 10
Conclusions and recommendations

Displacement features prominently in the history of Yei town. Over the past decades, conflict in South Sudan and neighbouring countries such as DRC and Uganda has led to cycles of displacement, with movements out of the town, towards Uganda and DRC, and the surrounding rural areas, and influxes of people into the town from other parts of South Sudan and the region. A battlefield for many years, the SPLM/A took control of Yei from Khartoum's forces in 1997. Since then, Yei town has attracted large numbers of people fleeing violence and seeking better economic opportunities. Improved security and the town's border location meant that economic recovery started much earlier than in other parts of Southern Sudan.

The population of Yei town has increased more than fourfold since the signing of the CPA in 2005. Today it consists of returning refugees and IDPs originally from the town, and returning refugees and IDPs from surrounding rural areas. Some initially returned to their home villages, but have since come back because they were unable to secure durable solutions. Others were attracted by the prospect of economic opportunities and access to education. The town also includes IDPs who were displaced to Yei during the war, from the mid-1990s onwards, and who have been unable to return to their home areas. Since 2008, an increase in insecurity in DRC has led to an influx of refugees, some of whom are also residing in the town, while Yei's border location has attracted traders from neighbouring countries.

Many urban dwellers are struggling to survive. Livelihood opportunities are few and unemployment is widespread. Services and infrastructure have been unable to keep pace with the rapid population increase, and violence and insecurity are on the rise. As this study has found, the experience of displacement per se is not necessarily associated with vulnerability. Rather, widespread poverty, scarce resources and weak rule of law have contributed to the economic and political marginalisation of displaced people in Yei town. IDPs of Dinka origin and Congolese refugees also face a range of protection threats associated with their ethnicity. These include harassment by traders and police, and at the community level tensions have emerged between predominantly Dinka IDPs and Kakwa returnees, many of whom came back to find their land occupied by Dinka soldiers. In turn, the county authorities have reportedly publicly stated that Congolese refugees need to return to camps. Consequently, refugee households interviewed for this study were at pains not to reveal that they had come from the refugee camp in nearby Lasu.

The majority of displaced respondents do not openly express a desire to settle in Yei town permanently. Refugees and some IDPs wish to return to their areas of origin if security and access to livelihoods, land and services are guaranteed. Other IDPs would like to resettle elsewhere in South Sudan. Despite their desire to leave, and the acute vulnerabilities and threats they face, refugees and IDPs feel that they have no option but to remain in Yei town for the time being. This situation is not specific to Yei, but applies to many urban areas across South Sudan.

10.1 Recommendations

Based on these findings, this study offers the following recommendations.

- *Analysis:* A comprehensive analysis of the needs of displaced populations by international humanitarian actors, and a broader analysis of urban needs by the GoSS supported by international development actors, is required to understand the complex array of vulnerabilities and needs in this context. The lack of reliable socio-economic baseline data on IDPs and refugees outside camp settings must be addressed. Comprehensive multi-sectoral assessments of protection and vulnerability gaps for IDPs and refugees, alongside a broader analysis of urban needs, would enable the GoSS and international actors to develop realistic strategies and programmes in support of integration and durable solutions for all. Assessments should also consider the specific needs of IDPs and refugees in protracted situations. Similarly, the feasibility of durable solutions should be continuously assessed according to people's wishes, and regardless of their length of displacement.
- *Leadership:* Responsibility for the welfare of its citizens lies first and foremost with the Government of South Sudan. From County to central levels, the government must acknowledge that rapid urbanisation is taking place, and capitalise on the opportunities that urbanisation offers for political, social and economic integration, and for future economic growth and development. Greater allocations to the County authorities from central government budgets will be critical in this regard, as will international support. Donors and international agencies should work jointly with the Government of South Sudan to strengthen its institutional capacity, including in urban planning, the regulation and supervision of service delivery and poverty alleviation programmes.
- *Urban development:* Increased financial investment at all levels of government is essential to upgrade existing services and infrastructure, and to facilitate expansion of services to new and informal areas. Supporting the principle of equitable access to basic services will be

critical. International actors should support the County authorities in developing a coherent strategy for addressing urban poverty, including a strategy to help integrate displaced populations into the urban economy, both in the short and long term. This requires proactive engagement to support the livelihoods needs of all residents, regardless of displacement status, gender and age, and targeted support to displaced populations where they have specific needs. Ugandan and Congolese refugees should be issued formal work permits, allowing them some economic integration during the period they are in displacement. A number of Congolese refugees in Yei town are highly skilled, and could help fill critical gaps in sectors such as healthcare.

- *Land:* A different approach to urban planning is needed: demarcated plots urgently need to be made available for all. Enhancing land administration capacity in Yei town will be crucial in this regard. The Concept Land Use Plan for Yei has recently identified another key step to help facilitate this process: the relocation of the SPLA barracks away from civilian areas. Customary land rights should also be addressed. IDPs and refugees have limited access to land through customary tenure because they are not original inhabitants. The land authorities should support, as a temporary measure, securing non-demarcated plots by liaising with chiefs and communities and ensuring they receive temporary tenure. As a longer-term solution, they should zone new areas and register plots open to all applicants regardless of their place of origin. Comprehensively addressing these land issues may also require the GoSS and local authorities, supported by international actors, to initiate a process for a new urban development plan for Yei. This should include a strategy for facilitating return or resettlement for willing groups, and avoid placing undue pressure on 'unwilling' ones groups.

- *Protection and the rule of law:* The relocation of the SPLA barracks by the GoSS will be a critical step in addressing the protection threats facing urban dwellers, including returnees and Dinka IDPs. The move should also help reduce the availability of weapons in the town. However, investment in the police force is also essential and UNMISS has a crucial role to play in this regard. Police presence in the town needs to expand significantly; salaries need to be provided as well as training. The weak enforcement of statutory court rulings also remains a serious concern, and civil law enforcement mechanisms need to be strengthened. Respect for decisions of traditional authorities regarding dispute resolution, including on land matters, is weakening, and customary authorities have no powers to implement or monitor their rulings unless individuals feel socially bound to them. Security could also be increased by forming committees composed of trusted local representatives to monitor and ensure equal access to essential services, especially water, as these are points of conflict.

- *Reconciliation:* A strategy to help integrate displaced populations into political and social structures is also needed.

Local integration hinges on meaningful dialogue with the various communities involved. Yei County authorities have made very little effort to initiate this. In the run-up to nationwide elections in April 2010 the County Commissioner's office facilitated a series of 'harmonising meetings', attended by members of the local community and representatives of civil society and religious groups. However, they have not been held subsequently. The authorities should revive this initiative as such meetings could provide fora for frank discussions and the resolution of contentious issues. Schools also have great potential to bridge community differences if access to education is facilitated for all. The efforts of the Yei County Youth Association to bring together youths of all backgrounds is a positive initiative, which should be supported and expanded.

- *International response strategies:* Neither refugees nor internally displaced populations have yet been offered genuine opportunities to choose between the durable solutions available to them. While return or resettlement may not be a feasible option in the near future for all, supporting local integration – even as an interim solution – should be a key priority for humanitarian actors. It would help displaced populations to rebuild their lives, build their resilience and give them a period of stability during which other options may eventually emerge.

Supporting the development of policy frameworks related to displacement which are adapted to the specific context of Sudan will also be necessary. The GoSS does not plan to develop a national IDP policy specific to South Sudan in the near future, and it is not clear whether it will continue to apply the Sudan National IDP policy. IDPs will continue to be protected under international human rights treaties, but in the current context of return and renewed displacement it will be critical to prevent the emergence of a potential policy gap. In supporting the creation of an asylum policy for South Sudan, UNHCR also needs to address the current obstacles to accessing the documentation required to enable freedom of movement.

Most importantly, supporting durable solutions for displaced populations is more than a short-term relief effort, and this needs to be reflected in both humanitarian and development assistance strategies. The co-existence of both acute and chronic vulnerabilities in Yei town, and critical gaps in government capacity, service delivery and infrastructure, requires international actors to respond at a much larger scale than previously. In meeting the needs both of displaced populations and the urban poor, multi-year commitments from humanitarian donors will be essential, along with greater flexibility from development donors to allow resources to be channelled through the GoSS and international agencies.

Improving the immediate relief response itself will rely on humanitarian actors preparing adequately for managing short-term humanitarian needs. This could entail establishing a planning and supervisory group comprising local, national

and international representatives. Needs should be assessed both on a community-wide scale (for shelter, security, water, sanitation, food, health) and to identify and tailor responses for particularly vulnerable groups. Humanitarian actors should develop a response plan that clearly defines the responsibilities of the various actors for implementation and financing.

There is greater awareness of the link between displacement and urbanisation amongst humanitarian actors in South Sudan. While this is a welcome development, supporting local integration in urban contexts, even if temporary, can only be successful if efforts are made by development actors to achieve durable solutions for the urban poor more broadly.

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