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IRRI submission to the APPG on Sudan and South Sudan: UK and International Engagement with South Sudan 2011-2014

Summary

The International Refugee Rights Initiative (IRRI) is responding to the call for information about the transitional period in South Sudan and the ways in which aid might have been targeted more effectively.

1. While mindful of the humanitarian crisis in South Sudan that deserves the attention of the international community with a staggering seven million estimated to be at risk of hunger and disease,¹ this intervention urges the UK government to ensure that it simultaneously maintains its focus on the crucial demands of state-building in the world's newest state. If there is only an emergency response to the current situation without sufficient attention being paid to longer-term reconstruction, cycles of violence and displacement will remain unbroken and humanitarian assistance will be palliative.

2. In light of that assertion, our intervention begins with an overview of general principles for engagement in South Sudan going forward. It then highlights three concerns – past and present – relating to our areas of expertise: first, the way in which the repatriation of South Sudanese refugees (post-2005) was organised by international humanitarian agencies emphasising the need for more flexible humanitarian policies; second, the issue of integration into South Sudanese society of Darfuri refugees highlighting the need for marginalised groups to be included in the future polity; and third, the need for more comprehensive solutions to the challenge of building civic trust, acknowledging the need to address the multiple layers of distrust that have built up not only over the past months but also over the past decades.

Introduction to the International Refugee Rights Initiative

3. IRRI is dedicated to promoting human rights in situations of conflict and displacement, enhancing the protection of vulnerable populations before, during and after conflict. IRRI accomplishes this by tackling the exclusion and human rights violations that are the root causes of flight; enhancing the protection of the rights of the displaced; and promoting

¹ UN News Centre, “No one could have predicted scope of South Sudan crisis, outgoing UN envoy says.” 3rd July 2014. (UN <http://www.un.org/apps/news/story.asp?NewsID=48171#.U7V7CfldVKJ>)

policy solutions that enable those affected by conflict to rebuild sustainable lives and communities.

4. Partnership with networks of civil society and non-governmental organisations (NGOs) across Africa is a hallmark of our work, including through IRRI's stewardship and development of the [Sudan Consortium](#).² Our dual bases in Kampala and New York position us to act as a bridge between local advocates and the international community, enabling local knowledge to infuse international developments and helping integrate the implications of regional and international policy at work on the ground. To reinforce this strategy, we are developing a presence in the UK.

5. To date, IRRI has focused its work in the Great Lakes region, which includes South Sudan. In 2010, IRRI published a [report](#) that focused on South Sudanese refugees in Uganda and those who had recently returned to South Sudan.³ We assessed how the population was viewing opportunities for, and managing the practicalities of, return. In 2012, we published a [report](#) on the situation of Darfuris in South Sudan, focusing on their prospects for integration and arguing that the treatment of this population would be a signal of the capacity for integration in the new polity of South Sudan.⁴ In 2014, in the aftermath of renewed violence in South Sudan, we undertook an emergency [mission](#) to refugee hosting areas in Uganda to interview South Sudanese displaced (or re-displaced) as a result of the conflict.⁵ It is these studies, in addition to our engagement with South Sudanese colleagues, which form the basis of this submission.

Impressive engagement, but improvement is needed

6. We believe that the current crisis in South Sudan is primarily a reflection of the enormity of creating a new state in the aftermath of decades of civil war. Ultimately, responsibility for the current predicament lies with the new government and their inadequate response to this task of state-building. Prior to, and since, independence, the international community has engaged in South Sudan in a significant way, unparalleled in recent conflicts, with billions of dollars a year being given to South Sudan and significant international presence providing technical and logistical support.

7. Yet despite this investment, conflict has broken out in South Sudan and many of those who had recently returned are now being forced into displacement once again. This outbreak of conflict demonstrates the extent to which root causes of conflict have not been addressed.

² www.sudanconsortium.org

³ www.unhcr.org/4cf5018b1.html

⁴ <http://www.refugee-rights.org/Assets/PDFs/2012/DarfuriansinSouthSudanFINAL1.pdf>

⁵ <http://www.refugee-rights.org/Publications/Papers/2014/14%2004%2001%20South%20Sudanese%20refugees%20FINAL.pdf>

General guidelines for engaging with South Sudan

8. South Sudan may be the world's newest state, but it has a long history. Therefore, it is important that the international community does not underestimate the impact of the country's long history of violence and oppression that led to the creation of this new state. This section highlights four key areas that need to be at the forefront of any future intervention. While mindful of the need for an emergency response, we assert that engagement with these root causes is crucial in order to ensure that cycles of violence are finally broken.

8.1 South Sudan needs to create national cohesion and a functional political system. Just as South Sudan's problems cannot be seen only as a product of the recent violence, so too the solutions cannot be seen in the short term. In order to do this, there needs to be accountability; there needs to be a recognition of the role that political and military leaders have played, not only in the most recent violence but also for the violence in Jonglei State that has been ongoing since independence and for human rights violations committed in the context of the war of independence; and there needs to be resolution of long standing tensions at the national and local level and the building of civic trust. This final point is expanded upon in the final section of the submission.

8.2 Future interventions in South Sudan need to be mindful of the inter-relationship between South Sudan and Sudan. The violence in South Sudan has had an impact on the ongoing conflict in Sudan's Southern Kordofan and Blue Nile States, further isolating these already isolated areas. In addition, there have been significant accusations that Sudan is supporting forces loyal to former deputy president Machar, South Sudan's rebel side, in the war. In this context, the conflict in South Sudan cannot be fully resolved without addressing the situation in Sudan as well.

8.3 The presence of Ugandan military in South Sudan needs to be carefully monitored and addressed. There is a long history of proxy wars in the region: Khartoum supported the Lord's Resistance Army (LRA) against the government of Uganda and the government of Uganda, in turn, supported the rebel Sudan People's Liberation Army (SPLA). Uganda's engagement needs to be tracked very carefully and the Ugandan government must be urged to play a constructive role – and to withdraw their military presence at the appropriate moment.

8.4 It is vital that the people of South Sudan are heard in discussions about the way forward. However, the way in which these voices are invited and organised needs to be handled with caution, as the manner in which civil society representatives have been selected has already been the subject of significant controversy, with opposition asserting that the groups selected were inappropriate because all were from Juba.⁶

⁶ Voice of America, "South Sudan Peace Talks Adjourned," 23 June 2014. (<http://allafrica.com/view/group/main/main/id/00031013.html>)

9. One key area in which these principles need to be applied is in the context of the return of significant numbers of displaced persons to South Sudan. The next two sections deal with applying these principles to the return and reintegration process.

Return must be viewed as a political, and not just humanitarian, process.

10. Research carried out by IIRI in 2010 revealed that the international humanitarian and refugee communities often saw return in fundamentally different ways.⁷ The international humanitarian community saw return as a one-off process in which refugees moved in a single direction across the border to become re-established in South Sudan. This was evidenced by the way in which assistance was targeted during the repatriation process. For refugees, however, return was seen as a more fluid process. They wanted to keep a presence in both places for a period of time with a view to protecting themselves against future upheaval and building a stronger and more sustainable return in the long term.

11. Education is an obvious example: those who remained in schools in Uganda have not had their education interrupted by the current conflict. However, this is just one aspect that was a concern for returnees. A former SPLA soldier interviewed in Kajo-Keji in South Sudan described the staggered process he was employing to return. In 2007, he had gone to take a look at his land and started building a house. In 2008, he had started to farm his land, and in 2009 he brought some of his family back. When we interviewed him in 2010, he noted that he had avoided official repatriation because he wanted to keep his refugee registration: “I am here temporarily; I am still monitoring the situation. In case of any war, I will have the opportunity to return to the settlement as a refugee. Some of my family are still there and they will only come back after the referendum if it goes well.”⁸

12. Instead of seeing this process as problematic, the international humanitarian community could have found ways of reinforcing these locally driven efforts rather than directing assistance in such a way as to work against them. The report showed that those who participated in the official programmes were generally described as worse off than those who had foregone assistance and returned on their own. One woman in Kajo-Keji said, “those who are repatriated [by UNHCR] and who have been living in the settlements are the ones who get a lot of problems because they only come with the food provided for them. Those who are self-repatriated tend to have enough resources so they can sustain themselves for some time... Since we came we are now settled and have things like cassava. But other people are still facing hunger. It all depends on how you planned for your return.”⁹

⁷ <http://www.unhcr.org/4cf5018b1.html> .

⁸ Interview with Sudanese man, Kajo Keji, 16 August 2010, at p. 14. <http://www.unhcr.org/4cf5018b1.html>.

⁹ Interview with Sudanese woman, Kajo Keji, 22 August 2010 at p. 15. <http://www.unhcr.org/4cf5018b1.html> .

13. The subsequent violence in South Sudan has shown that the refugees had good reason for their caution. Indeed, one returnee in South Sudan foreshadowed the current conflict at the time: “The referendum won’t change anything. People still have a lot of doubts in the candidates.... For example, they are already fighting within the SPLM party and the Dinka will dominate over other tribes. People are now living in fear. Others are saying it’s better to go back to Uganda.”¹⁰

14. In this context, the UK must lead international humanitarian partners in finding ways to promote repatriation programmes that allow refugees to transition over a longer period of time and to take the measures that the refugees see necessary to protect themselves and their families against uncertain circumstances. Reintegration is and should be a long and slow process, and humanitarian assistance needs to reflect this reality. IIRI can provide additional information and evidence around this issue if required.

15. Another lesson that can be gleaned from the 2010 repatriation process to South Sudan is the need to view return as *a political process focused around the restoration of meaningful citizenship* between the returnee and the state that had previously failed to protect him or her. The quote above shows that refugees hedge their bets not only out of general principle, but because they feel disenfranchised, excluded from the current political dispensation. Truly sustainable repatriation is based on a sense of being able to re-access rights. As one returnee put it: “Home can be one’s country; it can be where one is born; it is where you have relatives and friends. However, all in all, it is a place where one has land, where one is entitled to do anything without any restrictions. A place where you have rights and freedom to do what you want.”¹¹

16. When the current hostilities have ceased, refugees will again seek to return to South Sudan. Looking forward to that moment, the international community should learn from the mistakes made in the previous repatriation process. In particular, **the international community should explore more flexible means of supporting returnees, mechanisms that do not force refugees into a narrow pattern of return that limits their resources. New models of assessing the appropriateness of return, based on access to equal citizenship and human rights should be developed to serve as tools for deciding on when repatriation will be appropriate.**

Integration of refugees and other migrants is a key indicator of a vibrant polity.

17. Although South Sudan’s treatment of refugees and migrants might not have seemed a priority in the transitional period, IIRI’s research indicates that the treatment of these groups is a critical indicator of the stability of the state.

¹⁰ Interview with Sudanese man, Kajo-Keji, 17 August 2010 at p. 15.

<http://www.unhcr.org/4cf5018b1.html>.

¹¹ Interview with Sudanese man, Kajo Keji, 18 August 2010 at p. 17. <http://www.unhcr.org/4cf5018b1.html>

18. As indicated by IRRI in 2012 following research with Darfuris in South Sudan, inclusion of apparently peripheral or marginalised groups lies at the heart of building a new state in the South.¹² By creating an environment that enables people to secure their safety, South Sudan is more likely to encourage an era of peace and reduce the likelihood of a return to conflict both within the country and on its borders. The treatment of the relatively small number of Darfuris in South Sudan, therefore, represents something significant: by emphasising a state built on inclusion rather than exclusion, the fledgling South will enhance its ability to develop into a robust and sustainable political, economic and social community in which diversity is recognised as an asset rather than a threat, and core principles such as protection and the granting of asylum are upheld.

19. Indeed, the hope of Darfuris was reflective of the broader hope placed in the government of South Sudan at the time: “we believe that the new South Sudan government ... will help us and might give us, as Darfuri people, a chance to stay there until we solve all our problems in Darfur.”¹³

20. The international community engaged positively on this issue, supporting the government of South Sudan to pass national refugee legislation in June 2012. However, while positive, this legislation has not yet provided the protection it promised. Indeed, it has been reported that Darfuris have been particularly targeted in the recent violence for their perceived affiliation with the warring parties.¹⁴

21. Therefore, it is vital that the South Sudan government be supported not only in *passing* legislation, but also in *implementing* it. It is also important that the integration of minority and marginalised groups be seen as a central, rather than peripheral, component to state-building.

Building up civic trust must remain a priority.

22. Many of the issues outlined above are encapsulated in the need to build civic trust, which is a key component to the transitional process that needs to take place in South Sudan.

23. Since the end of colonialism, the majority of people who were legally defined as Sudanese had little, if any, ability to influence political processes in their country. This political exclusion lay at the root of decades of conflict across many parts of Sudan, including the war between the Khartoum government and the SPLA. All of the conflicts have reflected, at some level, the reality of people living on the peripheries, experiencing a form of second class citizenship, unable to participate meaningfully in the political governance of their country.

¹² <http://www.refugee-rights.org/Assets/PDFs/2012/DarfuriansinSouthSudanFINAL1.pdf>

¹³ Group interview with three rebel leaders, Kampala, 24 June 2011 at p. 19 of <http://www.refugee-rights.org/Assets/PDFs/2012/DarfuriansinSouthSudanFINAL1.pdf> .

¹⁴ See Sudan Tribune, “Darfuri traders in Wau stage peaceful protest after Bentiu killings.” 23 April 2014. (<http://www.sudantribune.com/spip.php?article50751>)

24. The creation of the new state of South Sudan offered both threats and opportunities for the peoples of South Sudan. At the time of independence, there was considerable optimism that independence had heralded a new era of equal citizenship for those in the South that would override the tensions and divisions of the old Sudan and reflect a microcosm of the vision for Sudan that was embedded in the Comprehensive Peace Agreement (CPA). On the other hand, there was strong realism that the new configuration could simply reinforce the history of exclusion and partisanship that lay at the root of Sudan's fragmentation. Sadly, the latter has largely proved to be true.

25. Furthermore, a new layer of distrust has been created through the violence of the past six months. The extent to which key political actors in South Sudan have been discredited as a result of their involvement in the current conflict has made the deficit in civic trust even lower than it was prior to independence. The rebuilding of this trust will be a slow process that must include accountability for the failures in leadership that have contributed to the crisis, and the building of new governance structures in which individuals, regardless of their ethnic or social status, can participate on an equal standing.

26. Building not only the structures of state, but also an inclusive nation, is going to be a huge challenge in a country that is characterised more by its diversity than its homogeneity. Yet it is a task that cannot be overlooked: by creating an enabling environment for people to best secure their safety in their current circumstances, the new state is more likely to generate peace and reduce the likelihood of a return to conflict both within the country and on its borders.

27. One way in which this can happen is to ensure that appropriate transitional justice measures are put in place. However, we also sound a note of caution in this regard. First, it is vital that any measures are driven from the grassroots and not by the agendas of the international human rights communities; second, transitional justice mechanisms must not be used as an excuse to generate "victor's justice" or to enable those in power to entrench their positions further by targeting political opponents; and third, such measures must reflect the reality, as evidenced in our 2014 [report](#), that schisms within South Sudan have taken place at both a local *and* national level and therefore mechanisms need to be implemented at both levels.¹⁵

¹⁵ <http://www.refugee-rights.org/Publications/Papers/2014/14%2004%2001%20South%20Sudanese%20refugees%20FINAL.pdf>