

# Policy Brief

## IMPUNITY IN HUMANITARIAN OPERATION IN SOUTH SUDAN

by SSuDEMOP and ADAFIN

### Executive Summary

Impunity remains a major impediment and a daunting challenge for humanitarian governance and operation in South Sudan. This culture unfortunately is observed to involve both state and non-state humanitarian actors. The humanitarian sector in the country has clearly evolved from a basic operation that is only designed to deliver food to the needy population, as was the case during the liberation struggle to a complex marketplace that serves as source of income, employment and political power after the Signing of the Comprehensive Peace Agreement in 2005.

The humanitarian sector in South Sudan has witnessed ever rising demand for humanitarian interventions as a result of the ongoing conflict in the country. This rising demand has often excreted more pressure on the capacity of the humanitarian operation in the county. However, this pressure comes with numerous challenge that has continued to manifest it self in different ways and among different actors (international, national, state or non-sate humanitarian organizations/actors).

This Policy Brief seeks to highlight the policy issues under three (3) main subheadings of Humanitarian Governance, Manipulation of Humanitarian Assistance and Security of Aid Workers and Assets. Each of the sections has specific recommendations designed to help create avenues for instituting possible mitigation measure within the sector and improve overall environment for humanitarian operation in the country.

### Introduction

As violent conflict continues to ravage different parts of the South Sudan, the humanitarian demand and crisis continues to escalate. The dire humanitarian situation in the South Sudan has rendered the population vulnerable to more catastrophes. The current conflict has forced more South Sudanese to flee their homes on multiple occasions. According to UNOCHA press release of 18th August 2017, nearly 4 million people-about one in three people - have been uprooted including 1.9 million who are internally displaced and 1.97 million who are refugees in neighboring countries. Civilians continue to be killed and subjected to horrendous violations, including sexual violence

This dire humanitarian crisis has consequently increased the overall humanitarian demands of the country, yet access remains severely impeded due to conflict and culture of impunity that obstructs ethical humanitarian operation and possibility of holding accountable those who obstruct humanitarian access and delivery to the needy population. Relief agencies, including the UN, have little choice to accept the restrictions imposed by South Sudan as they cannot walk away and let millions of people starve. According to UNOCHA Humanitarian Bulletin of 23rd May 2018, The number of aid workers killed in South Sudan since conflict broke out in December 2013 reached 1013.

This policy brief seeks to present policy options and

recommendations for addressing impunity that has entrenched itself at the heart of humanitarian operation in South Sudan; this has often frustrated efforts by state and non-state humanitarian actors who may intend to uphold ethical humanitarian practice in addressing what is already one of the world's largest humanitarian crises. The leadership of South Sudan risks being labelled as one that has failed to enhance the environment for humanitarian operation and access if the current level of obstruction/impediment to livelihood and humanitarian access/operation continues unaddressed. The protracted insecurity has hampered food production and disrupted markets, leading to hyperinflation - and sparking a food crisis. Almost half the population lacks reliable access to enough food, says the Famine Early Warning Systems Network.

Ultimately, there is need for pragmatic interventions to enhance the environment for humanitarian access and operation in the country. While parts of the country have stabilized, the overall security situation in South Sudan remains volatile. This unfortunately has been the trend before the outbreak of conflict in 2013 until recent occurrences such as the violent conflict that erupted in Maban on Monday 23rd July 2018.

<https://odihpn.org/magazine/south-sudan%C2%92s-greatest-humanitarian-challenge-development/>

## Policy Issues

### *Humanitarian Governance*

Through an assessment conducted by a team of legal experts deployed by the project partners (SSuDEMOP and ADAFIN) and the NGO Forum, the assessment report revealed several policy issues and concerns around the legal environment and legislative landscape governing humanitarian operation and access in the country. This has remained an area that requires participation of both state and non-state humanitarian actors so as to enhance the operating environment and complementarity of all efforts and actors involved in humanitarian operations in the South Sudan. This calls for specific policy options and recommendations directed towards enhancing humanitarian governance.

Some of the issues may be attributed to weakened relationship between state and non-state actors or general political developments in the country which is directly affecting welfare of humanitarian workers and introducing complexities to the context on the ground. Major political processes such as signing of a peace agreement may present an opportunity for enhancing humanitarian governance in the country. Such processes would possibly recommend review or developments of specific legislations, as was the case in - Chapter three (3) of the Agreement on the Resolution of Conflict in the Republic of South Sudan (ARCISS)<sup>6</sup>

The justification for humanitarian intervention rests first and foremost with the argument that there is a moral duty to protect civilians from human rights abuses. That moral duty is derived from natural law, be it determined through religion or political philosophy. The right to life is an important concept of natural law, and it provides the foundation of the justification for humanitarian intervention, because the right to life is a universally accepted norm.<sup>7</sup> Therefore, the practice of diverting humanitarian supplies for purposes other than saving life is an act of manipulation. In South Sudan, this has been a trend that predates back to the period before independence and has continued without proper accountability mechanisms. Quest for ethical humanitarian governance in the country was overlooked and only revived later after the culture of manipulation with impunity has been entrenched in the sector.

Incidences of losing humanitarian supplies and assets to unintended groups who may or may not necessarily be the rightful beneficiaries are not new to South Sudan. These practices are often perpetuated by people in authority; redirecting the humanitarian supply to suit their interest or through forceful confiscation by armed personnel affiliated to either state or rebel groups, individuals in the humanitarian sector and community representatives too practice this vice and in most cases they get away without any accountability. Humanitarian organizations and passenger vehicles are frequent targets of ambushes along key roads, with valuables, including money, computers and mobile phones, taken from passengers.<sup>8</sup>

<sup>2</sup> [https://reliefweb.int/sites/reliefweb.int/files/resources/SS\\_170819\\_WHD%20Press%20Release.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/SS_170819_WHD%20Press%20Release.pdf)

<sup>3</sup> <https://news.un.org/en/story/2017/03/553292-south-sudan-un-expert-urges-action-end-rights-abuses-country-where-impunity>

<sup>4</sup> [https://reliefweb.int/sites/reliefweb.int/files/resources/20180523\\_OCHA\\_SouthSudan\\_Humanitarian\\_Bulletin%235.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/20180523_OCHA_SouthSudan_Humanitarian_Bulletin%235.pdf)

<sup>5</sup> <https://reliefweb.int/report/south-sudan/aid-workers-urge-security-safe-corridors-south-sudan-signs-peace-deal>

<sup>6</sup> <https://odihpn.org/magazine/humanitarian-access-in-south-sudan/>

## *Security of Humanitarian Workers and Assets*

This has continued to be a subject of concern for a long time. South Sudan can be rated as one of the most dangerous and insecure place for both aid workers and the civil population. Attacks on humanitarian convoys and personnel have been frequent in South Sudan’s conflict and both warring sides have been blamed.<sup>9</sup> With more than 100 aid workers killed since the start of the conflict in 2013 and an increase in abductions of humanitarian workers, the EU has called on all parties to the conflict to grant free, safe and sustained access to all areas and eliminate bureaucratic impediments that delay aid and divert scarce resources.<sup>10</sup> Several reports indicated incidences of attack on humanitarian workers in March 2017, the following are some of the incidences; A humanitarian convoy was attacked in Yirol East on 14 March, while responding to a cholera outbreak in the area. Tragically, one health worker and one patient were killed and at least one other health worker was injured. Separately, during fighting in Mayendit town on 10 March, local staff of an international NGO were detained by non-state armed actors and released four days later.<sup>11</sup>

Surrender of aid to unintended beneficiaries as a way of fostering good relations with the powerful individuals amounts to a security strategy on the part of aid agencies. There has been incidences where politicians seeking to influence the distribution of humanitarian resources including who should be employed so as to benefit their own communities and gain political mileage or legitimacy.

Such incidences have often been experienced in the country, which makes agencies that are perceived not to be willing to comply as saboteurs hence creating insecurity for their workers. This phenomenon compels some humanitarian organizations to embrace coping mechanism such as acceptance strategies, which in it self is a double-edged sword. While it enabled access, if condoned it entrenches impunity or lead to an early exit in some extreme cases where the agencies fail to confront and challenge such situations for fear of reprisal.

### **Policy Recommendations**

Impunity as a challenge to humanitarian operations in South Sudan requires a multifaceted and multi-stakeholder approaches:

#### *Humanitarian Governance*

1. Urgent need for strategic engagement of state and non-state humanitarian actors for information sharing, consensus building and joint strategy development for mitigating gap in governance of the humanitarian sector.
2. Based on existing research, stakeholders in humanitarian operation need to build consensus and prioritize legislations of immediate concern to the sector for dissemination, review and/or development.

#### *Manipulation of Humanitarian Assistance*

1. Both state and non-state humanitarian actors should intensify awareness creation among stakeholder on the principles of humanitarian services and best practice.
2. There is need to develop a national standard/protocols to guide and restore ethical practice in delivery of humanitarian services to the needy population in the country and encourage actors to upholding international best practice.

#### *Security of Humanitarian Workers and Asset*

1. The warring parties in the South Sudan conflict should provide safe passage for humanitarian service in accordance with the Agreement on Cessation of Hostilities, Protection of Civilians and Humanitarian Access - December 2017.
2. Humanitarian agencies and workers should be bold enough to report cases of harassment to joint humanitarian coordination mechanisms, as this will contribute to ethical delivery of humanitarian services.

<sup>7</sup> Agreement on Resolution of the Conflict in the Republic of South Sudan

<sup>8</sup> <http://www.e-ir.info/2012/01/30/humanitarian-intervention-an-exploration-of-its-justification-and-best-practices/>

<sup>9</sup> [https://reliefweb.int/sites/reliefweb.int/files/resources/SS\\_171010\\_OCHA\\_SouthSudan\\_Humanitarian\\_Bulletin15.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/SS_171010_OCHA_SouthSudan_Humanitarian_Bulletin15.pdf)

## Conclusions

Impunity in the humanitarian sector remains a reality to all the actors and stakeholders to take note of and strive to overcome. The environment for humanitarian operation in the country continues to be challenged and influenced by the continuous violent conflict and political turmoil. Despite all these huddles, there seems to be a level of willingness among some state and non-state actors to improve on humanitarian governance, ethical delivery of aid and provide security for humanitarian workers and assets.

However, it is incumbent upon the immediate actors through agencies that are directly involved in delivery or governance of humanitarian services to address the challenges and take forward the recommendations of this policy brief in a bid to enhance the operating environment for humanitarian service delivery in South Sudan. Therefore, “The justification for humanitarian

## About the Project Partners



South Sudan Democratic Engagement, Monitoring and Observation Programme SSuDEMOP is a consortium of civil society organizations drawing its membership from Faith Based Organizations (FBOs), Non Governmental Organizations (NGOs), Community Based Organizations (CBOs) Youth groups, individual activists and Churches. SSuDEMOP can broadly be categorized as an advocacy and lobby organization for civil rights. The organization has coordination committees in all the ten states of South Sudan and selected locations in the country. From membership of the coordination committees, a volunteer organization and staff is identified as SSuDEMOP state coordinator for that particular state. SSuDEMOP’s activities are usually designed to fall under each or either of the following thematic focus areas of the organization; Governance and Democracy, Conflict Mitigation and Gender mainstreaming



Advance Africa Initiative (ADAFIN) is a women led national humanitarian and development organization dedicated to fighting ill health, poverty, injustice and reducing human suffering. ADAFIN focuses on peace building initiatives, Gender Based Violence, Governance among other thematic areas. Our mission is to serve individuals and families amongst the most vulnerable communities in the Republic of South Sudan. Drawing strength from our diversity, resources and technical expertise, we promote innovative solutions and are advocates for national responsibility. We facilitate lasting change by: Strengthening capacity for self-help, providing economic opportunity, Delivering relief in emergencies, Influencing policy decisions at all levels and Addressing discrimination in all its forms.

For any follow up, please contact

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