

---

## Work Rules: How International NGOs Build Law in War-Torn Societies

---

Mark Fathi Massoud

Drawing on socio-legal literature and fieldwork in South Sudan, this article argues that international aid groups operating in conflict settings create and impose a rules-based order on the local people they hire and on the domestic organizations they fund. Civil society actors in these places experience law's *soft* power through their daily, tangible, and mundane contact with aid agencies. As employees they are subject to contracts and other rules of employment, work under management and finance teams, document routine activity, and abide by organizational constitutions. In analyzing how South Sudanese activists confront, understand, conform to, or resist these externally imposed legal techniques and workplace practices, this article decenters state institutions as sites for understanding law's power and exposes how aid organizations themselves become arenas of significant legal and political struggle in war-torn societies.

*The purest type of exercise of legal authority is that which employs a bureaucratic administrative staff.*

-Max Weber, *Economy and Society* (1978, 220)

*I'm put in a cage [in civil society]. It's hard for me to believe that working with the United Nations or an international NGO will give me freedom.*

-Interview with Dominic, youth activist and NGO program manager, in Juba, South Sudan (June 2010)<sup>1</sup>

---

For helpful feedback, the author thanks Ziad Al-Khatib, Kirsten Anker, Mark Antaki, Adelle Blackett, Aziz Choudry, Lynette Chua, Evan Fox-Decent, Amanda Fulmer, Allan Hutchinson, Robert Leckey, Zeynep Kasli, Karen Knop, Michael McCann, Adam Millard-Ball, Steve Smith, Shaubin Talesh, the editors, and the anonymous reviewers. Special thanks to Leila Kawar, whose collaboration with the author refined ideas in this article. The author is also grateful to audiences at McGill University Faculty of Law, University of Toronto Faculty of Law, Duke University Kenan Institute for Ethics, University of Washington Comparative Law and Society Studies Center, and at Western Political Science Association and Law and Society Association conferences, where earlier versions of this article were presented. Research was funded by grants from the University of California, Santa Cruz. This article would not have been possible without the kindness of many respondents in South Sudan and Sudan.

Please direct all correspondence to Mark Fathi Massoud, Department of Politics and Legal Studies Program, University of California, Santa Cruz, CA 95064; e-mail: mmasoud@ucsc.edu.

<sup>1</sup> All names herein have been changed to preserve confidentiality. This article uses "Sudanese" and "South Sudanese" interchangeably as did those interviewed in South Sudan.

*Law & Society Review*, Volume 49, Number 2 (2015)

© 2015 Law and Society Association. All rights reserved.

While conducting research in South Sudan in the years leading up to its 2011 secession from Sudan, I met with a justice of the Supreme Court. South Sudan had just emerged from one of Africa's longest and deadliest civil wars and, aside from a single petition on his desk, there were no legal proceedings before the court. His computer was off (there may not have been electricity). His office was sparse. Down the road from the court, the legislative assembly was at the time still drafting and debating legislation to govern the country after the war's end. In a territory the size of France, the South Sudanese Bar—a dozen or so lawyers at the time—could easily be squeezed into a small sitting room.

What forms does law take in new or weak states like South Sudan? When a national government is emerging, legal doctrine and regulations are under development, and lawyers and federal judges are in short supply, where is the law? Citizens historically have experienced legal culture through interactions with local courts, chiefs, and military officials applying distinct conceptions of tradition, community, and authority (Deng 2011; Leonardi 2013). A parallel story can also be told of law's power in civil society. Juba, South Sudan's capital city, has teemed with activity from dozens of international aid groups and non-governmental organizations (NGOs) that arrived after the war to build up state institutions and the rule of law. In addition to their laudable substantive goals of promoting human rights and democracy, these groups also brought with them a common set of internal management and human resources procedures rooted in bureaucratic rules and abstract legal logic. Junior South Sudanese staff members are required to assimilate to and abide by these foreign managerial rules, and South Sudanese NGOs are encouraged to replicate them. These legal processes rooted in standardization and formalization are controlled by expatriate elites and reside outside the purview of domestic courts, legal officials, and lawyers. Among civil society groups in war-ravaged South Sudan, an unexpected legal order has flourished. It is a legal order predicated not on democratic authority, judicial power, or human rights but on plain knowledge of routine organizational practices, documentation procedures, strategic plans, and written files. While participating in these juridical practices advances local activists' legal consciousness and knowledge of international law, workplace directives, and spreadsheet menus, it paradoxically disables them from organizing effectively and making their own rights claims when job-related grievances arise against employers.

When state regulations are under development or weakly enforced, Western aid groups have wide latitude to construct the terms of their relationships with local employees and organizations, drawing from regulations and procedures used in home offices

and then exported to field offices abroad. Almost invariably, this dynamic subordinates local personnel to expatriate managers who arrive to South Sudan with preconceived notions of how traditional authority operates and then attempt to replace it with bureaucratic authority in the name of modern professionalism. To the South Sudanese staff, the policies enforced by these managers generate a rules-based and technical order. Its mundane technologies—organizational constitutions, employment contracts, staff handbooks, reporting requirements, and accounting systems—become part of an everyday legalism pervading the lives of civil society activists. By describing this legal order and analyzing its impacts on the legal consciousness of civil society actors, this article illuminates the unlikely spaces that law inhabits in conflict settings and a politics of aid work that privileges technical skill over rights mobilization, that pressures local activists to accept foreign bureaucratic forms, and that ultimately entrenches rather than topples historic inequalities between foreign aid workers and their local staff. In these ways, it is through law's *soft* power—its capacity to reframe political conflict and structure ongoing relationships—and not only its power to compel that law exercises influence in war-torn societies.

In this article, I first situate my research investigating legal techniques and workplace practices in conflict settings in the context of socio-legal literature on judicial politics, humanitarian intervention, and organizational behavior. Second, I describe the field research methods I used in this inquiry. Third, I detail how law operates in aid agencies, its impacts on South Sudanese employees, and sites of resistance to the new hierarchies that organizational rules introduce. Finally, I conclude by discussing the implications of the diffusion of bureaucratic legal orders for socio-legal scholarship and for civil society development in fragile states.

## Locating Law in Humanitarian Organizations

Legal scholars and social scientists have been preoccupied with finding law in the most likely places—in courts in settings where courts are strong, or in human rights and rule-of-law promotion efforts in settings where courts are weak. Socio-legal studies of judicial power have shed light on the relative strength of courts across regions and regime types.<sup>2</sup> But socioeconomic

---

<sup>2</sup> Classic studies of judicial review in the United States (Bickel 1962; Casper 1976; Dahl 1957; Rosenberg 2008) have spurred comparative research on courts in East Asia (Ginsburg 2003), Europe (Cichowski 2007), sub-Saharan Africa (Ellet 2013), and Latin America (Helmke and Rios-Figueroa 2011; see also Woods and Hilbink 2009). Recent work has similarly called attention to the functions of courts in authoritarian states (Cheesman 2011; Ghias 2010; Ginsburg and Moustafa 2008; Massoud 2013; Moustafa 2007; Stern 2013).

constraints matter: individuals and social-change groups with limited time and money are often unlikely to mount or prevail in lengthy and costly legal battles (Bumiller 1987; Felstiner, Abel, and Sarat 1980; Galanter 1974). In war-affected regions where poverty is compounded by the experience of state violence and political repression, lawyers are silenced, and judicial institutions are weak, the challenges are even more acute. Indeed, new high court justices appointed in the aftermath of a civil war typically find themselves spending much of their time in workshops sponsored by foreign aid groups or international legal consultants (Mason 2011). For this reason, development practitioners and scholars have begun to evaluate the impacts of these efforts designed to encourage government officials and community leaders to respect international law and constitutionalism (see Carothers 2006; Hagan, Ferrales, and Jasso 2008; Heckman, Nelson, and Cabatingan 2010; Heller and Jensen 2003; Massoud 2011).

But focusing on courts or other state and local institutions of justice means potentially missing the meaningful ways nonstate actors import legal norms and practices into civil society in the most troubled corners of the world. Filling this gap has been a growing body of research on the diffusion of justice norms (Keith 2012; Meyer et al. 1997; Sikkink 2011; Zwingel 2012) and on the consequences of the *outward activities* of aid groups, particularly organizations seeking to build human rights in the global South (Goodale and Merry 2007; Keck and Sikkink 1998; Kennedy 2002; McClymont and Golub 2000; Merry 2006; Mutua 2008; Falk 2009; Rajagopal 2003).

Comparatively little has been said about the *internal processes and structures* by which aid groups seek to accomplish their goals and the impacts of those mechanisms. In recent years, however, critical scholarship on the politics and consequences of humanitarian intervention has emerged, probing how the structures and practices of international NGOs weaken political organizing in the global South. Cultural anthropologists have documented how the “NGO form” transforms and tempers social organizing, particularly around feminism (Bernal and Grenwal 2014). Once-militant collectives in northeast Brazil, for instance, have exercised agency by “bureaucratizing” into NGOs to capture aid dollars (Thayer 2010). Similarly, the “regime-like” qualities associated with international NGO interventions lead these groups to reinforce hierarchies between donors and dependents, thus limiting activists’ participation and autonomy, distancing donors from the groups they fund, and disassociating civil society activists from the local communities they purport to serve (Autesserre 2010; Englund 2004; Jalali 2013; Schuller 2012). While the subordinating process of professionalization enables international

NGOs to strengthen the managerial and technical capacities of employees, it simultaneously depoliticizes employee behavior (Kamat 2004, 167–68). These processes of bureaucratization demonstrate that legal practices are at work—from registering NGOs to maintaining documents and files. These legal practices saturate civil society, particularly in communities facing legacies of poverty, war, or authoritarian rule (Asad 2004; Poole 2004).

A parallel strand of law-and-society literature has scrutinized organizational behavior, contending that managers paradoxically shape the very laws that are meant to restrict their behavior. They infuse “managerial interests” into policies and procedures otherwise intended to promote objective legal compliance (Edelman et al. 2011, 899). For instance, narrowly defined workplace sexual harassment policies can have negative effects on women by “altering the [legal] definition of sexual harassment . . . and construct[ing] a legality . . . that offers only limited” rights protections to claimants (Marshall 2005, 83). The employer acknowledges the law but defines legality in a way that suits the bottom line. In other words, law is endogenous to organizations (Edelman et al. 2011; Edelman, Uggen, and Erlanger 1999). Similarly, patterned interactions in the transmission of mundane rules of employment and staffing construct a collective experience of legal norms (see Knop 2011; Riles 2001). This research has been replicated in a variety of legal fields, including civil rights, consumer protection, and insurance law (Edelman 1992; Edelman and Suchman 1997; Marshall 2005; Suchman and Edelman 2007; Talesh 2009). While significant in revealing how organizations shape law, these studies have been largely confined to the United States and as yet have not been applied to environments with weak regulatory frameworks. Indeed, Edelman et al. (2011, 934) have called for scholarship examining whether and how law’s endogeneity operates outside the US.

In settings marked by violence, weak state regulation, limited opportunities for employment, and a nascent legal profession, the structure of the legal order is unclear. Combining the literature on law and courts, humanitarianism, and organizations opens a new space for socio-legal research on the internal practices of aid groups and reveals an unresolved research question: *To what extent do organizations construct legal norms in post-conflict settings, and what are the impacts of these legal norms on the civil society actors subjected to them?* South Sudan, a new state emerging from decades of war, offers a valuable site for law and society scholars to interrogate how organizations create legal order and mediate the meaning of the law among civil society in conflict settings.

## Methods

Because law-and-society literature has been remarkably silent on foreign aid organizations' internal policy practices, my work has been purposefully inductive and theory generating. The paucity of empirical data demanded a bottom-up, case-study approach. By privileging in-depth, richly contextualized, and fine-grained analysis, case studies can "reveal the ... complexity" of social phenomena under investigation (Stake 1995, 126). Within-case qualitative research helps to illuminate social processes and develop theory in the social sciences (Massoud 2014:8; see also George and Bennett 2005; Seawright and Gerring 2008).

For this article, I draw material from 41 interviews conducted primarily in Juba, South Sudan. (These interviews are a relevant sample from 205 interviews I conducted in Sudan and South Sudan between 2005 and 2011.) I chose Juba because it is the seat of government, headquarters of the South Sudanese judiciary, and nerve center of aid operations in the country. Interviews were conducted with South Sudanese employees of international aid organizations and United Nations (UN) and donor agencies; South Sudanese personnel working for or launching their own domestic civil society groups (where it was rare to find expatriate workers); and expatriate (typically European or North American) staff of international aid or UN agencies. Interviewees came from seven international NGOs with operations in South Sudan, three UN and donor agencies, and 11 Sudanese ("national") NGOs.

To learn about the development and impacts of legal order in these organizations, I interviewed South Sudanese employees of national NGOs, and South Sudanese ("national") and expatriate ("international") employees of international aid groups. Best efforts were also made to obtain gender balance; women constituted 23 of the 41 interviews.<sup>3</sup> I began by meeting respondents I knew from my previous fieldwork in Khartoum, Sudan's capital city (Massoud 2013). I also observed NGO coordination meetings and followed up with attendees for interviews. To obtain additional interviews, I used a snowball approach, asking interviewees to recommend others with whom I should speak. Using networks of trusted colleagues helped build confidence in the researcher and this inquiry. Particularly important to build trust in an environment in which NGOs are seen as gatekeepers to essential resources, I clarified my position as a university researcher conducting a study for educational purposes and that I was unaffiliated with any NGO or international aid agency.

---

<sup>3</sup> Seventeen of these 23 women were South Sudanese working for international or national NGOs or UN agencies; the remaining six were expatriate staff in international NGOs. Twelve of the 18 men interviewed were South Sudanese.

Interviews were recorded and semistructured. They lasted from 45 minutes to 3 hours, with most about 1.5 hours. To understand the influences on their behavior, I asked interview subjects to give examples of successes and challenges they faced in their work. I asked them about daily professional life and their relationships (if any) to foreign aid agencies. South Sudanese staff spoke of employment-related grievances, how they managed those grievances, and how complaints at work were handled. Because of the sensitivity of these employment matters, and the risk they felt in potentially violating staff regulations, many interviewees declined to share with me the protocols, frameworks, and procedures enforced by their managers and only agreed to speak with me far away from their offices and out of view of expatriate managers—in an unused staff room or off-site under a tree and during lunch or nonworking hours. Interviews with South Sudanese staff were conducted in a combination of Arabic and English. I translated all interviews into English and coded the interview data and field notes using the TAMS Analyzer qualitative analysis software program. Coding categories separated perceptions from behaviors, classified organizational and employee types, and isolated the types of challenges faced by employees and managers to understand the impacts of the juridical order produced in these postwar workplaces.

## **Empirical Setting: A New Nation Emerging from War**

### **Building South Sudan**

Landlocked and bordering other fragile states (Figure 1, below), South Sudan became the world's newest country in 2011 following a near-unanimous plebiscite in favor of partition from Sudan. The plebiscite shadowed a half-century of war (rather, two related civil wars fought 1955–1972 and 1983–2005). Best estimates suggest that 10 million people were killed or forcibly displaced during the decades of violence—nearly equivalent to South Sudan's total current population (World Bank 2015).

As of 2015 South Sudan's national legal infrastructure remains one of the world's youngest and weakest. As one senior UN official explained to me, "Law is starting from scratch [and] is moving slowly."<sup>4</sup> With assistance from the Ministry of Justice, Parliament has debated and passed new legislation, and officials have struggled to integrate diffuse customary laws with new federal and provincial judicial systems. While chiefs' courts are active throughout the country, private enterprise and regulation remain scarce and the legal profession miniscule, particularly in light of

---

<sup>4</sup> Interview with Omera, UN official, in Juba, South Sudan (June 2010).





Source: Author, using ESRI and OpenStreetMap base data.

**Figure 1. Map of South Sudan in 2015 (South Sudan's northern border with Sudan is contested, including in the shaded Kafia Kingi/Raga and Abyei regions).**

ongoing political violence since the 2011 independence. The number of registered lawyers in South Sudan grew from 12 in 2007 to 36 in 2010, and the country's first law school opened in 2012 (see IDLO 2011).

Colonial and authoritarian rule and decades of civil war mark South Sudan's preindependence political history (Leonardi 2013). The near-constant fighting stemmed largely from opposition to governments in Khartoum that failed to represent southern Sudanese interests (Deng 1995; Johnson 2003). During the civil war, South Sudanese contact with international aid groups was limited. The military regime in Khartoum controlled access both to the sprawling desert camps for displaced persons outside of Khartoum and to war-ravaged areas in what is now South Sudan. Some foreign charities provided emergency humanitarian relief under the auspices of Operation Lifeline Sudan. By the time war ended in 2005, much of the South was decimated, interethnic rivalries were fierce, and infrastructure was all but collapsed.

### **The Arrival and Goals of Aid Groups**

Operating from neighboring countries during Sudan's civil war, Western-based aid agencies converged on Juba after the



war's end to engage with once-unreachable communities. As they moved into South Sudan, the organizations also shifted focus from emergency relief (e.g., food, shelter, and medicine) to educational initiatives in peacebuilding and human rights.

Field offices in Juba brought opportunities for South Sudanese people to work for aid groups or to form groups of their own to implement aid projects designed by foreign agencies. The new government gave these foreign aid groups wide latitude to hire employees and to enforce internal management policies. Dozens of aid groups have opened offices in Juba, including UN agencies and the UN Mission in South Sudan (UNMISS), one of the world's largest peacekeeping operations.<sup>5</sup> These organizations employ thousands of largely South Sudanese staff and direct material resources toward South Sudanese ("national") NGOs that have emerged.

Aid efforts have focused on achieving two related goals: strengthening the government's capacity to impose political and legal order and supporting civil society's capacity to promote social order. Direct assistance to the government includes construction of courts, prisons, and libraries; provision of supplies and vehicles for government agencies and officials; development of accounting and payroll programs; support for drafting legislation; and provision of training and advice to all levels of staff. Since the civil war ended in 2005, aid groups have also supported efforts by civil society organizations to raise legal and political consciousness among the poor, including by educating survivors of war about their right to cast a ballot in South Sudan's elections and secession plebiscite. Echoing many activists I met, one Sudanese civil society leader said his substantive goal was simply to "train [the poor] to know their rights."<sup>6</sup>

South Sudanese activists I met shared a set of common aspirations: find and keep a stable job, hone skills, develop professionally, and undertake humanitarian-oriented work to benefit South Sudan's future. When international aid groups with substantial material resources first arrived, war survivors flocked to these organizations, looking for employment as janitors, drivers, program assistants, and managers. Among the varied ways that norms diffuse across political contexts, legal norms are transmitted largely through these personnel in aid groups, which the following section details.

---

<sup>5</sup> According to an umbrella group that coordinates the activities of international NGOs in South Sudan, when the civil war ended in 2005, its coalition included 47 international NGOs. By 2010, that number had jumped to 167.

<sup>6</sup> Interview with Yonah, Sudanese NGO director, in Juba, South Sudan (June 2010).

## Constructing Legal Norms in Conflict Settings

The combination of the end of war and the arrival of aid agencies, each with its own bureaucratic and legalistic structure, impacts local residents' daily existence, work lives, and perceptions of legal norms. The technical details of work and mundane employment regulations generated within aid groups come to represent a new local legal order. My data from civil society actors in South Sudan uncover a variety of overlapping mechanisms that together reveal how law exerts a soft power over their lives, infusing nonjudicial institutions with legalistic grammar (Kawar 2014). These include training and certification programs, employment regulations (e.g., Internet and sexual harassment policies), hierarchical reporting structures (e.g., management teams), grievance procedures and spaces for dispute resolution (e.g., staff meetings), and documentation protocols (e.g., maintaining spreadsheets and keeping receipts). This section explains the functions and limits of these mechanisms, to lay the groundwork for the following section that uncovers their impacts for war survivors who work in civil society. Each of these mechanisms allows aid agencies to construct the terms of their relationships with local staff and local NGOs and reveals the ways legal practices shape the experience of law even in settings where state regulation remains weak.

***The Examination Process Prior to Employment.*** The experience of a juridical order governing workplace life begins when a survivor of war applies to work with an international NGO. The application process includes examinations not of the human rights principles guiding the organization's mission but of mundane technical and accountability practices. "I applied for a program officer job with [an international NGO]. I took a written exam [and] an oral exam," said one Sudanese activist. But his application to work with the international NGO was unsuccessful because he "did not know Excel [for the exam. I did not know] Microsoft. You need these skills to work at international NGOs."<sup>7</sup> To those I met, computer software and spreadsheets documented activities to hold employees accountable to workplace policies.

***Training Programs.*** International aid groups typically hold training programs and workshops for South Sudanese persons to enhance their job applications and the ability of local staff to follow the accounting and reporting practices of aid groups. When I asked one interviewee what she learned in the educational

---

<sup>7</sup> Interview with Baseema, NGO employee, in Khartoum, Sudan (June 2010).

workshops, she did not mention human rights or her organization's substantive mission. She spoke instead of new formalized procedures for payment verification, supplies procurement, and logistics. "I learned about all the different codes for charging [expenses.] Like project codes," she concluded.<sup>8</sup>

South Sudanese activists I met often spoke of these standardized technical-skills training programs offered by aid organizations as providing important and transferrable benefits. Joining an international NGO is "a step forward" in one's career for this reason.<sup>9</sup> One interviewee said that an international NGO where he had worked was "good at" training new staff because "they had a lot of technocrats" do the teaching.<sup>10</sup> Once training is complete, an employee-participant typically receives a certificate demonstrating his or her successful completion of the standard program. In a region where universities are few and diplomas are costly, these certificates are prized possessions that bolster applications for future employment once a contract ends.

The content of these training programs is varied but generally they focus on educating staff to follow the routinized daily practices of employment in a bureaucratic context. Workshop topics typically cover financial procedures, procurement systems, security (including emergency and fire), Internet and email policies, and how to write individual work plans, program reports, and project studies. A staff member with an international NGO said that her expatriate managers asked her to attend several of these workshops, even some conducted outside of Sudan: "They paid for me to attend these workshops [abroad]. That [gave me] motivation and encouragement."<sup>11</sup> Another activist summed up her experience with an international NGO by focusing on the training she received to comply with bureaucratic procedures and rules, which bolsters future job applications: "When the project finished, I left. [But] I got experience [for my later position at the United Nations.]"<sup>12</sup>

***Human Resource Management.*** Efforts to formalize and standardize human behavior shape and constrain power and those subjected to that power. With limited state involvement, international aid groups import a standard form of bureaucratic

<sup>8</sup> Interview with Honora, Sudanese aid worker, in Juba, South Sudan (June 2010).

<sup>9</sup> Interview with Baseema, NGO employee, in Khartoum, Sudan (June 2010).

<sup>10</sup> Interview with Gabriel, human rights program manager, in Juba, South Sudan (June 2010).

<sup>11</sup> Interview with Philippa, Sudanese aid worker, in Juba, South Sudan (June 2010).

<sup>12</sup> Interview with Destiny, Sudanese staff member with the UN, in Juba, South Sudan (June 2010).

legalism rooted in the formalization of dispute-resolution and claim-making practices, centralized in human resources departments. The concept of human resources as a managerial-level profession was introduced in South Sudan with the arrival of aid groups and, through it, civil society activists have come to understand their legal order mediated by the demands of managers overseeing staff policies. The focus of these managerial efforts is on educating local staff to be knowledgeable participants in this system.

Human resources managers in international aid organizations also designate spaces and processes for employees from different backgrounds to discuss and resolve disputes related to the war or reconstruction efforts. One Sudanese human resources manager with an international NGO said, “Some [South Sudanese] staff feel the Arabs [of northern Sudan] are behind their tragedy. I am the human resources manager. I put them in a [conference] room to . . . speak [and] let it out. It’s about rebuilding relationships. We are all Sudanese.”<sup>13</sup> For civil society actors, the dispute resolution process becomes formalized in the workplace and outside of courts—materializing in conference rooms and under the procedures designed by human resources professionals.

***Codes of Conduct and Employment Handbooks.*** As a result of employment with aid agencies, South Sudanese staff members tend to reflect and internalize a new rights consciousness and an appreciation of the benefits of operating in a rules-based environment. Speaking of the many regulations in her international NGO, one former Sudanese staff member said, “There [were] a lot of ‘codes of conduct’ [including] a bad behavior *qanoon* (law), procurement [rules], not abusing [one’s] office, no looking at personal websites at work. You have to sign these codes.”<sup>14</sup> Sudanese women I met in international NGOs spoke of coherent sexual harassment policies and detailed health-coverage policies, often nonexistent in local NGOs. Others spoke of how international aid groups adhere to progressive maternity leave, sick leave, annual leave, and severance rules. National staff referred to these rules as the “law” in their staff handbooks, available in English and Arabic.

***Writing Reports and Keeping Receipts.*** The juridical order within NGOs involves the transmission of legalistic practices associated with accountability, a process aid groups label “capacity

---

<sup>13</sup> Follow-up interview with Samira, human resources manager with an international NGO, in Khartoum, Sudan (June 2010).

<sup>14</sup> Interview with Ranya, NGO director, in Khartoum, Sudan (June 2010).

building.” National staff must create reports, which serve as legal memorials to display legitimacy and satisfy donors. These legal practices become the means through which South Sudanese earn donor trust. On the importance of documentation, a Sudanese NGO director said, “We need receipts, so it will not raise suspicion [among donors].”<sup>15</sup> An expatriate manager at an international NGO in Juba told me that her organization terminated a grant to a South Sudanese NGO that was unable to “demonstrate accountability.”<sup>16</sup> When I asked how NGOs demonstrate accountability, she replied, “Receipts and reporting. We need to see original receipts.”<sup>17</sup> Staff at South Sudanese NGOs told me, however, that this insistence on receipts presents a practical challenge. “Few of the shop owners here understand,” explained one worker. “They say, ‘Why don’t you trust me?’ But donors won’t listen to you that you’re insulting the shop owner if you ask for a receipt.”<sup>18</sup> Assimilating to these mundane juridical requirements—including using receipts to document expenditures—helps to entrench this new juridical order in post-conflict settings.

**“Internal Control Systems”.** Expatriate managers at international NGOs agreed that their aid agencies aim to fund South Sudanese NGOs that adopt the juridical processes of international NGOs and UN agencies. These include “internal control systems . . . time sheets, vehicle logs, [and] accounting policies and procedures.”<sup>19</sup> A program manager said foreign donors required her national NGO to complete complicated Excel spreadsheets tracking workplace activities and project “deliverables.”<sup>20</sup> “In the West, you have been trained [to] like writing. You like [written] reports,” said one South Sudanese activist. “But we . . . like giving verbal accounts, verbal reports. This is our difference.”<sup>21</sup> Even to submit a funding application, an organization must demonstrate its acceptance of the legal and archival logics of foreign aid groups and form a relationship with the military-dominated government—the organization needs an accounting department, a government registration certificate, a constitution, and a bank account (which itself requires documents, including government

<sup>15</sup> Interview with Luca, Sudanese program manager in an international NGO, Juba, South Sudan (June 2010).

<sup>16</sup> Interview with Eileen, foreign aid worker, in Juba, South Sudan (June 2010).

<sup>17</sup> Id.

<sup>18</sup> Interview with Millie, Sudanese NGO finance manager, in Juba, South Sudan (June 2010).

<sup>19</sup> Interview with Joel, foreign aid worker, in Juba, South Sudan (June 2010).

<sup>20</sup> Interview with Ghania, NGO program officer, in Khartoum, Sudan (June 2010).

<sup>21</sup> Interview with Michael, NGO program director, in Khartoum, Sudan (June 2010).

registration certificates). Another activist echoed the need to showcase an organization's internal legal processes to submit a funding proposal, saying simply, "They want us to have bureaucracies."<sup>22</sup>

***Transferring Documentation Practices to South Sudanese Employees and NGOs.*** Over time, even South Sudanese employees of international aid groups come to expect domestic NGOs' conformity to foreign aid groups' juridical practices. A local employee with an international NGO shared with me her strong feeling that NGOs should develop internal "systems," including financial and documentation protocols "based on the one we have here . . . to prevent corruption and maintain transparency."<sup>23</sup> She continued, "If I went to administer a local NGO, I would teach them how to put policies into place, how to be more organized, how to have a system."<sup>24</sup> The UN "has stringent and rigid procurement processes," a UN legal officer told me, so the expectation is that its aid recipients will adopt similarly strict policies.<sup>25</sup> One national NGO employee noted how her organization had changed markedly after the arrival of a particularly sophisticated director previously employed by an international NGO: "There is a lot of paperwork, new procedures, and details. Now you have to make requests in writing. In the past . . . they didn't have forms . . . Now, there [are] just more details."<sup>26</sup> These procedures govern employment relationships and activities, including signing out vehicles, tracking mileage, keeping logs, signing contracts, and recording requests. Employees copy the executive director on every e-mail message sent outside the organization to convey a chain of accountability.<sup>27</sup>

With so much emphasis placed on learning and adhering to technical and hierarchical managerial norms, procedures themselves become internalized as a form of legal consciousness, one that is divorced from the substantive rights consciousness that humanitarian and development efforts are designed to impart. When a Sudanese woman, who had been employed by an international NGO prior to its expulsion from Sudan, found new

---

<sup>22</sup> Interview with Paul, Sudanese NGO program director, in Juba, South Sudan (June 2010).

<sup>23</sup> Repeat interview with Samira, human resources manager with an international NGO, in Khartoum, Sudan (June 2010).

<sup>24</sup> Id.

<sup>25</sup> Interview with Joseph, foreign aid worker with the UN, in Juba, South Sudan (June 2010).

<sup>26</sup> Interview with Ghania, NGO program officer, in Khartoum, Sudan (June 2010).

<sup>27</sup> Id.

work with a South Sudanese NGO, she brought with her a number of training programs and policies that followed the international aid agency model. She introduced written rules to request materials, forms for procurement of goods or services, stationery, professional email addresses, scopes of work and terms of reference, regular performance reviews, new policies on sexual harassment, and training sessions on the appropriate use of technology. She made the organization's reporting structure more vertical, so that each program had an assistant who reported to a manager, who then reported to the executive director. This hierarchy became the structure within which new legal norms were created and enforced. All of these changes contributed to a new culture of legality within the NGO. Similarly, human resources managers in international NGOs demand that staff of national NGOs assimilate to the internal juridical processes of foreign groups, through unplanned office visits and required attendance at workshops.

**Constitutions.** To meet donor demands, a constitution-writing industry has emerged in South Sudan, as foreign consultants rush in to help national NGOs draft organizational constitutions and policies, register with the government, design organizational structures, and develop accountability systems. Many impoverished South Sudanese volunteers and employees, eager to portray themselves as in line with international aid group standards, hire consultants (typically from Kenya or Uganda) to draft organizational constitutions in English, the operating language of international aid groups in South Sudan.

**Constructing Legal "Experience".** Employees of sophisticated South Sudanese NGOs able to compete for UN or donor-country funds alongside international NGOs strategically adopt these foreign systems and speak admiringly of the expatriates who have worked outside of South Sudan. "They bring experience," said one director. "That's really important for capacity building."<sup>28</sup> In the process, South Sudanese knowledge is sidelined as the technical legal practices of foreign organizations gain prominence.

**Legal Assimilation.** The juridical character of the rules and processes governing employment in aid groups enhances their legitimacy for those who seek to realize their humanitarian impulses and allows those rules to be imposed and reproduced at local levels, precisely because the state is developing. Local activists trained to act in accordance with new rules then replicate these legalistic modes of behavior found in foreign aid agencies,

---

<sup>28</sup> Interview with Ranya, NGO director, in Khartoum, Sudan (June 2010).



either through a process of required assimilation (top-down coercive measures tied to contracts, salaries, or program funding) or aspirational assimilation (a bottom-up desire to mimic the internal management processes of international NGO operations.) The boundary between these two forms of legal assimilation is a blurred one, as local NGOs and employees define their activities in relation to available funding from the international community. In this way, the meaning of the law and people's perceptions of themselves as activists or employees are defined by aid agencies and not necessarily produced through the substantive human rights work they perform. The legalistic relations between local staff and NGOs and their human resources managers or expatriate bosses mediate their broader human rights and humanitarian work. People may still view themselves as activists, but their work is compartmentalized within and subservient to new legal structures.

### **The Impact of Workplace “Law”**

The juridical environment within international aid agencies governs the behavior of aid-agency staff, influences the work of local activists, defines relationships between funders and the funded, and greatly affects local understandings of the law. Activists once branded as outlaws during wartime become junior aid-agency employees required to follow rules designed by expatriate management staff.<sup>29</sup> In these ways, civil society becomes entrenched in and subservient to the administrative rules of international aid organizations. This section discusses the impacts of these legal norms and management processes for (1) South Sudanese employees of foreign aid groups and (2) South Sudanese NGOs.

### **Legal Assimilation among Local Employees of Foreign Aid Groups**

South Sudanese employees of foreign aid groups learn to document their activities in a specialized manner that compartmentalizes and quantifies achievements in legal learning (i.e., documentation of the number of persons who attended a women's rights training program) rather than a manner that supports

---

<sup>29</sup> The end of the war and arrival of aid groups moderated and channeled activists' protestation into increasingly bureaucratized legal practices, including documenting routine office work, writing grant proposals, and attending staff meetings. One activist explained the transition: "Some of us [would] speak out" against government activities during the war and face arrest and imprisonment, but "now we write projects" to secure funding for approved NGO activities (Interview with Zechariah, civil society activist and church official, in Juba, South Sudan, June 2010).

analytical inquiry (i.e., the actual content of the program or the challenges that participants faced in engaging with the material). Reports that focus on technical and numerical goals ultimately depersonalize the relationship between locals and international staff, replacing people's experiences with quantifiable indicators more relevant to expatriate managers than local subordinates (Davis et al. 2012). South Sudanese staff share context-specific information with international NGOs and provide access to local communities that aid groups would not otherwise be able to reach. But juridical forms allow foreign managers to digest and utilize this information in ways that serve the aid group's funded mission, rather than in ways that respect the details of the situation or local significance.

South Sudanese employees of UN agencies recounted that, while they wanted to learn about the substance of international human rights law, their training was largely procedural or, as they put it, "just for administration, routine, [and] how to write minutes."<sup>30</sup> While this training prepares local employees to climb a job hierarchy atop which sits lucrative posts with UN agencies abroad, it also reinforces subservience to and acceptance of this hierarchy in which local staff are subordinate to expatriate managers. South Sudanese staff underscored that among the most important skills to acquire are technical ones related to policies and procedures, including how to document work and complete forms. Aid groups then measure local capacity on these technical grounds.<sup>31</sup>

South Sudanese employees recognize that their participation in international NGOs legitimizes workplace structures and rules that can also disempower them. According to one activist, "There are these SMTs [senior management teams]. They make decisions on behalf of nationals. They just send copies [of their decisions] to nationals . . . .And you have to sign them." He continued that "these . . . internal policies . . . often do not favor the nationals."<sup>32</sup>

Another said the senior management teams ask national staff to "review the polices, but . . . you're not involved in making any of these policies."<sup>33</sup> Top down in structure and reporting procedures, international aid organizations often leave national staff

---

<sup>30</sup> Interview with Judith, local staff member with the UN, in Juba, South Sudan (June 2010).

<sup>31</sup> Id., and interview with Gabriel, human rights program manager, in Juba, South Sudan (June 2010).

<sup>32</sup> Interview with Luca, Sudanese program manager in international NGO, in Juba, South Sudan (June 2010).

<sup>33</sup> Interview with Patricia, Sudanese staff member with an international NGO, in Juba, South Sudan (June 2010).

without the ability to shape the rules that will govern their behavior and define their future. South Sudanese employees come to internalize a perception of themselves as subordinate to foreign managers and incapable of leadership under an everyday legal order that they do not participate in shaping. For instance, while one of the most senior Sudanese staff I met had been employed by an international NGO for more than 20 years, he lamented his inability to be the organization's country director because of the extensive technical rules and reporting procedures associated with the position. The job was, in his words, "too sophisticated."<sup>34</sup>

From the perspective of local staff working with aid organizations in conflict settings, expatriate managers become a kind of unelected lawmaking body—framing how civil society actors experience legal rules and closely regulating how they conduct activities. Particularly in light of weak justice institutions overseeing NGO activity, expatriate managers trained in foreign legal systems become what locals saw as their supervising "legal" authorities whose rules demanded obedience. The hierarchical structure of a bureaucratic organization is designed to create this "interest in obedience" (Weber 1978, 212) and cultivate a "belief in [the organization's] legitimacy" (Id., 213). The impersonal commands of these managers enforce a new kind of legalistic domination of civil society through technical rules. The relevant considerations to empower civil society become "functional, financial, and managerial," rather than alternative concerns about building human rights in the global South (Commission on Global Governance 1999).

The internal culture of aid organizations promotes a culture of legalism that often does not translate into actual rights for employees, even within NGOs whose outward mission is to promote human rights. While some workplace policies (i.e., sexual harassment) exist, rights mobilization was rare among the activists I met and was at times actively curtailed by agency management or colleagues. One Sudanese employee sought to improve the working conditions of national staff, but she faced substantial opposition from expatriate managers who feared "they would lose their jobs if [I] educated the national staff [about] fighting for their rights."<sup>35</sup> Her concern was the lack of safe

---

<sup>34</sup> Interview with Michael, NGO program director, in Khartoum, Sudan (June 2010). In some aid organizations, however, national staff may be prevented from advancing to senior positions to keep them insulated from potential political troubles the organization may generate with a host government.

<sup>35</sup> Interview with Patricia, Sudanese staff member with an international NGO, in Juba, South Sudan (June 2010).

transportation particularly for Sudanese women employees forced to live in inexpensive and higher-risk areas, further from the office neighborhood where foreign aid workers live and rents are unaffordable.

Bureaucratic legalism focused on technical proficiency, when imposed in a conflict setting like South Sudan, often disables employees from changing or utilizing the organizational structure. One Sudanese civil society activist told me that when he was laid off by an international NGO, he was given 2 months' severance, short of Sudanese labor law's requirement of 3 months' severance. When I asked whether he filed a grievance, he quickly replied that he did not want to "pull rope" because he was grateful for the work experience the foreign-based organization had given him and was hoping his training there would help him obtain another "good job."<sup>36</sup> With weak government oversight of international aid groups and the transferability of technical and rules-based skills, some individuals are willing to forgo legal rights for themselves or others in exchange for career advancement. In a sense, rights have become "managerialized" by serving the interests of managers rather than their staff (Edelman, Fuller, and Mara-Drita 2001). By offering vital material resources to those who reinforce the status quo and refrain from change advocacy, the bureaucracy subjugates local actors.

The professional workplace environment becomes a site for the transmission of knowledge about the procedural norms and rules governing office environments. Knowledge is documented, archived, and "legalized" through computer software and spreadsheets. As Sudanese staff ascend an employment hierarchy from local organizations to international ones (Sudanese I met more than tripled their salaries doing so), they must also internalize the relative importance of computer-based legal memory creation over on-the-ground rights-related engagement.

### **Legal Assimilation among South Sudanese NGOs**

Adherence to the juridical forms and practices of international aid organizations provides material benefits to national staff, including stable employment, good salary, job security, and training opportunities. But it also subjugates national staff to a disadvantageous bureaucratic hierarchy rooted in Western legal principles, undermines their autonomy, and limits their rights-based consciousness. International agencies also export this legalistic model to national NGOs, pressuring them to adopt a similar

---

<sup>36</sup> Interview with Luca, Sudanese program manager with an international NGO, in Juba, South Sudan (June 2010).

model as a condition of funding and access to resources. This forced replication—the process of making Sudanese NGOs’ internal structures match those of international NGOs—is ostensibly a form of capacity building. At root it involves mimicry of international aid groups’ measures of standardization, formalization, and proceduralism to ensure accountability to rules, such as drafting contracts, terms of reference, and other forms of documentation.

Like South Sudanese employees of international NGOs, those working in national NGOs are impacted by their engagement with new legal regimes. To receive international aid, national NGOs must adopt and adhere to international NGOs’ external and internal legal schemes based on reporting, writing, and documentation. The rules come from norms associated with legal compliance, accountability, and anticorruption. Workers must also assimilate to the goals of legal awareness sought by expatriate managers for South Sudanese survivors of war. One activist with a local NGO told me that all of his organization’s activities “are basically geared by the funding. The funding decides whether we work on poverty, environment, women’s rights, [or] peace-building.”<sup>37</sup> Local NGOs often apply for grants to fund law-related programs that do not fit their mandates. I met with a sports-related organization, for instance, that was doing rights-based civic education. “Sometimes you’re not even mandated to do something from your organization’s constitution,” the program director told me, “but you do it anyway, because of the money.”<sup>38</sup>

When I asked employees of a local NGO about the impact of adapting to donor requirements, no one mentioned the organization’s overall mission or efficacy. I was told the new legalistic rules would help the organization compete with international NGOs for funding and set “a good example for how things should be done.”<sup>39</sup> The procedural focus had supplanted the substantive one. Similarly, international aid groups demarcate the appropriate range of activities national NGOs may undertake. “[International aid groups] limit our chances to develop . . . They see us [Sudanese NGOs] as a necessary evil . . . This is why they hold onto the entire process and leave you limping about.”<sup>40</sup>

A foreign aid worker in South Sudan echoed these comments and abruptly said during one interview, “We’re just stuffing local

---

<sup>37</sup> Interview with Taha, NGO director, in Khartoum North, Sudan (November 2006).

<sup>38</sup> Interview with Dominic, Sudanese youth activist and NGO program manager, in Juba, South Sudan (June 2010).

<sup>39</sup> Interview with Michael, NGO program director, in Khartoum, Sudan (June 2010).

<sup>40</sup> Interview with Rosie, Sudanese NGO project coordinator, in Juba, South Sudan (June 2010).

NGOs down this chute to make them become just like international NGOs.”<sup>41</sup> To do so, interviewees told me of intense competition among national NGOs to replicate the internal legal processes of international aid groups. The most successful mimics are the ones most likely to receive donor funding and the prestige that comes with it. Civil society groups “imagine that just the white person brings money,” said one activist. “So even if you have money in your [Sudanese] NGO, people don’t believe it.”<sup>42</sup>

The importance of mimicking legal rules creates a new politics of parroting, whereby local groups use legalistic discourse they think foreign funding agencies want to hear. Staff members admit that “using the language that donors are expecting to hear is really challenging.”<sup>43</sup> For this reason, some national NGOs find and pay foreign “experts” to write their project proposals (as they do their constitutions) on their behalf, paying USD 1000 or more per proposal in the hopes that it would bring long-term revenue and stability.<sup>44</sup> The ghostwriters serve as legal translators, putting Sudanese-generated ideas in a form that local activists hope foreign organizations can accept.

When I asked a Sudanese NGO director whether lawyers play a role in implementing workplace policies, she echoed others I met by saying that the legal profession is absent from the process. “Lawyers don’t do these things . . . . They don’t know about these things concerning websites and policies.”<sup>45</sup> International aid organizations bring opportunity in the form of financial assistance, but they demand subjugation to their own legal system in return. Remarkably, Sudanese staff members I met referred to the workplace and funding policies issued by international aid agencies as their “*qanoon*” (law). While not South Sudan state law, international aid groups’ internal policies are meant to build civil society and, ultimately, the state by compelling obedience to modern management and human resources systems. These groups follow a strikingly similar model to the one used by the British colonial administration in Sudan many decades earlier, which required local groups to reproduce foreign modes of governance by creating and enforcing a juridical order (Sharkey 2003).

Sudanese employees of national NGOs whom I met were aware of the need to assimilate to the policies and procedures of

<sup>41</sup> Interview with Eva, foreign aid worker, in Juba, South Sudan (June 2010).

<sup>42</sup> Interview with Dominic, Sudanese youth activist and NGO program manager, in Juba, South Sudan (June 2010).

<sup>43</sup> Interview with Eileen, foreign aid worker, in Juba, South Sudan (June 2010).

<sup>44</sup> Interview with Maximus, Sudanese NGO director, in Juba, South Sudan (June 2010).

<sup>45</sup> Interview with Ranya, NGO director, in Khartoum, Sudan (June 2010).

their funders. One activist put it simply: “Local NGOs are like beggars to the internationals.”<sup>46</sup> A national NGO director confided, “Our organization would not exist if it were not for [international funding].”<sup>47</sup> These actors said the receipt of foreign aid was necessary for them to find work. “The beggar has no other option. If [international aid organizations] say no, then there is no money.”<sup>48</sup> Expatriate workers with international NGOs were also aware of national NGOs’ reliance on their aid dollars: “[Our national-NGO] partners become dependent on any source of funding they can find, and there are not a whole lot of opportunities for them to diversify.”<sup>49</sup>

As the discourse and activities within national NGOs become more infused with juridical concepts, practices, and techniques and focused on internal management and monitoring systems, they obtain more foreign funding. As one expatriate aid worker put it, “We need to help local NGOs play the game or else they will not get any funding to play it.”<sup>50</sup> As local groups become better funded, they contract more work out to smaller NGOs or community-based organizations, which end up fulfilling the substantive mission. The result is an increasingly stratified domestic civil society. “Capacity” no longer refers to an organization’s ability to do public outreach around the principles of human rights, but rather to its ability to obtain funds and create documentation and files. “If you declare yourself international, it means you no longer implement [programs],” said a national NGO staff member. “Let’s say [our NGO] gets big funds. We will find local people to implement [the project].”<sup>51</sup>

Office spaces themselves seem to undergo a metamorphosis as national NGOs transition to more legalistic and bureaucratic models. The walls of a national NGO office had been covered with motivational posters, prints, and photos from activities in displaced-persons encampments when I spent time there in 2007. Three years later, after the organization had received an influx of donor aid and moved to a larger building, the motivational posters had been replaced with cork boards covered with

---

<sup>46</sup> Interview with Dominic, Sudanese youth activist and NGO program manager, in Juba, South Sudan (June 2010).

<sup>47</sup> Interview with Paul, Sudanese NGO program director, in Juba, South Sudan (June 2010).

<sup>48</sup> Repeat interview with Isiah, Sudanese NGO volunteer director, in Juba, South Sudan (June 2010).

<sup>49</sup> Interview with Joel, foreign aid worker, in Juba, South Sudan (June 2010).

<sup>50</sup> Interview with Eva, foreign aid worker, in Juba, South Sudan (June 2010).

<sup>51</sup> Interview with Dominic, Sudanese youth activist and NGO program manager, in Juba, South Sudan (June 2010).



phone directories, lists of tasks and deadlines, and, in one case, a photocopy of a set of cartoon-like faces portraying various workplace “moods.” The feel was considerably more removed from the populations with whom the NGO employees were actually working. As NGOs create and enforce new rules governing workplace activities and tasks, the rules come to dominate every aspect of workplace life.

Expatriate employees with international NGOs and UN agencies say replicating legalistic infrastructures is necessary in order for national NGOs to be able to implement projects according to their design. Certainly, humanitarian impulses lay behind the export of this new bureaucratic legalism, much as it also animates the actions of many Sudanese staff members. Concerns of fraud, misallocation, theft, and other violations of law back home compel donors to adopt policies that ensure aid dollars are transparently and efficiently allocated to those who need it most. However imperfect or potentially detrimental, the juridical red tape is part of the process. In one national NGO, each programmatic unit must write a monthly report to the executive director to provide assurance that projects are on track. Others require spreadsheets that detail the “activity, name, proposed budget, workshop done, and number attended.”<sup>52</sup> One program manager asks all of her “implementing partners” to provide documentation of their activities, including their workshops and the attendee counts. “I copy them. So, there’s a file. Then when anyone comes, I can tell them [the number of] lectures [and] attendees.”<sup>53</sup>

### Resistance and Hierarchy

National NGOs can become sites not only for the reproduction of foreign legal practices and techniques, but also sites of resistance. Some national-NGO staff members do not aspire to join the ranks of the large international groups that fund them. “There are two versions: either your own interests or the international organizations’ interests,” said one Sudanese activist. “It’s your gut feeling.”<sup>54</sup> For them, resistance to new juridical techniques may be masked by a sense of defeatism or passive acceptance of the power that international NGOs and UN agencies wield in civil society. But others see their work, often volunteer-based or with national NGOs not funded by foreign aid groups,

<sup>52</sup> Interview with Ghania, NGO program officer, in Khartoum, Sudan (June 2010).

<sup>53</sup> Interview with Maysa, NGO program coordinator, in Khartoum, Sudan (June 2010).

<sup>54</sup> Interview with Paul, Sudanese NGO program director, in Juba, South Sudan (June 2010).

as a form of resistance to those groups. “To work with a local NGO, you need inspiration,” said one activist. “Even though there is no money . . . I prefer [it]. I know that one day, one time, whatever the situation, without finances, I can still help to turn life around for people down there.”<sup>55</sup> Another employee agreed, “I want to make change. If I go to the UN, I’m not going to make any change. If I go to an international NGO, I won’t be able to change the system they have there. But here in national NGOs, I can do it. I can make changes.”<sup>56</sup>

A refusal to submit to certain juridical requirements of international agencies is another form of resistance, although managers often misinterpret this resistance as a lack of capacity. National NGO staff, for example, will ask expatriate staff in international NGOs to ghostwrite proposals, progress reports, or other required forms of documentation on their behalf to avoid participating in the system. International aid workers acquiesce because they are reliant on national NGOs to implement projects. One expatriate aid worker in an international NGO said, “It’s implied that I will be the one to produce the proposal [for funding] and submit on [the national NGO’s] behalf.”<sup>57</sup> Other Sudanese NGOs resist by not applying for funding at all. One local activist said, “Every week you have to write something . . . go to a workshop, a lot of things. You have to go. You have no time for your work [in the community]. So [we] . . . decided [not] to apply for funds. There’s too much reporting.”<sup>58</sup> Legalistic requirements impact daily work life, but resistance still occurs in the spaces set up and managed by expatriate-imported rules.

A tension exists in aid work between promoting rights and serving the aid agency bureaucracy. Rather than focusing on rights mobilization, many directors of national NGOs say they spend their time implementing projects favored by funders and trying to cover the salaries of a few employees. Their positions are precarious enough that they do not mobilize to demand fuller rights. Employment is difficult to obtain and typically temporary, so many feel fortunate to be in a paid position at all. They also see their employment as a step toward contracts with UN agencies or international NGOs (what some Sudanese refer to as “big NGOs”<sup>59</sup>).

---

<sup>55</sup> Id.

<sup>56</sup> Interview with Ranya, NGO director, in Khartoum, Sudan (June 2010).

<sup>57</sup> Interview with Eileen, foreign aid worker, in Juba, South Sudan (June 2010).

<sup>58</sup> Interview with Figaro, NGO director, in Khartoum, Sudan (June 2010).

<sup>59</sup> Repeat interview with Isiah, Sudanese NGO volunteer director, in Juba, South Sudan (June 2010).

In a few cases, national staff members develop a rights-consciousness and advocate for their interests successfully to senior managers, but they do so in a way that reifies the structure that subjugates them. For instance, one employee wanted two of the five senior management positions in his organization to be reserved for women. “The issue I brought forward was that we are talking about ... [the] promotion of women’s rights. I said, look, there should be a [senior management] position created for a woman.”<sup>60</sup> He drafted a petition, which many staff members signed, and ultimately the policy changed.

More often, however, managers dismiss or ignore rights-based activism by national staff. Local employees who confronted or resisted the decisions and actions taken by their North American or European line managers did not seek to oust international groups from the country; rather, they sought to infuse in these groups a sense that a bureaucratic structure can coexist with employee rights. A national staff member in one international NGO said that employee concerns had to follow a specific process to be heard “usually ... up from the staff association to the management.” She continued that the process, while formalized, silenced staff complaints: “Sometimes management says it’s beyond their capacity [or] they have to consult with HQ [headquarters] and so on. They leave it there, that way [the issue] will die.”<sup>61</sup> Even as organizations teach human rights to the South Sudanese poor, they tend to discourage or quash rights-based resistance to office conditions.

### **Social Impacts of Aid Groups’ Juridical Practices**

The benefits to the South Sudanese who participate in and obey the new juridical systems of international aid organizations are real—higher salaries, job security, and the opportunity to realize humanitarian impulses. However, these benefits do come with social costs. For instance, competition for jobs, salaries, and seniority can overshadow the substantive legal work of international aid groups and civil society actors.<sup>62</sup> Activists denounced

<sup>60</sup> Interview with Gabriel, human rights program manager, in Juba, South Sudan (June 2010).

<sup>61</sup> Interview with Philippa, Sudanese aid worker, in Juba, South Sudan (June 2010).

<sup>62</sup> A former schoolteacher, for instance, told me that she joined a UN field office because the salary offered to UN secretaries was substantially higher than what was offered to local schoolteachers (Interview with Judith, local staff member with the UN, in Juba, South Sudan, June 2010). While some Sudanese workers say that national NGOs are “much better than international NGOs because ... [of] direct contact with beneficiaries,” they also say that their time with national NGOs is a step toward better employment. “We know that this is our opportunity to learn and gain experience, to be powerful enough to go to another organization” (Interview with Ghania, NGO program officer, in Khartoum, Sudan, June 2010).

their colleagues who undertook this work because of “the availability of” international funds.<sup>63</sup> Reflecting on the common attraction to higher salaries, one activist said that her colleagues are “always looking for greener pastures.”<sup>64</sup> Many civil society actors find themselves jumping between positions in different aid organizations, obtaining jobs by touting technical-training certificates. “Legal” training then becomes a proxy for one’s potential in international groups. “After the training, you are left alone. [But] then you find out that [other] guys [from the training] are moving one by one to work with international NGOs,” reinforcing an employment hierarchy built on adherence to bureaucratic legal techniques and practices.<sup>65</sup>

As Sudanese personnel climb the aid agency ladder, they have less direct contact with the impoverished Sudanese whom they purportedly serve. Interviewees commented to me that working with national NGOs means exposure to “rural areas, violations of human rights, [and] how people suffer.”<sup>66</sup> At international NGOs, national staff members are expected to remain in the office and educate expatriate staff based on local knowledge. Nationals move from fieldwork in neighborhoods with the poor to sitting in offices with their computers. They construct a new legal archive through the technologies of documentation—reports, email messages, forms, handbooks, constitutions, and contracts—few of which existed in South Sudan during the civil war. Transitioning national staff from on-the-ground activism to internal organizational management is portrayed as a form of grassroots development of civil society.

## **Conclusion**

How does the turn to legalistic modes of behavior reconfigure civil society after war? Following what had been Africa’s longest civil war, aid agencies converged on South Sudan to build public acceptance of human rights and the rule of law, bringing with them a common set of routinized and bureaucratic management practices, rules, and processes. Local civil society actors who sought stable employment learned to conform to these rules

---

<sup>63</sup> Interview with Ilham, lawyer, in Juba, South Sudan (April 2007). Poverty in South Sudan also, in her words, “made it difficult for people who had a genuine interest to offer their contribution without international funds.”

<sup>64</sup> Interview with Nawel, Sudanese aid worker, in Juba, South Sudan (June 2010).

<sup>65</sup> Interview with Maximus, Sudanese NGO director, in Juba, South Sudan (June 2010).

<sup>66</sup> Repeat interview with Samira, human resources manager with an international NGO, in Khartoum, Sudan (June 2010).

under the threat of sanction by management staff. Their conformity to managerial directives is important because it occurred alongside the South Sudanese state's construction of a legal infrastructure.

Sudanese staff learned about and signed employment contracts and terms of reference, obtained employee policy handbooks, wrote reports documenting their priorities and accomplishments, and used new accounting systems. These novel knowledge practices became the repetitive and formalistic processes constituting an everyday legal order that pervaded local employees' new postwar livelihoods. Understanding aid agencies as makers of legal order experienced by local activists expands the range of governance settings in which law becomes the ultimate source of coercive power, particularly as the shadow of state officialdom lurks behind the techniques imparted by foreign managers to their local subjects.

Aid agencies in South Sudan introduced a new discursive grammar of law into the lives of war survivors. They exported mundane workplace rules—documentation protocols, formalized procedures, and professionalized practices—into a nation torn apart by warfare, and then reframed them into the power of law over employee behavior. Ultimately, the interactions associated with this “juridification” of workplace life manufacture cultures of discipline (Silverstein 2009). Employees learn to be part of a new technological framework in which legal discourse flourishes, through the forms they are required to sign, files and records they are required to produce and maintain, and workplace rules they are required to follow. This bureaucratic legalism ultimately matters more for the creation of local knowledge than the content of human rights found in the missions of the organizations where these locals work. Power is no doubt at work, but it is a specific type of power rooted in the expansion of legalized concepts and techniques.

What does this case of bureaucratic legalism in South Sudan reveal about the nature of law in conflict and post-conflict settings and for socio-legal research more generally? First, this study reveals the importance of decentering local interactions with the state as the basis of understanding the lived experience of the law. The experience of war does not necessarily mean civil society is without legal norms. That is, nonstate actors are transmitters of legal techniques and practices, and it is necessary to look beyond the state to access the spaces where law, including Western law promoting accountability, reconfigures social relations in the global South. Second, elites construct legal order for their purposes, often at the expense of those who might challenge elites' authority or decisions. By obeying new workplace regulations,

individuals may accrue discursive and material resources. Third, consistent with findings from socio-legal studies, while institutional rules certainly can sustain hierarchies, these same legal codes may also be subversive when war survivors use them as part of a broader strategy of rights mobilization or resistance in and out of the workplace (Chua 2014; McCann 1994).

Some scholars may question whether the legalistic order established by aid agencies results in a net good or net harm for local aid activists. That is, even if some hierarchies are created, at least workers have salaries, learn to participate in a legal order, and gain access to international funding for humanitarian projects. While other work documents the myriad ways that aid agencies operate in post-conflict settings, here I illuminate empirically the impacts of local adherence to organizational practices. Even as employees fight for the human rights of South Sudan's hundreds of thousands of displaced persons, many are paradoxically prevented from making rights claims against their own employers.

The data in this article support the argument that workplace rules diffusing to conflict settings impact the career mobility of ordinary people and their experience of the law. Three areas of future research would expand on this study: First, investigating organizational behavior in other settings in the global South would continue to build comparative law and society scholarship on (1) the extent to which law's endogeneity operates outside the United States, (2) whether bureaucratic forms in aid agencies ultimately lead to claim making in courts or legislatures, and (3) the extent to which private regulations translate into actual state laws. Second, scholars able to gather internal documents, employment contracts, protocols, and policy frameworks—where safe for the researcher and his/her subjects—would supplement the data in this article to build ethnographies of local and international NGOs. (While these documents are not necessary to support this article's argument on the impacts of legal order on civil society, my informants were clear that sharing internal documentation with me would risk their jobs.) Finally, while it is certainly true that aid groups are promoting democratic rights in post-conflict settings, further research is needed to determine whether the legalistic style they import displaces their outward mandate to become an imprinted legacy on local society and a new "informal empire" based on imparted knowledge practices (see, e.g., Riles 2001; Knop 2011).

In her historical study of files, Cornelia Vismann (2008, 1) asks, "Faced with Babylonian stacks of files, the question arises whether there can ever be a legal culture devoid of files. How are we to conceive of a state *off the record*? How is the law to

function without record-keeping devices?” The practice of documentation and filing embodies not only state legalism but also organizational legalism—a new habitus for South Sudanese staff and organizations rooted in bureaucratic practices and technical skills common to Western organizations. Managerial practices produce an everyday culture of legalism that is highly standardized, professionalized, and rooted in the interests of the founding organization. While a bureaucratic administrative staff generates the “purest” type of legal authority (Weber 1978, 220), it is unclear whether this new legalism in South Sudan filters through civil society to the marginalized and displaced masses, and to what effect. While career mobility is clearly a benefit, their ascension reifies stratification between upwardly mobile civil society activists and the poor whom they claim to serve. These issues will remain enduring areas for future research in conflict settings in and beyond South Sudan.

Legalistic forms thrive in conflict and post-conflict settings—in new governments, new courts, and new aid agencies. In South Sudan, the transmission of professionalizing techniques has occurred largely outside of government purview, through repeated and regularized interactions between local employees and their expatriate managers, and between local organizations and the international groups that fund them. The discursive and symbolic power of the legal process is revealed through the supervision and training of local staff, through the regulations they find in their workplace handbooks, and through their acts of resistance to those regulations. In these ways, aid agencies importing bureaucratic and legalistic modes of behavior are sites of political struggle, shaping how law’s power is constructed within civil society in conflict settings.

## References

- Asad, Talal (2004) “Where are the Margins of the State?,” in Das, V., & D. Poole, eds., *Anthropology in the Margins of the State*. Santa Fe: School of American Research Press.
- Autesserre, Séverine (2010) *The Trouble with the Congo: Local Violence and the Failure of International Peacebuilding*. Cambridge: Cambridge University Press.
- Bickel, Alexander M. (1962) *The Least Dangerous Branch: The Supreme Court at the Bar of Politics*. Indianapolis: Bobbs-Merrill.
- Bernal, Victoria & Inderpal Grewal (2014) “The NGO Form: Feminist Struggles, States, and Neoliberalism,” in Bernal, V., & I. Grewal, eds., *Theorizing NGOs: States, Feminisms, and Neoliberalism*. Durham, NC: Duke University Press.
- Bumiller, Kristin (1987) “Victims in the Shadow of the Law: A Critique of the Model of Legal Protection,” 12(3) *Signs* 421–39.
- Carothers, Thomas, ed. (2006) *Promoting the Rule of Law Abroad: In Search of Knowledge*. New York: Carnegie Endowment for International Peace.



- Casper, Jonathan D. (1976) "The Supreme Court and National Policy Making." 70(1) *American Political Science Review* 50–63.
- Cheesman, Nick (2011) "How an Authoritarian Regime in Burma Used Special Courts to Defeat Judicial Independence." 45(4) *Law & Society Review* 801–30.
- Chua, Lynette (2014) "Rights Mobilization and the Campaign to Decriminalize Homosexuality in Singapore." 1(1) *Asian J. of Law and Society* 205–28.
- Cichowski, Rachel A. (2007) *The European Court and Civil Society: Litigation, Mobilization and Governance*. Cambridge: Cambridge University Press.
- Commission on Global Governance (1999) *The Millennium Year and the Reform Process: A Contribution from the Commission on Global Governance*. London: The Commission on Global Governance.
- Dahl, Robert A. (1957) "Decision-Making in a Democracy: The Supreme Court as a National Policy-Maker." (6) *J. of Public Law* 279–95.
- Davis, Kevin E., et al. (2012) "Indicators as a Technology of Global Governance." 46(1) *Law & Society Review* 71–104.
- Deng, Francis M. (1995) *War of Visions: Conflict of Identities in the Sudan*. New York: Brookings Institution Press.
- (2011) "Customary Law in the Cross Fire of Sudan's War of Identities," in H. Deborah Isser, ed., *Customary Justice and the Rule of Law in War-Torn Societies*. Washington, DC: United States Institute of Peace Press.
- Edelman, Lauren B. (1992) "Legal Ambiguity and Symbolic Structures: Organizational Mediation of Civil Rights Law." 97(6) *American J. of Sociology* 1531–76.
- Edelman, Lauren B., Christopher Uggen, and Howard S. Erlanger (1999) "The Endogeneity of Legal Regulation: Grievance Procedures as Rational Myth." 105(2) *American Journal of Sociology* 406–54.
- Edelman, Lauren B., & Mark C. Suchman (1997) "The Legal Environments of Organizations." 23 *Annual Review of Sociology* 479–515.
- Edelman, Lauren B., Sally Riggs Fuller, & Iona Mara-Drita (2001) "Diversity Rhetoric and the Managerialization of Law." 106(6) *American J. of Sociology* 1589–1641.
- Edelman, Lauren B., et al. (2011) "When Organizations Rule: Judicial Deference to Institutionalized Employment Structures." 117(3) *American J. of Sociology* 888–954.
- Ellet, Rachel (2013) *Pathways to Judicial Power in Transitional States: Perspectives from African Courts*. New York: Routledge.
- Englund, Harri (2004) "Towards a Critique of Rights Talk in New Democracies: The Case of Legal Aid in Malawi." 15(5) *Discourse & Society* 527–51.
- (2006) *Prisoners of Freedom: Human Rights and the African Poor*. Berkeley: University of California Press.
- Falk, Richard (2009) *Achieving Human Rights*. New York: Routledge.
- Felstiner, William L. F., Richard L. Abel, & Austin Sarat (1980) "The Emergence and Transformation of Disputes: Naming, Blaming, Claiming . . ." 15(3/4) *Law & Society Review* 631–54.
- Galanter, Marc (1974) "Why the 'Haves' Come out Ahead: Speculations on the Limits of Legal Change." 9(1) *Law & Society Review* 95–160.
- George, Alexander L., & Andrew Bennett (2005) *Case Studies and Theory Development in the Social Sciences*. Cambridge, MA: MIT Press.
- Ghias, Shoaib A. (2010) "Miscarriage of Chief Justice: Judicial Power and the Legal Complex in Pakistan under Musharraf." 35(4) *Law & Social Inquiry* 985–1022.
- Ginsburg, Tom (2003) *Judicial Review in New Democracies: Constitutional Courts in East Asia*. Cambridge: Cambridge University Press.
- Ginsburg, Tom, & Tamir Moustafa (2008) *Rule by Law: The Politics of Courts in Authoritarian Regimes*. Cambridge: Cambridge University Press.
- Goodale, Mark, & Sally Engle Merry, eds. (2007) *The Practice of Human Rights: Tracking Law Between the Global and the Local*. Cambridge: Cambridge University Press.

- Hagan, John, Gabrielle Ferrales, & Guillermina Jasso (2008) "How Law Rules: Torture, Terror, and the Normative Judgments of Iraqi Judges." 42(3) *Law & Society Review* 605–44.
- Heckman, James J., Robert L. Nelson, & Lee Cabatingan (2010) *Global Perspectives on the Rule of Law*. New York: Routledge.
- Heller, Thomas C., & Erik G. Jensen, eds. (2003) *Beyond Common Knowledge: Empirical Approaches to the Rule of Law*. Stanford: Stanford University Press.
- Helmke, Gretchen, & Julio Rios-Figueroa, eds. (2011) *Courts in Latin America*. Cambridge: Cambridge University Press.
- Jalali, Rita (2013) "Financing Empowerment? How Foreign Aid to Southern NGOs and Social Movements Undermines Grass-Roots Mobilization." 7(1) *Sociology Compass* 55–73.
- Johnson, Douglas H. (2003) *The Root Causes of Sudan's Civil Wars*. Bloomington: Indiana University Press.
- Kamat, Sangeeta (2004) "The Privatization of Public Interest: Theorizing NGO Discourse in a Neoliberal Era." 11(1) *Review of International Political Economy* 155–176.
- Kawar, Leila (2014) "Commanding Legality: The Juridification of Immigration Policy-making in France." 2(1) *Journal of Law and Courts* 93–116.
- Keck, Margaret E., & Kathryn Sikkink (1998) *Activists Beyond Borders*. Ithaca, NY: Cornell University Press.
- Keith, Linda Camp (2012) *Political Repression: Courts and the Law*. Philadelphia: University of Pennsylvania Press.
- Kennedy, David (2002) "The International Human Rights Movement: Part of the Problem?" 15 *Harvard Human Rights J* 99–125.
- Knop, Karen (2011) "International Law and the Disaggregated Democratic State: Two Case Studies on Women's Human Rights and the United States." in Charters, C., & D. R. Knight, eds., *We, The People(s): Participation in Governance*. Wellington, New Zealand: Victoria University Press.
- IDLO (2011) *IDLO Helps College of Law of the University of Juba Finalize New Curriculum after Relocation from Khartoum*. International Development Law Organization. Available at: <http://www.idlo.org/french/WhatWeDo/Programs/Governance/Pages/News-Dettaglio.aspx?IDNEWS=329> (accessed 11 February 2015).
- Leonardi, Cherry (2013) *Dealing with Government in South Sudan: Histories of Chiefship, Community and the State*. London: James Curry.
- Marshall, Anna-Maria (2003) "Injustice Frames, Legality, and the Everyday Construction of Sexual Harassment." 28(3) *Law & Social Inquiry* 659–89.
- (2005) "Idle Rights: Employees' Rights Consciousness and the Construction of Sexual Harassment Policies." 39(1) *Law & Society Review* 83–124.
- Mason, Whit (2011) *The Rule of Law in Afghanistan: Missing in Inaction*. Cambridge: Cambridge University Press.
- Massoud, Mark Fathi (2011) "Do Victims of War Need International Law? Human Rights Education Programs in Authoritarian Sudan." 45(1) *Law & Society Review* 1–32.
- (2013) *Law's Fragile State: Colonial, Authoritarian, and Humanitarian Legacies in Sudan*. Cambridge: Cambridge University Press.
- (2014) "International Arbitration and Judicial Politics in Authoritarian States." 39(1) *Law & Social Inquiry* 1–30.
- McCann, Michael W. (1994) *Rights at Work: Pay Equity Reform and the Politics of Legal Mobilization*. Chicago: University of Chicago Press.
- McClymont, Mary, & Stephen Golub (2000) *Many Roads to Justice: The Law Related Work of Ford Foundation Grantees Around the World*. New York: Ford Foundation.
- Merry, Sally Engle (2006) *Human Rights and Gender Violence: Translating International Law into Local Justice*. Chicago: University of Chicago Press.
- Meyer, John W., et al. (1997) "World Society and the Nation-State." 103(1) *American Journal of Sociology* 144–81.

- Moustafa, Tamir (2007) *The Struggle for Constitutional Power: Law, Politics, and Economic Development in Egypt*. Cambridge: Cambridge University Press.
- Mutua, Makau (2008) *Human Rights: A Political and Cultural Critique*. Philadelphia: University of Pennsylvania Press.
- Poole, Deborah (2004) "Between Threat and Guarantee: Justice and Community on the Margins of the Peruvian State," in Das, V., & D. Poole, eds., *Anthropology in the Margins of the State*. Santa Fe: School of American Research Press.
- Rajagopal, Balakrishnan (2003) *International Law from Below: Development, Social Movements, and Third World Resistance*. Cambridge: Cambridge University Press.
- Riles, Annalise (2001) *The Network Inside Out*. Ann Arbor: University of Michigan Press.
- Rosenberg, Gerald N. (2008) *The Hollow Hope: Can Courts Bring about Social Change?*, 2nd ed. Chicago: University of Chicago Press.
- Schuller, Mark (2012) *Killing with Kindness: Haiti, International Aid, and NGOs*. New Brunswick, NJ: Rutgers University Press.
- Seawright, Jason, & John Gerring (2008) "Case Selection Techniques in Case Study Research." 61(2) *Political Research Quarterly* 294–308.
- Sharkey, Heather (2003) *Living with Colonialism: Nationalism and Culture in the Anglo-Egyptian Sudan*. Berkeley: University of California Press.
- Sikkink, Kathryn (2011) *The Justice Cascade: How Human Rights Prosecutions are Changing World Politics*. New York: W.W. Norton.
- Silverstein, Gordon (2009) *Law's Allure: How Law Shapes, Constrains, Saves, and Kills Politics*. Cambridge: Cambridge University Press.
- Stake, Robert E. (1995) *The Art of Case Study Research*. Thousand Oaks, CA: Sage Publications, Inc.
- Stern, Rachel (2013) *Environmental Litigation in China: A Study in Political Ambivalence*. Cambridge: Cambridge University Press.
- Suchman, Mark C., & Lauren B. Edelman (2007) "Introduction: The Interplay of Law and Organizations." In Edelman, L. B., & M. C. Suchman, eds., *The Legal Lives of Private Organizations*. Aldershot, UK: Ashgate Publishing.
- Talesh, Shauhin A. (2009) "The Privatization of Public Legal Rights: How Manufacturers Construct the Meaning of Consumer Law." 43(3) *Law & Society Review* 527–62.
- Thayer, Millie (2010) *Making Transnational Feminism: Rural Women, NGO Activists, and Northern Donors in Brazil*. New York: Routledge.
- Vismann, Cornelia (2008) *Files: Law and Media Technology (Transl. Geoffrey Winthrop-Young)*. Stanford: Stanford University Press.
- Weber, Max (1978) *Economy and Society*. Berkeley: University of California Press.
- World Bank (2015) South Sudan. Available at: <http://www.worldbank.org/en/country/southsudan> (accessed 11 February 2015).
- Woods, Patricia J., & Lisa Hilbink (2009) "Comparative Sources of Judicial Empowerment: Ideas and Interests." 62(4) *Political Research Quarterly* 745–52.
- Zwingel, Susanne (2012) "How Do Norms Travel? Theorizing International Women's Rights in Transnational Perspective." 56 *International Studies Quarterly* 115–29.

**Mark Fathi Massoud** teaches politics and legal studies at the University of California, Santa Cruz, and is a 2015-2016 Law and Public Affairs Fellow at Princeton University. His research focuses on law and society in conflict settings and authoritarian states, and on Islamic law and society. His previous work, based on field research in Sudan, received the Law and Society Association Herbert Jacob Book Prize.