

# **Rule of whose law? The geography of authority in Juba, South Sudan**

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## ABSTRACT

This study asks: in the general absence of a functioning and effective civil administration in Juba's huge suburbs, how have people negotiated personal disputes and neighbourhood management since conflict began in 2013? Who arbitrates in Juba, and on what terms? This study challenges top-down analyses that see political-military elites managing their ethnic enclaves of followers and fighters through nepotism and gifts. Such patronage requires the complex negotiation of responsibilities and rights, including over community safety and order. In Juba, the local authorities who mediate this have been built by men and women with extensive expertise and connections in South Sudan's long history of 'civil-military' governance systems. These local authorities have established lasting institutions by negotiating rights to residence in, arbitrating over, and knowing the human geography of their neighbourhoods. Their authority is rooted in this deep politics, drawing on their detailed knowledge of topographies of power in these multi-ethnic, highly military neighbourhood spaces.

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## INTRODUCTION

South Sudan fits a dominant narrative: of state predation, fragmentation, and collapse; and of the resilience of its people, whose ability to suffer predation and to survive is relied on by both the old Sudan People's Liberation Movement/Army (SPLM/A) elites, as they asset strip the nation, and by the humanitarian community, who praise their endurance. The civil war that broke out in 2013 has repeatedly centred on the capital city of Juba, where clashes between President Salva Kiir and then ex-Vice-President Riek Machar's forces in December 2013 saw at least 300 people dead in mass violence across the city's suburbs. The power-sharing deal between Machar and Kiir, which brought Machar and a small number of his SPLM/A-In Opposition (SPLM/A-IO) forces back to the city, broke down in renewed clashes in the town in July 2016.<sup>1</sup> Since the forced removal of the ex-Chief of General Staff Paul Malong Awan from the city in November 2017, Juba is now a fortified military stronghold of President Salva Kiir's governing faction.

Economic collapse since mid-2012 and then civil war since December 2013 have worked to strip back the fragile institutional, legal, and procedural state cladding laid out in the internationally-funded building project during peace between 2005 and 2013. The accelerating economic breakdown has fundamentally undermined the personalised financial systems that kept armed soldiers paid and maintained local markets and rents in Juba's suburbs, and has escalated terrifying rates of violent crime. Army uniforms and guns are for hire.<sup>2</sup> Juba's residents are suffering from exhaustion, fear, and the inability to find restitution for the vast majority of crimes. During research in late 2015, a church group conducted group prayers for safety and justice at the site of a horrific gang rape, and an old woman in another suburb explained how she now carries a foot-long crucifix as personal spiritual protection since the massacres in December 2013 (E. V., 2015 int.). Where national news reports blame violent crime on 'unknown gunmen', Juba residents wryly refer to 'known gunmen,' or

‘unknown government.’

If, as Mahmood Mamdani (2016) recently argued, there is now ‘no bureaucracy, no judiciary, nothing to fail’, how is Juba governing itself in the everyday as formal structures collapse? As several residents noted in 2015 and 2016 (ints.), the current situation in the city is not a new normal, but ‘back to normal.’ Most people have experienced living under fragmented, personalised forms of local authority tied to the SPLA, the Sudan Armed Forces, and other militias in the two previous civil wars, including in Juba, a longstanding garrison town. This article strives to understand this renewed normality, and which authorities have roots and traction in the city today. What orders are actually resilient, what makes up the remaining rules of law, and who rules Juba?

This study builds on recent work on land rights, legal pluralism, and public authority (Tapscott 2017; Justin & De Vries 2017; Hoffmann, Vlassenroot & Marchais 2016; Schouten 2016; Lund 2016; Twijnstra & Titeca 2016; Pendle 2015; Meagher, De Herdt & Titeca 2014; Schomerus & De Vries 2014). It looks at how Juba is regulated and managed by bodies and individuals who have been established, and rooted themselves, as arbitrators and administrators in the city; and whose careers, investments, and connections span state and local government, military and security positions, and private entrepreneurship (drawing on Badiéy 2013, 2014; McMichael 2014, 2016). It takes up where studies of pluralism and hybridity have reached in dissolving boundaries between civil and military, state and non-state, and customary and statutory laws and rule of law (following Jackson 2017: 256, 264). For locals, these authorities – who determine rights to residence, disputes over land and marriage, domestic violence cases, abuses by soldiers, disputes over water point access, and organise polio vaccinations, tax markets, and manage rubbish dump sites – are only really plural in the sense that there are a lot of them across Juba’s roughly forty square miles; their multiple connections and interests across institutional, private business, and military-security

sectors are entirely normal and congruent in this context.

This study thus sets Juba's 'state' actors into a wider field of 'plural, hybrid, public authorities' in the city. It follows Lund (2016, 2006) and Boone (2018, 2014) in explicitly linking land, politics, and authority, and specifically takes up the historical and geographical turn in research on public authority in the last few years. The majority of Juba's judicial-administrative public authorities have grown from negotiations over residential space in Juba's rapidly-expanded suburbs during post-war reconstruction from around 2006 onwards. As the (late, disputed) Bari Paramount Chief Dennis Faragalla (2016 int.) noted, 'the genesis of all of these problems is the issue of control of land.' Badiey's (2014) study of Juba between 2006 and independence in 2011 detailed the personalised tensions and competitions between various local ethno-political powers, former Sudanese state government workers, arriving SPLA soldiers, and members of the new regional Government of South Sudan and the SPLM over reconstructing, and expanding, the booming capital. This article builds on Badiey's work on elite and governmental contestations over the growth of Juba in this period, examining the local neighbourhood authorities that have emerged in Juba since the Comprehensive Peace Agreement in 2005 as part of this urban sprawl. It argues that these neighbourhood authorities are reflective of the military-political agents and organisations that negotiated rights to residence in Juba's huge suburban growth in this interim period.

In Juba's rapidly evolving landscape, individuals and local committees have constituted and established their authority by mapping out, arbitrating over, and knowing the detailed human geography of their neighbourhoods. The roots of their authority are derived from a combination of their recent historical knowledge of, and their concomitant ability to arbitrate and control, these neighbourhood spaces; and this expertise is grounded in these actors' careers within South Sudan's long but localised history of 'civil-military' governance systems that developed within the previous civil wars, particularly over the 1980s to 2000s.

These neighbourhood histories demonstrate that these governance systems have always been personalised and entrepreneurial, focused on the control and management of people (and their frustrations, labour, and wealth). It demonstrates Jackson's point (2017: 264) that

for most people, justice is not dispensed from formal, modern systems but from a dense network of institutions at local level which may or may not be codified or even visible. These institutions constantly change and are subject to a variety of controlling bodies which regulate the meaning and enforcement of common law.

This historical geography of local authority illustrates how these institutions have negotiated their powers and abilities to arbitrate spaces and communities, the groundings of their logics and codes, and their sources of legitimacy.

Exploring the history of these local powers, logics, and legitimacies – how, on a small scale, these institutions have established themselves, and have been established, as authorities within a community – develops, and challenges, a current dominant political analysis of the nature of power in South Sudan today. This analysis sees South Sudan's elites as competitors in a 'political marketplace', building their power on systems of patronage and nepotism rooted in systemic acquisition of resources (de Waal 2014). These elites, in this analysis, selectively invest these resources in gift-giving, marriage and kinship networks (Pinaud 2014: 192), making themselves a 'military aristocracy' (Pinaud 2014, 2016) governing, as Stringham and Forney put it (2017: 178), 'hordes of "tribal" clients, loyal proxies for whom "tribalism" masks class privilege', binding this 'lower stratum of followers' (Pinaud 2014: 195) to them through bridewealth, gifts, and other forms of corruption. In this analysis, the civil war erupted when these elites finally failed to balance the financial and political demands of their hundreds of SPLA commanders and ethnically-based factional battalions, and a greater smorgasbord of other antagonistic parochial militias (de Waal 2014; Mamdani

2016). As such, South Sudan's current political leadership is now commonly depicted as a military mafioso with a whole country to prey on (D'Agoût & Miamingi 2016; de Waal 2016), only nominally running a 'non-existent state' (Mamdani 2016).

This study argues that this powerful neo-patrimonial perspective is elite-driven and reductive (following Mkandawire 2015; Wai 2012). To over-focus on elite predation can implicitly sketch out a clientelist 'base' with very little agency or critical capacity, engaged only in drawing down trickles of goods and services from their masters (Anciano 2017; Palomera & Vetta 2016). This approach also ignores the deep politics of this power. It overlooks the locally powerful men and women who actually organise militias and mobilisation, their motives and choices (Stringham & Forney 2017: 178, 181–2); and it does not explain how and on what terms people engage, consent, ignore or challenge these elites' power plays and exploitations.

Juba's political geography illustrates this deep politics. The military-political elite competition to control the distribution of land and ensuing rents in the new suburbs of Juba since 2006 is a demonstration of how over the last thirty years South Sudanese people have seen 'the expansion and penetration of the predatory government economy' into rural refuges and societal economic and social structures (Leonardi 2011: 232). But – crucially – once these new suburbs are established, these same militarised authorities continue to be involved in the management of these neighbourhoods within which their garrisons, government offices, businesses, and families are often located, using more than just the threat or use of force, or demands of base rents and reciprocities. This involves, as Stringham and Forney (2017: 179) argue, 'relationships that hold communities together in the crucible of conflict', particularly in the multi-ethnic, heterogeneous suburbs of Juba. How Juba's militarised, elite-connected neighbourhood authorities manage their communities, and what they manage, demonstrates some of the deep politics of responsibility and reciprocity on which such

militarised authority and patronage rests. Following Lund's work, this article suggests that looking at how communities and local authorities have been built around mobile and diverse families and residents is a way to explore this geography of power in the city, and its 'resilient' civic cultures (Lund & Boone 2013).

To do this, this article first sets out an overview of what systems have collapsed, and what has remained, in Juba since the outbreak of war in 2013. It then turns to the evolution of Juba: how the city's huge growth since the Comprehensive Peace Agreement (CPA) in 2005 has been shaped by, and evolved, neighbourhood authorities across the city; and who and what actually constitutes this authority, what these authorities do, and on what terms.

#### JUBA: A LEGAL GEOGRAPHY

Over 2005 to 2013, under the regional and then independent governments of South Sudan, significant energy and money was invested in constructing a 'new normal' for an ostensibly 'new nation' (or at very least a 'new state'). New laws drafted after the end of the second civil war, under the interim regional administration, set out a hierarchy of legal and statutory authority from the high court to 'customary' chiefs' courts at county and sub-county levels that echoed a prospective administrative system for service delivery (Leonardi *et al.* 2010). Juba was at the heart of this state-, government-, and law-building project, hosting the high court and court of appeal, national and Central Equatoria State ministries, police training centres, and local government offices. Despite extensive under-staffing and under-skilling, these offices contained individuals with significant expertise and personal commitment to making things work, based often on personal administrative and legal experience from previous Sudan government work, and/or employment within local civil-military administrations of the SPLM/A. In practice, these 'new' institutions only somewhat reworked old expertise, laws, practice and paperwork. The most significant aspects of this institution-

building process were mostly focused in Juba, mainly the salaries and training opportunities. But these state systems' reach was extremely limited, even within Juba, and under significant stress even before the economic crisis and political collapse over 2013 (see Badiey 2014). The violence in the city in December 2013 stripped away the finances, salaries, and the apparently distinct roles of security, police, military and legal system workers, and escalated abuses of power and contempt for these laws, particularly among military-security actors, whose powers, staff and areas of control have proliferated and competed against each other in the city since 2014 (Amnesty International 2016). By the end of 2017, many civic state and county-level offices were either shut or vacant, and judges sacked or intimidated into resigning (Ibreck, Logan & Pendle 2017; *Reuters* 7.9.2017).

The collapse of this formal legislative and judicial edifice was in part the impetus for the research that underpins this article. The interviews and meetings across Juba that have contributed to this study were conducted as part of research for the British Council in support of an 'access to justice' project, funded by the European Union, focused on justice systems in Juba over early 2015 to July 2016. Access to justice programming in South Sudan has followed the same trajectory as the general state-building project over this period: grand designs for the formalisation, structuring and empowerment of a state-run system have been foundered by the continued militarism, under-funding, and politicisation of legal, policing and judicial systems, particularly since early 2013 (Copeland 2015). Most international projects focused on supporting statutory legal systems have failed, in part because they have very little left to work with that they recognise. The research used here was commissioned specifically to look at what systems of rule of law and justice actually were working in Juba by 2015, and their work, logics, and roots. Research involved open discussions and interviews with a cross-section of society in three suburban areas, with market women and manual labourers as well as with chiefs, headmen, local state and volunteer police, and

soldiers.

These residents and local justice system workers put forward an alternative geography of political and legal order in Juba, beyond any distinctions between state and society (as per Denney 2014). They referred to more long-standing neighbourhood structures, authorities, norms and logics of controlling the capital that are relatively established and understood by their residents. These neighbourhood authorities make up a patchwork across Juba: they are now the men (and some women) and small local institutions that task themselves with managing neighbourhood law and order, including regulating services, security forces' activities and abuses, and managing settlement — all insofar as possible. These people and organisations are not elites, but have vertical ties and extensive localised connections, and find their legitimacy, ability to act, consent to arbitration through their connections and abilities to provide some protections or determinations that stand against military or security abuses. These authorities and neighbourhood structures are fundamentally tied to how their area became a suburb of the city, particularly in the huge new residential areas outside of Juba's small old town.

### *The geography of authority in Juba*

Over 2006 to 2011, Juba was likely the fastest-growing city in the world. As internally displaced families, refugees, jobseekers and workers in massive new state-building and developmental projects flowed into the city, the town grew from around 250,000 to an estimated million residents by 2011.<sup>3</sup> Formal processes for land allocation were overtaken by local Bari chiefs and other political elites' own distributions of plots. Various people and organisations negotiated the delineation of scrub areas as new neighbourhoods, often involving legally creative collaborations between city officials, SPLM/A officials, Bari community organisations, local village authorities on Juba's rural outskirts, and refugee and

returnee spokespeople (see Badiey 2014: 14, 115, 135). Mostly, people settled around family or kin, or in groups reflecting communities and villages where they had come from, such as neighbourhoods from Khartoum's South Sudanese-dominant suburbs (*UNHCR News* 11.12.2012; Pantuliano 2009). In this period, Juba became a city of villages. These neighbourhoods ('hai') – although barely delineated from each other, usually by main roads and creeks, and densely populated – remained insular. Within neighbourhoods or residential blocks, people from different ethnic and social backgrounds, for example returning refugees from Uganda or from Khartoum, still have a real lack of knowledge of other residential areas, and commonly express mutual suspicions and ethno-regional stereotyping. These fears took extreme form during Juba's most rapid period of expansion in 2008 to 2010, with several panics over suspected poisoning of water points in Jebel Kujur and Kator by returning refugees from Uganda and Congo, believed to have picked up witchcraft skills in exile and to be using them against their neighbours (Schomerus *et al.* 2008: 35–36).

In this immediate context, it is not surprising that existing studies of Juba primarily focus on land rights and conflicts, and on the role of disputed land rights and ownership in shaping South Sudan's new state. For some pre-CPA residents from local Bari ethnic communities, this was an invasion (McMichael 2014: 392; Badiey 2013: 64). Most commentary on Juba's rapid expansion over the 2005 to 2011 peace period has focused on this Bari contestation with the state over land rights and restitution (Pantuliano *et al.* 2011; Justin & van Leeuwen 2016: 437; Hirblinger 2015: 709; Badiey 2013; McMichael 2014). This contestation, and informal land demarcation, continues today. Bari protests over Juba's 'occupation' have been renewed with President Salva Kiir's sub-division of South Sudan's ten states into twenty-eight, creating a Jubek State which local hardliners hope will become a Bari ethnic fiefdom, distinct from the neighbouring Mundari. The late Bari paramount chief Dennis Daramallo Kundi (2016 int.) emphasised that 'everyone [else] within this area is a squatter.'<sup>4</sup>

The expropriation, demarcation, and allocation of land around Juba for profit and power by political and military elites has been rightly criticised – not least by Juba's residents – as a process of greed and exploitation (McMichael 2014: 339). McMichael (2016: 2721) emphasises

the exploitative terms on which powerful figures such as informal settlement leaders, public officials, military actors and local chiefs intervened in informal land transactions at the expense of poorer informal settlement inhabitants... Creat[ing] opportunities for a range of actors to exploit vulnerable inhabitants.

But this was, and is, not a one-way process of predation: these elites were involved in shaping and managing suburban communities not only for gross self-aggrandisement but also because they often lived within these areas, or had family and kin involved and invested within these new neighbourhoods. For many military commanders and other powerful figures, managing the inevitable growth of suburbs containing significant numbers of military families was and is a vital and civic necessity for maintaining public order and authority.

These new residents brought with them authorities of varying provenances and legitimacies, including rural chiefs from old lineages across South Sudan or chiefs appointed by the SPLA during the civil wars, authorities appointed in refugee camps and displaced settlements in northern Sudan, Darfur and across eastern Africa, and newly-minted arbitrators and businesspeople taking up positions in Juba's neighbourhood committees and urban ethnic associations. Urbanisation, like wartime displacement, has split families and clans between rural and urban areas and across borders, multiplying chiefs and other ethnic representatives in networks across the country. Many of these alternative local authorities engaged themselves in organising the extra-state demarcation of new Juba suburbs, drawing on military and political connections from the civil war years: their local authority to arbitrate

and administrate these neighbourhoods stems as much from their dispensation of rights to residence in their area as it is from their personal powers and connections. Their knowledge and authority is recognised essentially through their lack of recognition by state authorities in Juba, as explained by a Dinka chief in one new suburb (Shirikat, 2015 int.):

In the crisis [of 2013], people just came, expanding the area. After this, the land policy in the government constitution says it belongs to the community. So Rejaf [Bari] community disputes this, as land grabbing, so when a case appears in Kator [state court], [the Bari-led court declares that] the case should be transferred back to the area, because it cannot be settled in the court – [because] there are no papers [of residence]. So when a problem is from the residential area [here], and it is disputed in Kator, that court transfers it [back] here. It says ‘we don’t know those areas’ – it’s not considered as legal.

These neighbourhoods are thus partly outside of the town’s state structure, knowledge, and civic/civil authority.<sup>5</sup> This day-to-day authority instead rests with the people who have organised and arbitrated these new neighbourhoods; and so the recent history of how these various local elites managed this rapid expansion – their knowledge of the varied legal and social topography of Juba's suburbs, including its garrisons and multiple avenues for petitioning for funds and services – is at the root of their authority and their continued abilities to arbitrate and manage these spaces. Legitimate authority is defined in this context as whoever has the proven knowledge, connections, and relationships that are necessary to mediate disputes between neighbours, whose claims to legitimate residence are based on both this recent history of neighbourhood creation, and the various common law determinants of neighbourhood plot rights.

## **MAP**

### *Gurrei and Gumbo*

This study focuses on two examples of these authorities and constituencies: the collective greater area to the west of the central city, known as Gudele, and in particular one of its neighbourhoods called Hai Jebel Dinka (Dinka Hill); and the area known as Hai Gumbo or Hai Gumbo Shirikat (Companies) across the Nile. Gudele constitutes a sprawl of suburban neighbourhoods spreading out along the roads to Mundri and Yei to the north and southwest respectively. Military outposts and landmines had forced villages out of the area by the mid-1980s (Badiy 2013: 71–73). After 2005, the large numbers of returning displaced residents from Khartoum's slums and camps gave Gudele the nickname 'New Khartoum' (Khartoum Gedid) by 2008. Gudele's land was taken up and re-demarcated by various powerful individuals and collectives (Pantuliano 2009: 160). One suburb, arranged around a small market, and delimited by some old paths which are now roads, was demarcated by a coalition of Bari elders and SPLA insiders; land disputes and sales have been managed by the resident Bari chief since 2006, with reference to a ledger on land allocations for the village's ethnically diverse community (Souk Zande ints., 2011 and 2015).

A more controversial neighbourhood sits nearby. Based on an old pre-war cattle market site, the village of Jebel Dinka is made up of primarily Dinka, Nuer and Mundari military families and ex-Khartoum residents, many of whom were displaced from squatted areas in central Juba, including Hai Goniya, Tong Ping and Hilla Kuku, by the Central Equatorial state over 2007 to 2008. Government officials and army generals, whose extended families were some of those subject to this relocation drive, organised the allocation of land to a registered list of displaced families in 2008, and appointed a Dinka man – not coincidentally, the brother of a SPLA general – to oversee the settlement and neighbourhood order, in collaboration with

Nuer, Chollo and Mundari community leaders and chiefs among the new residents (Chief Thiep, 2015 int.). This powerful local leadership, made up of sixteen chiefs of various provenances who are given authority by, and frequently draw on, their military connections for policing and enforcement, are generally locally respected as ‘zol kabeer’ (big men). One Nuer chief on this committee explained that ‘we try to provide services, doing our own things. Because we provide the [medical] clinic, we get respect as the only system here.’ (Marko, 2015 int.)

Across the Nile, and like Gudele also outside of Juba’s established municipal boundaries, the area broadly known as Gumbo has expanded massively since 2010, due in part to the construction of the tarmac Nimule highway running to the Uganda border. Based on the old Bari village of Gumba, this area suffered extensively during the civil war and was heavily mined. Its expansion was driven by the huge growth in import traffic from Uganda, which has lent a name to one suburb – Shirikat, literally ‘Companies’ in Arabic – and encouraged the expansion of cheap accommodation and nightclub ‘lodges’ along the main roads. ‘Moral cleansing’ campaigns to demolish lodges and evict sex workers in Custom Market in central Juba in 2009, 2011 and 2013 also saw many small businesses relocate across the river (*Sudan Tribune* 12.7.2010). Greater Gumbo has a plethora of justice systems, from established Bari village court systems displaced to Juba’s suburbs by the 1990s wars, to self-made chiefs’ courts in newly-demarcated areas. An area at the far reaches of Gumbo, along the Nimule highway, established its own neighbourhood committee and court system in 2013; their committees are made up of local Bari, greater Equatorian, Dinka and – before the violence of July 2016 – Nuer residents. These local officials are unrecognised by state authorities and the local police, but had themselves established a youth centre, a ‘community police’ office and rota, and campaigned successfully for an NGO-built water pump (Boniface, 2015 int.). The elected Bari chief of the area (2015 int.) explained:

We erected a police and youth office, and formed community policing at night to patrol the area. [We] had been requesting the police to be brought to his area, but they [said] that they lack the personnel. That is why the youth and community are trying their best at least to patrol at night, and that reduces the crime at night.

Municipal or state services are broadly absent across these new suburbs, generally present only as individual police stations (for instance at Gurrei in Godele) or as one of many unpredictable and unaccountable tax collectors in neighbourhood markets. In practice, these suburbs' local authorities derive their legitimacy from doing what local government is supposed to do, in funding clinics, convening community meetings, lobbying NGOs to provide services such as boreholes, collecting donations for youth and women's association offices, and organising 'community policing' patrols. These self-government processes, networks and skills were developed during the war, and have been employed in Juba by the city's new, mostly ex-refugee and ex-displaced residents regardless of the peace declaration and establishment of a new nation-state.

These local justice systems, in making service provisions central to their role and legitimacy, reflect the common understanding of justice and security in Juba. In the current economic collapse, arbitrating access to resources is key to maintaining social order and preventing violence and criminality. As Justine, a female Nuer court member in Gumbo said, 'we are so poor we can't describe it': for her, the rule of law depended on maintaining order at the water pump queue, and arbitrating over a general lack of saucepans and cooking equipment among local families displaced from Bor in 2013 and 2014 (Justine, 2015 int.). Successful mediation of these basic but crucial issues is the foundation of these authorities' legitimacy. Their knowledge of how to create these comprehensible, workable local systems is bedded in their members' experience of doing the same work during previous times of insecurity, violent

governance, and insurrection back into the 1980s and 1990s, and their knowledge of how to negotiate with and call on the responsibilities of the men and families who have gained military, political and financial power during this period, what this article calls deep politics (following Berman 2004: 22).

#### CIVIL-MILITARY RESPONSIBILITIES IN JUBA'S NEIGHBOURHOODS

This deep politics was built within the city's political-military neighbourhood histories. Juba is an old province capital and garrison post, near Gondokoro, a pre-colonial fortified slave trading centre. The small town was essentially under siege from the early 1990s until 2005, controlled by a hugely violent and repressive security-military apparatus under the Sudan Government, and ringed by a mined perimeter, beyond which individual SPLA units and other paramilitary groups controlled checkpoints and roads, took over teak and coffee plantations, maintained its own chiefs and military law, and settled in 'liberated' areas with their families across Equatoria (Branch & Mampilly 2005). These processes of urban-rural control, law, and resettlement continued after the CPA in 2005 (Schomerus *et al.* 2008), when many of these units and communities resettled within the de-mined fringes of Juba. Badiy (2014) has extensively outlined the immediate tensions between the wartime residents and administrators of Juba and the arriving SPLM/A-affiliated families, soldiers and political-military elites over 2005–2008. As the SPLM/A institutionalised its state and military power over 2006–2011 and established its political and military hold on the new regional government apparatus and capital, its personnel and their families also reshaped neighbourhoods.

A survey of this military society is not within the purview of this article, but this 'lower stratum of followers' (as Pinaud puts it, 2014: 195) made up complex new neighbourhoods. In a 2015 social survey of a Juba suburb, one third of respondents considered themselves a

present or past member of a militia or military force; likely most of the male population surveyed, as 55 per cent of respondents were men (Deng & Willems 2015: 12).<sup>6</sup> This is understandable, as there has never been a distinct standing national army in South Sudan: the SPLA, the government's police, security, intelligence and prisons services, militias and paramilitaries are hybrid and sprawling, with recruitment managed by commanders and unit leaders, and many soldiers and officers kept on standby, as reserves to be moved and mobilised dependent on the political and financial climate (Pendle 2015: 411; Mamdani 2016). Conscription and military training led by local SPLA, militia and police personnel has been widespread and normalised across Gogrial, Warrap and Northern Bahr el Ghazal areas throughout the post-2005 period, and particularly since independence in 2011. Suburban residents are thus widely armed, often have combat histories, or are still part of personalised forces and units organised under and (infrequently) paid through the patronage of individual officers and commanders. Many military families live in neighbourhood blocks and compounds organised by these leaders, or around old garrison sites like Gumbo. New neighbourhoods such as Mia Saba and New Site in Juba were established, and are claimed by, various divisions and factions of the SPLA (ex-combatants and serving soldiers, Mia Saba, Shirikat and Jebel Dinka, 2015 ints.).

This militarised topography is not static. With the escalating elite power struggles over 2013, many political elites – particularly those allied to President Kiir – moved both old and new units of their particular SPLA battalions and personally-recruited militias into the city. The violent confrontation between Salva Kiir and Riek Machar's military forces in Juba in December 2013 again altered the military geography of Juba, as Machar-aligned Nuer soldiers and their families – as well as the wider Nuer community and those protecting them – were targeted in what appear to have been systematic massacres by groups of pro-Kiir SPLA, militia, security and police personnel across the city (Johnson 2014). During the

violence, pro-Kiir forces from the Gumbo garrison took over the Gumbo radio station, and secured the only bridge across the Nile and the vital Nimule highway; these soldiers have been resident at these key installations since, often moving into houses and plots abandoned by fleeing Nuer residents (Gumbo residents, 2015 ints.).

Public authority in Juba's villages is thus bound up in systems of military labour. This can appear ethnically essentialist: Alex de Waal stated recently that 'Juba... is fast becoming a city of ethnic enclaves, each with its own defence forces' (2016b: 5). But this suburban management is more complex, and thus a little less brutally tribalist, than this summary. Residents' organisation of multi-ethnic, military-connected 'customary' courts are locally reflective, and do not necessarily demonstrate a city of 'ethnic enclaves'. Instead these courts show how the complexity of ethnicity is often underestimated in Juba, particularly in conversations around land rights that simplify tensions to the overarching political-regional categories of Bari or Dinka (for critiques of this simplification, see Badiey 2014: 9; Leonardi 2011: 216). Many of Juba's families are mixed-ethnicity, and live on streets with families from a wide range of regional and ethnic backgrounds. The street I lived on over 2012–2013 in Munuki Block C, for instance, was majority-Equatorian, but housed a Bari-Nuer couple and their children, a Dinka family with a Darfuri husband, a brief sub-let to a Chollo woman and her children, and a mixed-ethnicity Lotuho-Kakwa-Tokiman Bari household. Local authorities dealing with disputes over rubbish dumps, latrine siting, or domestic violence incidents have to reflect this diversity and mobility of their residents, and shift, grow, or disband depending on local need. For instance, a Lotuho court in Gumbo, set up for a block of houses with Lotuho-only residents, added a Nuer court member in 2012 when several Nuer families moved back into the area. The Nuer membership then grew and instituted its own sub-court in 2015 to deal with intra-Nuer disputes; both the Nuer and Lotuho courts have continued to solve neighbourhood-wide problems, in collaboration with a local (eastern

Equatorian) Pari court (court members, Gumbo, 2015 ints). These efforts are not novel to local residents; they are continuations of neighbourhood committees run in refugee camps, displaced settlements, and peri-urban areas across South Sudan and the region throughout the wars. They depend on their heterogeneity and flexibility in order both to mediate intra-ethnic disputes with consideration for competing types of legal standards, moral codes, and *haq* (rights, the right ways); and to be able to draw on a wide range of political-military connections and authority to manage this militarised social terrain.

These heterogeneous and ethnically plural neighbourhood committees and courts predominantly deal with heavily armed and military-connected family and inter-personal disputes, many of which fall across ethnic lines or are within multi-ethnic families. Many workers in these local authorities talk about impunity, rather than ethnic tensions, as the main problem in their work. Local chiefs, priests and local police inspectors across Juba all complained of the difficulty of bringing security, military or other government-affiliated suspects to account; barracks administrations often tell civil or police authorities that ‘we have taken that man to the front line’, without further accountability (Social worker, 2015 int). As Peter Justin and Mathijs van Leeuwen (2016: 429) observe in Yei, soldiers frequently ignore court summons and claim that they cannot be prosecuted in civil courts. Many families who fled during the December 2013 or July 2016 violence, to Uganda or to the UN Protection of Civilians camps, have found their houses and land occupied by military or militiamen from different factions.

A good example of the local response to this issue is the Gumbo neighbourhood court system. Much like Jebel Dinka’s multi-ethnic ‘chiefly’ committee, with Dinka military connections as well as representation from Nuer, Chollo, and Zande families living in the area, Gumbo’s many ethnically-compound courts include several regional-specific courts, such as for Greater Upper Nile (regional court members, 2015 ints.). These were established

from 2006 to 2008 around the old barracks site at the centre of Gumbo's new urban sprawl. The Greater Upper Nile chiefs' court secretary explained that in 2007, the area was mostly occupied by military families alongside Bari villages (Shirikat, 2015 int). These military communities were originally governed under SPLA military justice, but as increasing numbers of non-military families moved to the area, the military police refused to take on civilian-only cases. The court was established to take these on, with the approval of the barracks' military justice system. These courts are still heavily armed, and involve many members from military intelligence, the military police, and national security. One Gumbo court set up in this way, and led by relatively young military intelligence officer 'chiefs', uses the SPLA code of conduct in their copy of the SPLA Rules and Regulations 2009 as a key reference in their judgements (Peter, military intelligence officer and court member, 2015 int.):

When a soldier threatens someone using a gun, [I look] into the laws of the army. If it's a heavy case, then [it is] filed at SPLA General Headquarters, according to the article. When it's a minor case, we will solve it locally.

It may be more useful to look at this local governance through the knowledge base of these authorities. The people involved in these courts must know not only how their neighbourhoods were constituted – the land claims, forms of rights, and different residents in their area – but also what interests are at play in these very specific and militarised neighbourhoods, ethnically, politically, and personally, and the possibilities and limitations these fast-evolving circumstances proscribe. The men and some women who work as arbitrators and administrators in these local committees and courts have careers, investments, and connections that span state and local government positions, military and security positions, and private entrepreneurship. These authorities often draw on their own networks

and experience from working within military justice systems in wartime territories occupied variously by Sudan government forces, government-allied militias and the SPLA. Many people in these courts across Juba have extensive skills and experience of making ‘common law’ work around Juba and in refugee camps, within Sudan government-held areas, and within the civil-military administrations of the SPLM/A’s liberated territories over the 1990s and 2000s; some men and women’s experience of this work stretches back to the 1960s. Several men and women noted that their work continues to be essentially civil-military administration.

This experience and expertise underpins many of these courts’ abilities to draw down military powers to enforce some (if not all) of their arbitration work. All of the various authorities I met in the course of research across Juba had some limited but tested means of circumventing certain forms of militarised impunity; some methods of seeking redress and accountability, or at least rapprochement, with local military authorities; and some ways of finding funding for community services such as boreholes or pharmacies, from state as well as private sources. This included friendly or familial connections to agents or offices in the Military Intelligence, National Security, and police apparatus, or a person’s own work or career history in these agencies, and their relationships with local police, battalions and units stationed in commanders’ personal houses in Gudele and Gumbo. Community police, neighbourhood watch patrols, vigilante road blocks and other complex forms of mob policing and extrajudicial punishment are organised and resourced on Juba’s fringes as part of these networks (chiefs’ court members, *Jebel Dinka and Gumbo Shirikat*, 2015 ints.). Several courts have found ways of forcibly bringing suspects from military barracks or their commander’s compounds to hearings; one court has enforced a ban on military uniforms in court hearings, fining those who appear in uniform (usually in order to intimidate the other party) with the support of the area’s military and police offices. In 2015, the *Jebel Dinka*

court resolved a domestic violence and divorce case by granting the divorce to the injured wife of a serving police officer, and organising with his commanding office for child support payments to be taken from his salary; a family member of the court working in the police station is overseeing this. These authorities enforce their decisions through the threat of imprisonment or physical punishment from state or community police, but also through social pressure and public shaming. Their determinations are not necessarily reflective of international or national laws, and made more often on the basis of social stability and collective security, rather than fairness; for the courts I spoke to for this study, their priority is to minimise risks of issues escalating, including by arbitrating accidental road deaths and teenage pregnancies through compensatory processes (2015 ints.).

Despite increasing numbers of female representatives across Juba, these courts are still patriarchal, punitive, and militarised. This is hardly surprising. As Lemay-Hébert and Freedman recently noted (2017: 4), hybridity is not parity; hybrid authorities and legal pluralism still constructs and continues hegemonies, and enforces silence around certain abuses and inequalities (Jackson 2017: 263). But these authorities, mediating between Juba's multiplicity of military-political elites and its residents, are not just greedy authoritarians whose power is dependent on base coercion and the dispensation of gifts. These men and women have forged careers spanning multiple civil-military regimes in which they are involved in the deep politics of making coercion into consent. Patronage and clientelism are not only the dispensation of elite favours from above to a grateful but rapacious proletariat, but involve the negotiation of deep responsibilities of those with power for their constituency – which is not a remote rural family, but often lives within the same compound or neighbourhood. Following Jeffrey et al. (2015: 179), this is the fine balancing of power and responsibility that underpins claims to legitimate authority.

This is an open discussion locally. When people get angry about corruption, impunity and

elitism in Juba, this is – as Stringham and Forney observe – ‘less about clientelism, and more about a lack of ethical reciprocity between political elites and rural communities’ (2017: 195). The most established local authorities, such as the court in Jebel Dinka, have significant support from their village residents because of their track record of looking after people, making somewhat fair and enforced decisions in disputes and in aid distributions, and – in general – using their powers and patronage for a roughly common good (residents, Jebel Dinka, 2015 ints.).

## CONCLUSION

This study suggests an alternative picture of authorities and the rule of law in Juba today. Rather than setting out changes versus continuities over 2005 onwards, it emphasises instead how individuals, institutions and organisations have assembled and evolved local order, logics and practices within adaptable systems that manage chronic instability in fast-expanding peri-urban neighbourhoods. South Sudanese residents have developed and recreated forms of authority, organising, and ways of managing complex spaces and difficult circumstances throughout successive periods of insecurity and various violent governments, which strive to maintain a level of normalcy and structure in military-dominated environments and complex communities, even if this normalcy is patriarchal and frequently violent and coercive. These authorities and their methods are based on an evolving common knowledge of how organisation can work in South Sudan, of what can be done and sorted out, on what terms, with what limitations. Their legal and moral codes and standards are drawn from across South Sudan’s heterogeneous cultures, from state legal paperwork and practices from Sudan as well as from the SPLM/A wartime administrations, and from other sources with significant moral and social weight, such as John Garang’s speeches and the SPLA code of conduct. This is what currently makes up law in Juba.

The work of these local authorities work sets out a practical understanding of how to govern South Sudan: using basic ethno-regional categories to structure court representation (as Nuer, Pari, Chollo, or Kakwa, for instance) but also negotiating and understanding complex multi- and inter-ethnic familial and social disputes, using ethnic heritages as the structuring moral codes and ethical authority to demand social responsibility, respect, and adherence to court decisions. This is not just a system of base ‘ethnic’ loyalties and deference to elite military patrons, a picture implied by a top-down approach to South Sudan’s ‘political marketplace’, but a social and moral balancing act that requires societal and cultural expertise, as well as the ability to draw down coercive power. Most people explained that they approached these court systems not necessarily hoping for justice – which in most cases, because of the difficulty in tracing, arresting and prosecuting suspects for anything from petty theft to rape, is often unlikely – but for practicable solutions that would be fair enough in the medium term. These local court committees’ legitimacy and authority is built on their ability to manage this, and to provide some kind of neighbourhood stability and predictability within which families can plan at least an interim future.

As such, as well as building up a historical and geographical understanding of public authority in Juba, this article emphasises the temporality of these authorities. As paramount chief Daramallo summarised (2016 int.):

In theory, no tribe can make a court in the area of another tribe. Chiefs have proliferated with urbanisation; the legitimate ones are in the village. The urban ones are pseudo-chiefs... Are these courts to be temporarily recognised? And how do we cater for these justice matters without changing the existing system?

Operating in this questionable space, these Juba authorities are making and protecting space and community for a certain value of protection, community, and rights to residence, for a

limited but useful time. Their parameters, rules, and organisation are constantly shifting across the city's suburbs, but their authority is in part derived from being able to make decisions that stick, not for some entirely unfeasible 'permanent' future, but for the time being. This temporality makes their decisions possibly more legitimate – because they implicitly recognise the instability and possible impermanence of both claims and lives in Juba, and unpredictable collective futures. Decisions made (including rights to residence, marriage settlements, custody, and other disputes) are settled on the most practicable balance of the interests of individuals, families, and safety. These compromises are part of a long history of temporary arbitration and authority, particularly for migrant and urban residents, who have worked with promissory notes and marriage settlements based on future prospects throughout the last civil war. From the perspective of this local history, many of South Sudan's ideas of governance and legal administration have been generated through this process of order for now, and judgements for the time being.

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#### NOTES

<sup>1</sup> For the wider context of South Sudan's successive crises and civil wars over 2013 to 2018, see de Vries and Schomerus 2017; de Waal 2014, 2016; Kindersley and Rolandsen 2017; Johnson 2014; Center for Civilians in Conflict 2016; Amnesty International 2016.

<sup>2</sup> 'There are some cases [where] some policemen and SPLA soldiers, they hire their guns and uniforms to

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civilians per night: some will pay SSP 500 [then around \$2.50] - others can go for SSP 1000 - and if the mission is successful, you add more money to the boss.’ Chief, Godele, 2015 int.

<sup>3</sup>. Figures vary widely, and these estimates are the average. See Badiey 2014: 5; McMichael 2016: 2726; Grant & Thompson 2013; Martin & Mosel 2011: 3. For a longer history of Juba’s growth, see Chang-Jwok Otor 1981: 53; Nakao 2013; McMichael 2016: 2726.

<sup>4</sup>. These ethnicised land tensions around the capital have been over-simplified as ‘Equatorian-Dinka’ contestations; and as contests between wartime SPLM/A fighters and those who lived and worked within Sudan Government territory. See Badiey 2013, 2014; Leonardi 2011.

<sup>5</sup>. This somewhat undermines the common assertion that Juba residents have significant opportunities for ‘forum shopping’ for their justice needs. While some wealthier, more mobile, and better-connected residents can move cases between state, ‘customary’, and military courts to suit their strategies, most residents are limited by circumstance, finance and social capital to these local committees and neighbourhood courts; and many cases of land disputes, divorce, and domestic violence are referred back to these local courts by central authorities (such as the statutory court at Godele, and the chiefs sitting at Kator B court) as outside of their practical jurisdiction.

<sup>6</sup>. This figure is likely inflated; but since heightened political tensions in July 2013, President Kiir and other political and military elites have moved many battalions into Juba and the surrounding area, with reinforcements in early 2016. Many of these soldiers and paramilitary forces brought their families to the city.

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