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Conflict in South Sudan and the Challenges Ahead

Updated September 22, 2016

Congressional Research Service
https://crsreports.congress.gov
R43344

CRS REPORT
Prepared for Members and
Committees of Congress

Summary

South Sudan, which separated from Sudan in 2011 after almost 40 years of civil war, was drawn into a devastating new conflict in late 2013, when a political dispute that overlapped with preexisting ethnic and political fault lines turned violent. Civilians have been routinely targeted in the conflict, often along ethnic lines, and the warring parties have been accused of war crimes and crimes against humanity. The war and resulting humanitarian crisis have displaced more than 2.7 million people, including roughly 200,000 who are sheltering at U.N. peacekeeping bases in the country. Over 1 million South Sudanese have fled as refugees to neighboring countries. No reliable death count exists.

U.N. agencies report that the humanitarian situation, already dire with over 40% of the population facing life-threatening hunger, is worsening, as continued conflict spurs a sharp increase in food prices. Famine may be on the horizon. Aid workers, among them hundreds of U.S. citizens, are increasingly under threat—South Sudan overtook Afghanistan as the country with the highest reported number of major attacks on humanitarians in 2015. At least 62 aid workers have been killed during the conflict, and U.N. experts warn that threats are increasing in scope and brutality.

In August 2015, the international community welcomed a peace agreement signed by the warring parties, but it did not end the conflict. The formation of a Transitional Government of National Unity (TGNU) in late April 2016, six months behind schedule, followed months of ceasefire violations. Opposition leader Riek Machar returned to the capital, Juba, for the first time since the conflict began, and his swearing-in as First Vice President of the new power-sharing government led by his rival, President Salva Kiir, was heralded as a major milestone toward peace. By late June, however, with little sign of subsequent progress in implementing the agreement, the head of the international monitoring commission warned that the peace deal was under threat of collapse. Fighting in parts of the country previously seen as stable spurred new displacement and amplified concerns about a return to full-scale war.

By early July, mistrust among the parties in Juba had mounted and, with the two sides having negotiated security arrangements that allowed armed elements in the capital, the situation quickly deteriorated—which side started the fighting remains subject to debate, but hundreds were killed before ceasefires were declared on July 11. Reported attacks by government forces, including sexual assaults and ethnically targeted killings, on civilians and aid workers during the violence have prompted an international outcry and raised questions about the response of peacekeepers. More than 12,000 people sought shelter at the U.N. peacekeeping bases in Juba; Machar and other opposition officials fled the city and ultimately sought refuge outside the country. The status of the unity government, and the peace agreement itself, is now in question.

The United States, at the request of East African countries, has since led an international effort to deploy additional U.N. peacekeepers to Juba, with the immediate aim of providing a secure environment in the capital, and with the hope that the force's presence may create conditions more conducive for broader stabilization efforts. The South Sudan government has been reluctant to accept the force, viewing the deployment as a possible threat to its sovereignty, and has sought to condition its consent on approval of "modalities" for the force, including its composition. While negotiations on the force's deployment continue, the prospects for a possible arms embargo, threatened by the U.N. Security Council in August, are unclear.

Mixed messages from the international community on the status of the peace agreement and the legitimacy of the TGNU, following President Kiir's replacement of Machar and many of the opposition representatives in the government in late July, may complicate the path forward. By

some accounts, the TGNU and the peace agreement on which it was based have collapsed, and reports suggest that both sides may be preparing for a return to full-scale war.

In the context of ongoing conflict, donor governments, including the United States, may deliberate on whether, or how, to invest in proposed recovery and development efforts in the country. Without robust donor engagement, South Sudan's crisis appears set to worsen—the International Monetary Fund warns that without economic reforms and political reconciliation, the economy will further deteriorate and the government may be unable to meet key obligations, including salaries for its army. Donor concern about state corruption, however, is high, amid reports that senior officials have diverted state assets to fuel the war, and for their own benefit.

The United States, which played a key role in supporting South Sudan's independence, has long been its leading donor and is a key diplomatic actor. With congressional support, the United States made major investments in South Sudan's recovery and development after the Sudanese civil war ended in 2005, but many of those gains have now been reversed. The Obama Administration has contributed over $1.7 billion in humanitarian aid since the conflict began in December 2013. Along with its support for the humanitarian response and ongoing development programs, the United States is the largest financial contributor to the U.N. peacekeeping mission in the country and a key donor for ceasefire monitoring and other efforts to mitigate conflict. As Congress considers available options for U.S. engagement, several key questions arise:

- How can the United States most effectively facilitate an end to violence and a path toward peace and reconciliation, both among political factions and rival communities?
- Is the August 2015 peace agreement still viable? Should peace negotiations be restarted? Is the government in Juba still, in practice, a unity government?
- If fighting continues, what possible steps—further sanctions, an arms embargo, new types of aid, aid restrictions—would be most appropriate and most effective?
- How can the United States support efforts to pursue accountability for alleged war crimes without a negative impact on the peace process?
- Given the serious abuses committed by the warring parties, what role, if any, should the United States play in the reform of a security apparatus that is expected to combine their forces? How should the United States engage with senior officials who have been accused of directing military operations in which war crimes have reportedly been committed?
- How can the international community help to create a more secure environment for aid workers, including U.S. citizens? How significant is the impact of reported government restrictions on aid deliveries?
- In light of reported threats against Americans and recent assaults on U.S. citizens and incidents involving U.S. diplomats in Juba, how does the U.S. government currently assess the threat to the U.S. embassy, and to U.S. citizens in South Sudan more broadly?
- What are the international community's expectations of peacekeepers with regard to protecting civilians, and do they have the appropriate personnel, equipment, and political will to implement their mandate?
- What lessons have been learned from past support for state-building efforts in South Sudan, and how can foreign donors best support more transparent, inclusive, and accountable governance going forward?

Contents

Background 1
Recent Developments 3
Humanitarian Impact of the Conflict 4
Context of the Conflict 6
Human Rights Concerns 7
International Responses to the Crisis 9
Efforts to Stabilize the Country 10
Sanctions 14
U.S. Policy and Foreign Assistance 16
Challenges Ahead 18

Figures

Figure 1. The Conflict in South Sudan: Mapping Displacement 2

Appendixes

Appendix. Additional Background 21

Contacts

Author Information 22

Background

South Sudan emerged in 2011 as the world's newest country, and one of its least developed. After almost 40 years of war between the Sudan government and southern insurgents, southern Sudanese voted in a January 2011 referendum to secede from Sudan. More than 2.5 million people were killed in the civil war and some 4.5 million were displaced. South Sudan was devastated by the conflict, which hindered the development of basic infrastructure, human capital, and formal civilian institutions. Massive, chronic humanitarian needs persisted after independence, despite abundant natural resources, including oil fields from which Sudan had generated 75% of its oil production until separation. High-level state corruption also slowed post-war recovery and development. South Sudan was the world's largest recipient of humanitarian aid in 2013, a period of comparative stability; its needs have since grown substantially.

In December 2013, political tensions among key South Sudanese leaders erupted in violence. The political dispute that triggered the crisis was not based on ethnic identity, but it overlapped with preexisting ethnic and political grievances, sparking armed clashes and targeted ethnic killings in the capital, Juba, and then beyond. President Salva Kiir accused his former vice president, Riek Machar, of plotting a coup, a charge Machar continues to deny. Hundreds of civilians died in ensuing attacks reportedly targeting Machar's ethnic group, the Nuer, in Juba in the first days of the conflict; revenge attacks by Nuer against Kiir's ethnic group, the Dinka, followed, and the retaliatory violence spread. Machar, with the support of several senior Nuer military commanders, subsequently declared a rebellion. The conflict, between government forces and militia loyal to President Kiir and forces aligned with Machar, triggered mass displacement (see **Figure 1**), compounding the country's vast preexisting needs and development challenges.

The fighting continued unabated for more than 20 months while regional mediators made halting progress in peace negotiations under the auspices of the Intergovernmental Authority on Development (IGAD, an East African regional entity). The warring parties periodically recommitted themselves to a January 2014 cessation of hostilities deal, but repeatedly violated it.[1] In May 2014, they agreed to form a transitional government, but failed to agree on its composition and responsibilities.

After missing multiple deadlines set by regional leaders to sign a deal, and under threat of international sanctions, including a proposed arms embargo, the warring parties reached an agreement in August 2015. Kiir signed the deal more than a week after Machar, with reservations, calling the agreement divisive and an attack on South Sudan's sovereignty.

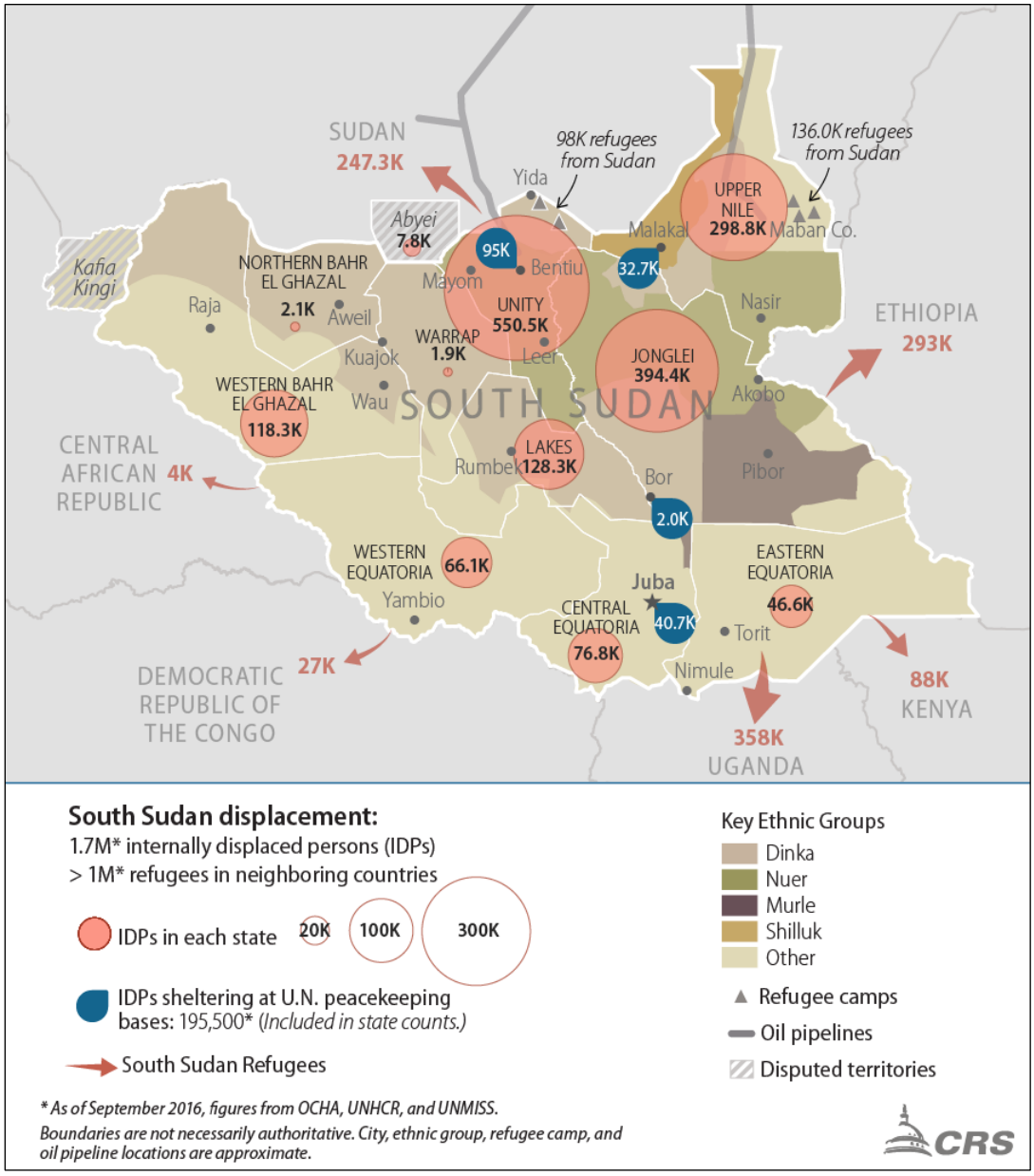
While both sides publicly committed to implementing the peace agreement, progress stalled after it was signed. Major clashes between the two sides decreased, but armed conflict continued and both sides repeatedly violated the ceasefire before coming together to form a new Transitional Government of National Unity (TGNU) in late April 2016, six months behind schedule.[2] Machar, as leader of the armed opposition, returned to Juba to assume the new post of First Vice President,

[1] The IGAD talks were hosted by Ethiopia. IGAD also managed the ceasefire monitoring mission. In March 2015, IGAD unveiled a new "IGAD-plus" mediation mechanism with a greater role for the United States, the African Union, Europeans, the United Nations, and China. A parallel, complementary effort by Tanzania to host an intra-party dialogue provided a venue for the rival factions to address political grievances—under its auspices the warring parties acknowledged collective responsibility for the conflict.

[2] The TGNU is based on a power-sharing formula, with 53% of cabinet posts held by Kiir's faction, 33% by Machar's, 7% by a group of former political detainees (senior ruling party members arrested at the onset of the conflict), and 7% by other political parties. President Kiir retained his position, a new First Vice President position was created for the opposition, and the incumbent vice president, James Wani Igga, kept his post. Machar was to appoint state governors for Unity and Upper Nile States. The two sides' armed forces were to be cantoned and then unified within 18 months.

and a new cabinet was formed under a power-sharing formula. Mediators' efforts to get the parties to agree to demilitarize the capital failed, and when Machar returned to Juba, he did so with a security detail of 1,370, as per IGAD-led negotiations following the August 2015 deal. Ceasefire monitors were unable to confirm the government's compliance with the security arrangements, under which many of its own troops were to withdraw from the city. By some accounts, as many as 10,000 or more government forces remained in and around Juba.

Figure 1. The Conflict in South Sudan: Mapping Displacement



Source: CRS graphic created by Amber Wilhelm.

Notes: Displacement figures include those displaced during the current conflict and refugees who fled pre-2013.

Recent Developments

The unity government's formation did not end the war—clashes have continued, notably in areas that were comparatively calm in the first two years of the conflict. Violence around one of the country's largest cities, Wau, in Western Bahr el Ghazal, and in parts of the greater Equatoria region has caused mass displacement.[3] A common feature of the conflicts in these areas are the grievances expressed by local communities, who have accused the army and allied militia of land grabs, looting, predatory attacks on civilians, and extrajudicial killings of perceived opposition supporters.[4] Anti-government elements in these areas have reportedly sought to exploit the tensions. President Kiir's October 2015 decree, which divided the country's 10 states into 28, also appears to have exacerbated local tensions. Critics contend that the new boundaries have altered the states' ethnic balance and intensified local competitions over land and resources.[5]

Mistrust was high in Juba after the opposition's return, and the unity government made little progress on key aspects of the peace deal. In early July, a series of incidents between the parties' forces in Juba sparked days of intense fighting in the city. Accounts by the two sides differ, and to date there has been no credible independent confirmation as to which side ultimately bore responsibility.[6] A clash between a small number of opposition and government forces on July 7 escalated tensions and possibly contributed to several incidents that evening in which diplomatic vehicles in the city sustained gunfire. In one of those incidents, a U.N. official was wounded; in another, two U.S. embassy vehicles, carrying seven Americans, sustained heavy fire from government forces at a roadblock (the vehicles were armored and no one was injured). State Department officials have publicly stated that they have no evidence that the vehicles, which bore diplomatic plates, were specifically targeted, but that incident and others have nonetheless raised questions about the safety of U.S. diplomatic personnel and other expatriates in Juba.[7]

On July 8, fighting broke out between the forces of Kiir and Machar during a press conference held by the two leaders. Both sides sustained casualties; members of Machar's security detail outside were all reportedly killed. Kiir subsequently provided Machar with a security escort to his residence. Juba was quiet on July 9, the anniversary of South Sudan's independence, but fighting broke out on the 10th and quickly spread across the city. On July 10 and 11, violence was reportedly intense in parts of the capital, including in the area near the U.N. base that sheltered more than 28,000 civilians and U.N. staff. The U.N. site, near both an army base and a major cantonment site for the opposition forces, sustained artillery fire and mortar rounds—several civilians inside were killed, U.N. staff were wounded, and two Chinese peacekeepers were killed. U.N. peacekeepers, based at two sites in the city, did not go out on patrol, reportedly restricted by the fighting and government constraints on their movement.[8] Government restrictions on U.N.

[3] More than 80,000 people have been displaced around Wau since June, including over 41,000 in town and 37,000 outside. Of those displaced in town, more than 24,400 have sought shelter at an UNMISS-protected area near its base.

[4] See, e.g., Small Arms Survey, *Conflict in Western Equatoria*, July 25, 2016; Human Rights Watch, "South Sudan: Civilians Killed, Tortured in Western Region," May 24, 2016; and U.N. Security Council, *Report of the Secretary-General on South Sudan*, S/2016/552, June 20, 2016.

[5] See, e.g., Amanda Sperber, "South Sudan's Next Civil War is Starting," *Foreign Policy*, January 22, 2016.

[6] In the week preceding the fighting, the opposition had accused the government of killing two of its officers, among other incidents. In the aftermath of the July clashes, the government has accused Machar's faction of attempting a coup.

[7] This was not the first instance of government troops firing on a U.S. embassy vehicle in Juba—in November 2014, a soldier fired shots at a U.S. diplomatic convoy carrying the U.S. ambassador.

[8] By some accounts, the deaths of the Chinese peacekeepers could have been prevented if they could have been moved to the other U.N. base, which had a hospital, after they were injured. See Matt Wells, "The U.N. has failed its

movement persisted for several days after the fighting stopped on the evening of July 11, when Kiir and Machar both issued orders for a ceasefire. The opposition forces were outmanned and outgunned by the army, which reportedly used attack helicopters, tanks, armored vehicles, and heavy weapons during the fighting. Surviving opposition forces fled Juba (some also reportedly fled to the U.N. bases). Machar, whose residence was destroyed, also fled and was reportedly pursued by government forces for weeks; he ultimately sought refuge outside the country.

Government forces have been accused of serious abuses against civilians during the fighting in Juba and afterward, including extrajudicial killings, enforced disappearances, looting and property destruction, and sexual violence.[9] The targeting of Machar's ethnic group, the Nuer, was reportedly prevalent, including in reported house-to-house searches. A Nuer journalist working for USAID grantee Internews, for example, was reportedly summarily executed during the July 11 attack on Terrain Camp, a residential compound popular with aid workers and other expatriates. U.S. citizens were physically assaulted during that incident and several women were raped. In line with other accounts, U.S. officials assess that government forces were the perpetrators, and the U.N. Panel of Experts has concluded that the attack was well coordinated rather than an opportunistic act.[10] The attack sparked international outrage and prompted questions about the government's control of its forces and about the lack of response from U.N. peacekeepers, who were only a short distance away. According to witness accounts, U.S. citizens were specifically targeted for abuse by some of the attackers.[11] The government's internal security forces eventually rescued the victims several hours into the attack. President Kiir established a commission of inquiry on the incident in August. Some soldiers have reportedly been arrested for looting at the compound, but to date there appears to have been little progress in bringing charges against those responsible for the rapes and other assaults.

Humanitarian Impact of the Conflict

South Sudan, alongside Syria, Iraq, and Yemen, is currently classified by the United Nations as one of four "Level 3" (the highest level) humanitarian emergencies in the world, and the only one in Africa.[12] U.N. officials estimate that at least 50,000 people have been killed since the conflict began, but no reliable death count exists, and some experts suggest the toll may be much higher.[13] More than 2.7 million people have been displaced since December 2013. At least 1.7 million people are displaced internally, and in September 2016 the number of refugees surpassed 1 million (see **Figure 1**). The clashes in July and rising insecurity beyond Juba have sparked a new wave of flight from the country—according to the latest U.N. estimates, more than 160,000 people have fled to neighboring Uganda since the beginning of July.[14] Many of those arriving in

peacekeepers in S Sudan," Al Jazeera, September 10, 2016.

[9] U.N. Office of the High Commissioner for Human Rights, "SPLA committed widespread violations during and after July fighting in South Sudan – Zeid," August 4, 2016.

[10] Testimony of Special Envoy Donald Booth, House Subcommittee on Africa, Global Health, Global Human Rights and International Organizations, *The Growing Crisis in South Sudan*, September 7, 2016; U.N. Security Council, *Report of the Panel of Experts on South Sudan*, S/2016/793, September 19, 2016.

[11] Jason Patinkin, "Rampaging South Sudan troops raped foreigners, killed local," Associated Press, August 15, 2016.

[12] 'Level 3' emergencies are "major sudden onset humanitarian crises triggered by natural disasters or conflict which require system-wide mobilization." The U.N. Office of the Coordinator for Humanitarian Affairs makes the designation.

[13] "U.N. official says at least 50,000 dead in South Sudan war," Reuters, March 2, 2016. See also Peter Martell, "50,000 and not counting: South Sudan's war dead," Agence France-Presse, November 15, 2014.

[14] UNHCR, Uganda: Emergency Update on the South Sudan Refugee Situation, Inter-Agency Daily #40, September

Uganda (almost 90% of whom are women and children) have reported threats from armed actors as they fled, including killings, rape, looting, and child abductions.

U.N. Protection of Civilian (POC) Sites

Almost 200,000 people in South Sudan now reside in U.N. Protection of Civilian (POC) sites—camps for the displaced that are secured by peacekeepers at or near their bases. The influx of South Sudanese seeking protection at U.N. bases around the country when the war started was an unprecedented situation for the U.N., and the sites, which were never intended for large, long-term settlements, have now sheltered tens of thousands for almost three years. Many of the camps are overcrowded and living conditions are poor. More than 40,000 people—many ethnic Nuer—are now sheltering at the U.N. bases in Juba (over 12,000 people fled there during the July fighting and, to date, a majority have remained). By numerous accounts, many fear that they may be targeted based on political or ethnic affiliation if they leave.[15] Tensions among communities in some sites remain a concern—in February, 30 people died in clashes and a fire at the POC site in Malakal; government troops were reportedly involved in the event, during which 3,700 shelters were destroyed. Peacekeepers struggle to provide security inside the camps, and beyond.[16]

The war and resulting displacement have severely exacerbated humanitarian needs in a country that already had some of the world's lowest human development indicators.[17] The conflict has disrupted farming cycles, grazing patterns, and trade routes, and local markets have collapsed. Many of the displaced lost their livelihoods when they fled their homes. Food prices have skyrocketed since the July fighting, leaving many unable to meet basic needs. The annual inflation rate surged to almost 730% in August 2016, with food costs rising almost 850%. The repeated looting of aid stocks has deterred aid agencies from pre-positioning supplies in many areas, and logistical challenges and ongoing insecurity have necessitated the costly delivery of food by air, and sometimes via air drops. The looting of the World Food Program's main warehouse in Juba, reportedly by government soldiers, during the fighting in July resulted in the loss of 4,500 metric tons of food, which would have fed 220,000 people for a month.

U.N. officials estimate that over half the country needs humanitarian aid and that more than 4.8 million people—roughly 40% of the population—face life-threatening hunger. With the onset of harvest season in August, marginal improvements in food security are expected in the near term, but experts note that the extent of hunger is "unprecedented," with parts of the country already facing possible famine conditions.[18] (Access challenges and insufficient data reportedly hinder aid agencies' ability to determine whether conditions meet the technical definition of famine.)[19]

The operational environment for aid agencies is deteriorating. Without security improvements as the dry season approaches, "the situation could rapidly become catastrophic," according to the U.N. Food and Agriculture Organization (FAO). Some households in Northern Bahr el Ghazal are

15-16, 2016.

[15] International Organization on Migration, *If We Leave We Are Killed: Lessons Learned from South Sudan Protection of Civilian Sites 2013-2016*, May 5, 2016 and Aditi Gorur, *Perceptions of Security Among Internally Displaced Persons in Juba, South Sudan*, Stimson Center, September 2014. The later study found that many POC residents in Juba feared attack by government forces on the camps and perceived threats of rape, abduction, beatings, or killing, based on their ethnicity. Some residents left the sites periodically for supplies, to go to school or the bank, but most minimized time outside. Some, particularly men with traditional facial markings, did not leave for fear of attack.

[16] See Civilians in Conflict (CIVIC), *Within and Beyond the Gates: The Protection of Civilians by the U.N. Mission in South Sudan*, October 7, 2015 and *A Refuge in Flames: The February 17-18 Violence in Malakal POC*, April 22, 2016.

[17] South Sudan has the world's highest population growth rate (over 4%), and the highest maternal mortality rate. Over half of the country's children are not in school, according to UNICEF, the highest proportion in the world.

[18] U.N. Food and Agriculture Organization (FAO), South Sudan: Situation Report – 6 September 2016.

[19] A famine declaration requires evidence of an extreme lack of food in at least 20% of households in an area, acute malnourishment in 30% of children, and a crude death rate over 2 deaths per 10,000 people in the affected area per day.

already classified as in "catastrophe"—the most severe stage of food insecurity, with starvation evident. Hunger in that area has driven tens of thousands into the neighboring Darfur region of Sudan as refugees. The conflict also affects humanitarian access to some 260,000 Sudanese refugees sheltering in camps in South Sudan.

Context of the Conflict

The current crisis reflects underlying tensions and mistrust among South Sudanese leaders and ethnic groups that date back to Sudan's civil war (1983-2005), and before (see **Appendix**). While the war was described broadly as a north-south conflict, infighting among southern rebel commanders in the 1990s nearly derailed the southern bid for self-determination. Leaders of the insurgency, the Sudan People's Liberation Movement/Army (SPLM/SPLA), damaged their cause by competing for power and mobilizing supporters along ethnic lines; all sides committed atrocities. Khartoum fueled SPLM splits by financing and arming breakaway factions, notably including forces led by Machar. The major factions reconciled in the early 2000s, although several smaller southern militias continued to operate, primarily in the Greater Upper Nile area.

In 2005, the Sudanese government and the SPLM signed the Comprehensive Peace Agreement (CPA) to end the war. That deal paved the way for 2010 elections and the southern referendum, after which South Sudan, led by the SPLM, seceded in July 2011. The Sudan-South Sudan relationship remains tense, and parts of the CPA have yet to be fully implemented, including demarcation of their shared border. In 2012, South Sudan's government, angered by Khartoum's decisions regarding the transit and export of its oil through Sudan, and by border disputes, suspended oil production for over a year. This led to fiscal austerity measures and economic shocks in both countries (South Sudan's GDP declined by 48% in 2012), and to clashes that threatened to reignite the war.

Most SPLM leaders had publicly put aside their differences as the civil war was ending to present a unified front and, in some cases, position themselves for political office. However, ethnic tensions and bitter interpersonal rivalries grew under the strain of increased governing responsibilities, amid severe human, institutional, and infrastructure capacity constraints. The country was awash in small arms, and localized interethnic violence increased and appeared increasingly politicized. Political maneuvering ahead of anticipated 2015 elections added to these dynamics. Work on a new constitution stalled after independence, and a political struggle among senior SPLM members unfolded. President Kiir's July 2013 cabinet reshuffle, in which long-time political rival and presidential hopeful Machar and other key officials were removed from office, formalized a major fissure in the ruling party. Tensions rose as Machar and others accused Kiir of becoming increasingly dictatorial, ultimately erupting in violence in December 2013.

The initial fighting reportedly occurred in Juba between presidential guard soldiers from the largest and second-largest ethnic groups, the Dinka and the Nuer. The fighting soon spread to the eastern state of Jonglei and the oil-producing states of Unity and Upper Nile. South Sudan's military divided, largely along ethnic lines. Some military units rebelled against Kiir, purportedly in response to targeted ethnic attacks against Nuer in Juba by government forces. The fighting occurred primarily in Jonglei, Unity, and Upper Nile (the area collectively referred to as Greater Upper Nile) as the two sides vied for territory.

Several senior SPLM political figures were initially arrested in December for plotting what President Kiir claimed was a failed coup attempt. U.S., U.N., and African Union (AU) officials

have reported no evidence of such an effort.[20] The detained politicians were later released, but not exonerated, and they formed a third block at the peace talks. They also participated, along with representatives of the ruling party and the armed opposition, which calls itself the SPLM-in-Opposition (SPLM-iO), in parallel reconciliation talks hosted by Tanzania's ruling party that sought to repair the rifts within the SPLM. Under the terms of the August 2015 peace deal, they were allotted several cabinet positions in the new unity government.

Human Rights Concerns

U.N. human rights officials assert that targeted attacks by both government and opposition forces against civilians and U.N. personnel during the conflict in South Sudan may constitute war crimes or crimes against humanity.[21] The U.N. Mission in the Republic of South Sudan (UNMISS) has reported that "from the very outset of the violence, gross violations of human rights and serious violations of humanitarian law have occurred on a massive scale. Civilians were not only caught up in the violence, they were directly targeted, often along ethnic lines."[22] Hospitals, religious sites, relief compounds, and U.N. bases have been attacked.[23] UNMISS reports that the scale, intensity, and severity of abuses have increased as the conflict has continued. The mission raised particular concern with a new pattern of violence in 2015 in which entire villages and food stocks were destroyed, with the apparent aim of depriving civilians of any livelihood in the area.[24]

UNICEF has estimated that 16,000 children have been recruited as child soldiers during the war. While a majority of them have been linked to opposition-aligned community forces, according to Human Rights Watch, UNICEF warned in August 2016 that a new spike in child recruitment could be imminent, raising particular concern with recruitment by the government.[25] UNICEF reports that more than 650 children have already been recruited since the beginning of 2016. Children reportedly have also been killed in targeted attacks.

Conflict-related sexual violence has reportedly been prevalent, and U.N. officials have raised particular concern with "systematic" ethnically targeted rape.[26] The U.N. Panel of Experts, established under Security Council Resolution 2206, has found that all parties to the conflict have targeted civilians "as part of their military tactics," including through the deliberate use of rape.[27]

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[20] The AU Commission of Inquiry found that "evidence does not point to a coup. We were led to conclude that the initial fighting within the Presidential Guard arose out of disagreement and confusion over the alleged order to disarm Nuer members." *Final Report of the African Union Commission of Inquiry on South Sudan*, October 15, 2014.

[21] See various statements by the U.N. High Commissioner for Human Rights and the U.N. Special Adviser to the Secretary-General on the Prevention of Genocide and reports by the U.N. Secretary-General, the U.N. Mission in the Republic of South Sudan (UNMISS), the U.N. Panel of Experts, and the U.N. High Commissioner for Human Rights.

[22] UNMISS, *Conflict in South Sudan: A Human Rights Report*, May 8, 2014.

[23] UNMISS, "Attacks on Civilians in Bentiu & Bor, April 2014," January 9, 2015, and "Special Report: Attack on Bentiu, Unity State, 29 October 2014," December 19, 2014.

[24] UNMISS, *The State of Human Rights in the Protracted Conflict in South Sudan*, December 4, 2015.

[25] UNICEF, "Situation for children in South Sudan deteriorating," November 27, 2015; Human Rights Watch, *"We Can Die Too": Recruitment and the use of child soldiers in South Sudan*, December 14, 2015; Justin Lynch, "South Sudan government recruited child soldiers, U.N. says," Associated Press, August 18, 2016.

[26] "South Sudan at 'crossroads' as it seeks to combat sexual violence, says U.N. official," U.N. News, October 20, 2014.

[27] U.N. Security Council, *Interim report of the Panel of Experts on South Sudan established pursuant to Security Council resolution 2206 (2015)*, U.N. Document S/2015/656, August 21, 2015.

The U.N. documented 217 cases of sexual violence, some by government soldiers, in July 2016 in Juba alone.

By many accounts, there has been little accountability for serious abuses committed during the conflict, despite a rhetorical commitment by both sides to justice. In April 2016, the U.N. Secretary-General reiterated that there was "no evidence of any genuine effort by the parties to investigate, prosecute and punish serious human rights violations and abuses relating to the conflict, some of which amount to war crimes."[28]

At the onset of the conflict, the African Union mandated the establishment of a Commission of Inquiry on South Sudan (AUCISS) to investigate human rights violations and other abuses committed during the conflict and to make recommendations on how best to ensure accountability, reconciliation, and healing. Led by former Nigerian President Olusegun Obasanjo, the AUCISS publicly released its final report in October 2015. It found that human rights violations were committed "in a systematic manner and in most cases with extreme brutality."[29] Its investigations corroborated other reports that government security forces killed Nuer soldiers and civilians and committed acts of torture and rape in Juba in the first days of the conflict. A separate opinion written by one of the commissioners stated that "of the Nuer who remained in Juba, few survived the killing spree of December 16-18, 2013." The AUCISS documented subsequent atrocities by both sides, often targeting civilians from rival ethnic communities, as well as the use of hate speech and incitement to violence, and described gang rape as a common feature of the abuses committed.

The AUCISS report was prepared prior to a wave of atrocities that reportedly occurred in mid-2015, during a sharp escalation in violence as the warring sides struggled to gain and hold territory to improve their position in peace negotiations. The abuses, in the states of Unity and Upper Nile, included the torture, rape, and killing of hundreds of women and children, some of whom were reportedly burned alive.[30] The U.N. Secretary-General specifically criticized government forces, stating that he was "appalled by the reports of human rights violations committed by the SPLA [the army] and their allied forces, including the burning of villages, and the killing and rape of civilians, in the course of their military operations in Unity State."[31] The government offensive in southern Unity, against opposition forces in predominately Nuer areas, displaced or otherwise affected hundreds of thousands and forced many relief agencies to suspend operations.[32] U.N. officials have repeatedly reported that the army has denied U.N. peacekeepers and human rights monitors access to various sites in the state.[33] The U.N. Panel of Experts, which has attributed ultimate command responsibility for the offensive to the army chief of general staff, suggests that "armed forces were intent on rendering communal life unviable and prohibiting any

[28] U.N. Security Council, *Report of the Secretary-General on South Sudan*, S/2016/341, April 13, 2016.

[29] African Union, *Final Report of the African Union Commission of Inquiry on South Sudan*, October 15, 2014.

[30] See, e.g., UNICEF, "Unspeakable violence against children in South Sudan – UNICEF chief," June 17, 2015; Human Rights Watch, *They Burned it All*, July 22, 2015; and UNMISS, *The State of Human Rights in the Protracted Conflict in South Sudan*, December 4, 2015.

[31] UN, "Statement attributable to the Spokesman for the Secretary-General on South Sudan," May 20, 2015.

[32] The 2015 government offensive against the SPLM-iO in Unity State was notable for the involvement of militia from a Nuer sub-group (the Bul Nuer) whose leadership is aligned with Kiir. The enmity between the Bul Nuer and other Nuer subgroups who have been victims of the offensive is likely to make reconciliation much more difficult. See, e.g., Small Arms Survey, *The Conflict in Unity State*, available at http://www.smallarmssurveysudan.org.

[33] "As South Sudan fighting intensifies, U.N. rights chief warns of 'persistent impunity," U.N. News Center, May 22, 2015; UNMISS, *Flash Human Rights Report on the Escalation of Fighting in Greater Upper Nile—April/May 2015*, June 29, 2015.

return to normalcy following the violence," and concluded that the offensive was aimed to deprive the opposition "of a support base at all costs, including by clearing the population from much of Unity State."[34]

The State Department reports that, in addition to serious conflict-related abuses, press and political freedoms in South Sudan have deteriorated during the war.[35] International observers have accused security officials of harassing and intimidating members of the press since the country's independence; government interference in print and broadcast media has escalated in recent years to include directly influencing the content of print and broadcast media, seizing print runs, and shutting down outlets altogether.[36] Likewise, reports indicate that political space has tightened significantly, especially in Juba: protests have been violently suppressed by security services, opposition party leaders have been periodically detained, and civilians describe a pervasive fear of government that leads to strict self-censorship.[37] Political opponents, journalists, and human rights workers have been tortured, beaten, and harassed by government security forces, according to the State Department. In Freedom House's *Freedom in the World 2016* index, it reports that "South Sudan's military, the SPLA, exercises an overbearing influence over political affairs and public life.... Government appointments are typically handed to SPLM loyalists or potential rivals with little regard for merit, and corrupt officials take advantage of inadequate budget monitoring to divert public funds... The civil conflict has engendered a war economy where well-connected military elites have flourished while formal economic activity has ground to a halt"[38] The U.N. Human Rights Council, expressing deep concern with alleged abuses as well as "the reduction of democratic space in South Sudan," established a Commission on Human Rights in South Sudan in 2016 to monitor and report on the situation in the country.

International Responses to the Crisis

The international community continues to mobilize diplomatic, humanitarian, and peacekeeping resources to protect civilians, respond to needs, and bring an end to the conflict. The region, under the auspices of IGAD, has led the effort to mediate between the warring parties, with the support of the AU, the U.N. Security Council, and international partners. The AU has, to date, played more of a supporting role, although its engagement via the AU Commission of Inquiry was an important contribution in examining the causes of the war and offering recommendations for accountability and institutional reforms. The U.N. Security Council has sought to bolster the region's efforts to facilitate a political solution to the crisis, including through the threat of sanctions, and has authorized the deployment of additional peacekeepers in an effort to protect civilians and to support both humanitarian relief operations and the peace process.

The United States is by far the largest bilateral humanitarian donor, allocating almost $1.9 billion in emergency relief since the conflict began. The U.N.'s estimated cost for humanitarian partners' responses to the most life-threatening needs in 2016 is $1.3 billion, which remains, to date, significantly underfunded.

[34] U.N. Security Council, S/2016/70, January 22, 2016 and S/2015/656, August 21, 2015, op. cit.

[35] Department of State, *Country Reports on Human Rights Practices for 2015*, April 13, 2016. In 2014, South Sudan was downgraded from "Partly Free" to "Not Free" in Freedom House's annual Freedom of the Press index.

[36] Waakhe Simon Wudu, "South Sudan Warns Media Not to Publish Rebel Interviews," VOA, February 16, 2015.

[37] See, e.g., Venno Muchler, "In South Sudan, Lots of Anger but No Protests," VOA, December 17, 2014.

[38] Freedom House, "Freedom in the World 2016: South Sudan," available at: http://www.freedomhouse.org.

The humanitarian response in South Sudan, one of the most expensive in the world, has been constrained by funding shortfalls, access challenges, bureaucratic restrictions by the government, threats against U.N. and other aid agency personnel, and ongoing hostilities. Government delays and denials of Flight Safety Assurances for U.N. humanitarian flights to non-government-aligned areas is reportedly a significant problem. Rising criminality in Juba, as evidenced by dozens of intrusions into NGO compounds, poses additional risks.

South Sudan overtook Afghanistan in 2015 as the country with the highest reported number of major attacks on humanitarians.[39] More than 60 relief workers have been killed since the conflict began. By some accounts, violence against aid workers may be designed to deter assistance to certain communities. The U.N. Secretary-General has expressed concern with "roadblocks and other restrictions on access, attempts at extortion and harassment by security officials and denial of freedom of movement," and stated that "despite government claims to the contrary, I believe this environment of impunity and intimidation is deliberate and not just a consequence of growing criminality."[40] The U.N. Panel of Experts reports that threats against the U.N. and international humanitarian personnel are increasing "in scope, number, and degree of brutality, in a context in which senior figures of the government, including Kiir, are intensifying their rhetoric against and hostility toward the U.N., regional bodies, and the broader international community."[41]

Donors and non-governmental organizations (NGOs) have expressed concern with a new NGO law passed in February 2016 that imposes new regulations, including restrictions on the percentage of NGOs' international staff, which may impact the operations of both development and humanitarian groups. Several civil society groups have received orders to shut down for engaging in "political" work based on the new law. Some in civil society were reportedly harassed by security forces or received anonymous threats for spreading "anti-government" messages during a visit by representatives of the U.N. Security Council in early September 2016; several activists subsequently fled the country.[42] The reported threats to civil society coincide with a reported tightening of government restrictions on the operations of relief agencies. In the context of growing threats and harassment, journalists, civil society, and humanitarians may all increasingly self-censor reporting on conditions in the country in order to maintain their presence.

Efforts to Stabilize the Country

The U.N. Security Council, seeking to stabilize the South Sudan crisis, has emphasized that it views the August 2015 Agreement on the Resolution of the Conflict in the Republic of South Sudan as "the framework for durable peace, reconciliation and national cohesion." The status of that deal, however, is now in question, as is the warring parties' commitment to it.

Has South Sudan's peace deal already collapsed?

The peace agreement, signed in August 2015 by the Kiir government and Machar's "Armed Opposition" (the SPLM-iO), and by former senior SPLM leaders and other political parties, committed all sides to ending the conflict, building "an inclusive and democratic society founded on the rule of law," and undertaking political reforms. The parties agreed to form a transitional unity government for 30 months before holding elections. The transitional government's job would be to restore stability, facilitate resettlement of the displaced, oversee national reconciliation and healing, finish work on a permanent constitution (the current version was adopted

[39] Humanitarian Outcomes, *Aid Worker Security Report 2016*, August 15, 2016.

[40] U.N. Security Council, *Report of the Secretary-General on South Sudan*, S/2016/341, April 13, 2016.

[41] U.N. Security Council, *Report of the Panel of Experts on South Sudan*, S/2016/793, September 19, 2016.

[42] An unverified report suggests that one local activist may have been killed after seeking to present a message to the Security Council representatives.

before independence), devolve powers to state and local levels, and undertake public financial management, civil service, and security sector reforms. Positions in the TGNU were to be allocated under a power sharing formula (53% government, 33% SPLM-iO, 7% former ruling party political detainees, and 7% other parties), with Kiir remaining President and a new First Vice President selected by the Armed Opposition. Machar, who had been Kiir's vice president until July 2013, signed the peace agreement of behalf of the opposition, and was appointed to the post of First Vice President in February 2016. His return to Juba in April and the appointment of TGNU cabinet ministers marked the start of the unity government.

On July 23, 2016, less than two weeks after Kiir and Machar declared ceasefires to end the fighting in Juba, Kiir appointed then-Minister of Mining Taban Deng Gai, the former lead opposition negotiator in the peace talks, to replace Machar as First Vice President. Deng initially suggested that the appointment was temporary, until Machar returned to the capital, but Kiir and other government officials subsequently accused Machar of having tried to orchestrate a coup and have since suggested that he should remain in exile, possibly until the country's next elections. Government forces reportedly pursued Machar, including with attack helicopters, until he fled across the Congolese border in mid-August.[43] (He subsequently went to Sudan for medical treatment.)

Taban Deng's appointment has been highly controversial, and its legitimacy under the terms of the peace deal remains in question, as does Kiir's replacement of most of the opposition ministers in the TGNU and more than 20 legislators who were seen as loyal to Machar. While the government claims that Deng represents the SPLM-iO, there is reportedly little opposition support for him outside Juba.[44] Per the peace agreement, the replacement of the First Vice President in the event of his absence was to have been decided by the opposition's "top leadership body, as at the signing of the agreement," but only a handful of opposition leaders who remained in Juba were involved in Deng's "selection" to replace Machar.[45] A larger number of SPLM-iO leaders, who contend that the events of July 10-11 and the subsequent replacement of Machar and other SPLM-iO cabinet ministers and MPs constitute a coup against the unity government, have condemned Deng's appointment and reiterated their support for Machar. Some Nuer tribal chiefs have also rejected Machar's replacement, suggesting that Deng had defected to the government. The sole member of the TGNU representing the "other political parties" quit his post after Deng's appointment, claiming that there was no longer a peace agreement to implement and "no free political space in Juba."[46] Some observers, including the U.N. Panel of Experts, view these developments as suggesting that the peace deal has collapsed.

There are now nominally two SPLM-iOs: (1) the group led by Taban Deng and (2) those who remain loyal to Machar. While a few rebel commanders have reportedly pledged allegiance to Deng, more prominent commanders have reiterated their allegiance to Machar. By some accounts, support for a renewed insurgency against the Kiir government has grown in recent months, notably in the Equatoria region.[47] Government and SPLM-iO forces have clashed in several locations since July, and, despite the parties' rhetorical commitment to peace, some reports suggest that both sides may be preparing to resume full-scale conflict when the rainy season ends in November.

The United States, at the request of East African countries after the fighting in July, has led an international diplomatic push to deploy additional U.N. peacekeepers to Juba. The additional 4,000 troops, authorized in August in U.N. Security Council Resolution 2304, are to be drawn from African countries to comprise a new Regional Protection Force (RPF) within UNMISS. The RPF's mandate would be to provide a secure environment in the capital, with the hope that the force's presence might create conditions more conducive for broader stabilization efforts.

[43] After crossing into the Democratic Republic of Congo, Machar was transported by the U.N. peacekeeping mission in that country (MONUSCO) on humanitarian grounds (he reportedly had a leg injury, and other members in his party were in serious condition). MONUSCO has since extracted more than 750 SPLM-iO individuals from the remote Garamba National Park.

[44] See, e.g., U.N. Security Council, *Report of the Panel of Experts on South Sudan,* S/2016/793, September 19, 2016.

[45] According to press accounts, four of the opposition's 28-person leadership body were present for Deng's selection (including Deng himself).

[46] "Lam Akol resigns from South Sudan govt, says peace deal is over," Radio Tamazuj, August 1, 2016.

[47] Clashes since July around the strategic city of Yei, in Central Equatoria on a key route to Uganda, have reportedly led almost two-thirds of its population of over 150,000 to flee. Government checkpoints around the city are preventing its remaining residents from farming their fields, spurring food insecurity, according to relief agencies.

The South Sudan government was initially vocal in its opposition to the proposed expansion of the existing peacekeeping mission, viewing the RPF's deployment as a threat to its sovereignty and suggesting that it was part of an alleged "regime change agenda."[48] Government supporters organized protests against the force, and in one incident, UNMISS staff were attacked by protestors. The government grudgingly granted consent after a visit by U.N. Security Council representatives in early September, but has sought to condition its acceptance on approval of "modalities" for the proposed RPF, including its composition and armament. The government reportedly continues to object to the participation of neighboring countries in the force, which poses a challenge given that two of the three countries that have reportedly offered troops—Ethiopia, Kenya, and Rwanda (all of which are already UNMISS troop contributors)—are neighbors. Nominally, a deployment authorized under Chapter VII of the U.N. Charter does not require host government approval, but in practice, such approval may be necessary to ensure supply lines and a permissive environment. In reference to the RSF, government officials have stated that "anyone who enters without our consent is 'an invader.'"[49]

Some peacekeeping experts have questioned whether the proposed RPF can be effective (if deployed) without a viable political strategy to resolve the root causes of the war.[50] Criticism of UNMISS for not protecting civilians during the July fighting in Juba and in several other incidents—notably during clashes at the U.N. POC site in Malakal in February—raises further questions about the RPF's prospects. Some analysts suggest the Security Council has not done enough to respond to threats against UNMISS and restrictions on its operations.[51] Several observers have warned that the RPF, and by extension the rest of UNMISS, could be perceived as a party to the conflict should it have to engage local forces, possibly including troops from South Sudan's army. (Some hardliners associated with the government have already described the RSF as "foreign troops who are bent on toppling the government.")[52] By some accounts, such considerations may have been a factor in UNMISS's failure to respond to the Terrain attack, among other incidents. The U.N. Secretary-General appointed a team in late August to investigate attacks on civilians in or in the vicinity of the U.N. bases in Juba, including on the Terrain residents, as well as the UNMISS response.

UNMISS

The mandate and size of the U.N. peacekeeping mission in South Sudan have been modified several times since its creation in July 2011, under Security Council Resolution 1996 (2011). After the fighting began in December 2013, the Security Council unanimously authorized a substantial increase in UNMISS's force size (from 7,000 troops and 900 police to 12,500 troops and 1,323 police), modified the mission's mandate in early 2014 from one focused on state-building to instead prioritize four key tasks: protecting civilians, monitoring and investigating human rights abuses, facilitating aid delivery, and supporting the cessation-of-hostilities deal.[53] The Security Council authorized another increase to UNMISS's force size in December 2015 by an additional 600 police and 500 troops and expanded its mandate to incorporate training for police in human rights and community policing. The expanded

[48] Office of the Republic of South Sudan Minister of Cabinet Affairs, Response of the TGoNU to the USA Draft Mandate Renewal of the 7th Aug, 2016, August 8, 2016. In mid-September, President Kiir reiterated his government's concern about perceived bias by the U.N. after news of the extraction by the U.N. Mission in DRC of Machar and other SPLM-iO elements.

[49] "South Sudan spells out unresolved protection force issues," Reuters, September 5, 2016.

[50] Paul Williams, "Key Questions for South Sudan's New Protection Force," Global Observatory, September 12, 2016.

[51] See, e.g., Center for Civilians in Conflict, *A Refuge in Flames: The February 17-18 Violence in Malakal POC*, April 22, 2016 and Matt Wells, "The U.N. has failed its peacekeepers in S Sudan," Al Jazeera, September 10, 2016.

[52] U.N. Security Council, *Report of the Panel of Experts*, September 19, 2016.

[53] U.N. Resolution 2155 (2014) reprioritized UNMISS's mandate from its focus on peacebuilding, state-building and the extension of state authority toward one that sought strict impartiality in relations with both sides of the conflict.

troop level at that point was intended to facilitate the deployment of more troops further afield; by many accounts UNMISS's responsibility for the security of the POC sites has hindered its ability to protect civilians elsewhere.[54] Force generation has been a challenge for UNMISS, and the mission has faced increasing access restrictions and status-of-forces agreement violations, primarily by the government.[55] The U.N. Panel of Experts has described the obstructions as "devastating for the Mission's operations and its ability to execute its mandate to protect civilians." Government officials have conditioned their acceptance of the deployment of the 4,000 additional peacekeepers authorized under Resolution 2304 (2016) for the new Regional Protection Force on their approval of the composition, weapons, and equipment of the RPF. While acknowledging that UNMISS has undoubtedly saved lives by providing protection at the POC sites, critics note that those in the sites represent only a fraction of the displaced population, and that the RPF's deployment to Juba may do little to improve security beyond the city.

Mixed messages from the international community on the status of the peace agreement and the legitimacy of the TGNU, in light of Kiir's replacement of opposition members of the government, may complicate the path forward. According to the U.N. Panel of Experts, the TGNU has collapsed, and some independent analysts suggest that the peace deal has collapsed with it.[56] However, Secretary of State John Kerry suggested in remarks in late August (following Machar's replacement) that the government in Juba is "now committed to the full implementation of the peace agreement and that it has already begun to implement" it. He also controversially declared that "it's quite clear that legally, under the agreement, there is allowance for the replacement in a transition of personnel, and that has been effected with the appointment of a new vice president." That statement has been interpreted by some in the region as a determination by the United States that Deng's appointment as First Vice President was in line with the peace agreement.[57] U.S. Special Envoy Donald Booth subsequently testified before the House Africa Subcommittee that "it is not for us to tell South Sudan who its leaders should be," and "given all that has happened, we do not believe it would be wise for Machar to return to his previous position in Juba."

The international body tasked with monitoring implementation of the peace agreement, the Joint Monitoring and Evaluation Commission (JMEC), has not made a determination on Deng's legitimacy, stating that "a change to the leadership depends on the Opposition itself," and raising concern with the question of whether Machar's replacement could be a violation of the deal.[58] IGAD appears divided on the question, after having welcomed Deng's pledge in August to step down upon Machar's return. Deng, who has visited several African capitals in his new position, is representing the government at the 71st Session of the U.N. General Assembly.

Whether President Kiir's replacement of Machar and other SPLM-IO officials complies with the terms of the peace agreement is a key question in the context of international engagement with the South Sudan government. Without support from opposition commanders or key political leaders or, more broadly, aggrieved populations, notably the Nuer, First Vice President Taban Deng may struggle to credibly represent the opposition in the government, or to encourage the compliance of the armed opposition with government decisions or implementation of the peace deal. By some accounts, anti-government sentiment has grown since the fighting in Juba in July,

[54] "U.N. chief says protection of civilians sites divert peacekeeping resources from other areas." Radio Tamazuj, November 28, 2015.

[55] The Secretary-General's June 2016 report noted 33 violations of the status-of-forces agreement in a two-month period (April-May 2016). The January 2016 U.N. Panel of Experts report noted that the government committed over 450 violations of the status-of-forces agreement committed in 2015.

[56] U.N. Security Council, *Report of the Panel of Experts,* September 19, 2016. See also Paul Williams, op. cit.

[57] See, e.g., US official says appointment of S. Sudan's first VP 'legal,'" *Sudan Tribune*, August 22, 2016.

[58] Statement by H.E. Festus G. Mogae, Chairperson of JMEC to the JMEC Partners' Meeting on the Status of the Implementation of the Agreement on the Resolution of the Conflict in the Republic of South Sudan, July 31, 2016.

given the reports of government forces again targeting Nuer civilians and other security force abuses, including in the Equatoria region. Recent statements by government officials suggesting that SPLM-iO forces must now be integrated into the army or "eliminated," may further aggravate the situation.[59] With conflict ongoing in parts of the country and rumors of forthcoming dry-season offensives, donors may question whether this is an appropriate time to invest in the government's proposed recovery and development efforts.[60] Without donor engagement, though, South Sudan's crisis appears set to worsen further—the International Monetary Fund has warned that without economic reforms and political reconciliation, the economic situation will further deteriorate and the government will be unable to meet key obligations.[61] In the context of the conflict, the government's ability to pay salaries for its army, or to provide financial incentives for allied militia or for defections from the opposition, are likely to be key priorities.

Sanctions

The U.N. Security Council laid the framework for targeted sanctions in South Sudan in March 2015, when it unanimously passed Resolution 2206 (2015). The resolution, sponsored by the United States, was adopted days before an IGAD deadline for the warring parties to reach a peace deal in an effort to induce them to make concessions. The deadline passed without a deal, and the Sanctions Committee began its work in April 2015, approving the names of six individuals for sanctions in July 2015. Russia and Angola blocked efforts to designate two additional individuals seen as responsible for perpetuating the war since the signing of the peace agreement, including the SPLA Chief of the General Staff Paul Malong and rebel commander Johnson Olony, in September 2015. (Malong would subsequently be identified in the Separate Opinion issued by one member of the AUCISS as having allegedly recruited the irregular Dinka militia accused of leading the killing of ethnic Nuer in Juba at the onset of the conflict in December 2013.) The U.N. Panel of Experts continues to investigate the chain of command for operations that have targeted civilians—in January 2016, it suggested that President Kiir "and a narrow circle of senior individuals in the military and security services ... are waging an aggressive war involving the targeting of civilians and extensive destruction of communities." In its September 2016 report, the Panel identified Malong as overseeing operations in Wau and directing the fighting in Juba in July. The Panel has reportedly submitted additional names for possible sanction, but to date, no new designations have been formally considered.

In view of ongoing negotiations on the RPF's deployment, the prospects for a possible arms embargo, threatened by the Security Council in Resolution 2304 in August, are unclear. That resolution suggested that the Security Council would consider an embargo in the event of "political or operational impediments to operationalizing the force or obstructions to UNMISS in performing its mandate." In remarks before Security Council consultations on September 14, U.S. Permanent Representative to the United Nations Samantha Power suggested that the government's restrictions on U.N. movements were unprecedented and indicated that the Council would consider whether any progress had been made toward the ability of UNMISS to move freely by the end of the month. She warned that if the government did not allow the U.N. free movement or the RPF to deploy, the United States would support a U.N. arms embargo.

The U.N. Panel of Experts has repeatedly recommended that the Security Council impose an arms embargo. It reported in August 2015 that the supply of arms and ammunition to the warring sides

[59] "Makuei and Lomuro hint at objectives for next military offensives," Radio Tamazuj, September 6, 2016.

[60] "U.N. Agency in Juba says committed to working with South Sudan finance ministry," Radio Tamazuj, September 6, 2016.

[61] IMF, IMF Staff Completes 2016 Article IV Mission to South Sudan, June 1, 2016.

"has been instrumental in prolonging and escalating the war ... leading to large-scale violations of international humanitarian law." The Panel specifically cited at that time the acquisition by the SPLA of greater air and riverine capacity as having a potentially substantial impact on the conflict, and noted that recent arms transfers to the government have significant financial implications for the country's strained budget. (According to the CIA *World Factbook*, South Sudan's military expenditures as a percentage of GDP were the highest in the world in 2012, *before* the outbreak of the conflict.) In its September 2016 report to the Council, the Panel suggested that the continued influx of weapons ... contributes to the spread of instability and the continuation of the conflict." It also noted an escalation since July in active threats to the operations and personnel of UNMISS and U.N. agencies. The Panel further stated that "the mass importation of arms and, in particular, weapons systems ... since the beginning of the war in 2013 has served only to encourage those who seek a military solution to the conflict."

The European Union currently maintains a ban on the provision of arms and related materiel and services to the country, and the United Kingdom has been vocal in calling for a U.N. embargo, as have some other Council members, including France and New Zealand. The U.N. Secretary-General joined those advocating for an arms embargo in July, suggesting that it would reinforce U.N. action. One former member of the U.N. Panel of Experts has offered the argument that, while an arms embargo might not stop all arms flows into the country, it would discourage individual arms smugglers and the countries that supply such items, thereby increasing the cost of procurement for the warring sides. He suggests that it would also send an important signal of international resolve and indicate the Security Council's perception that the current actions of South Sudan's leadership are undermining their legitimacy.[62]

East African officials have repeatedly threatened punitive measures against the warring parties, and some advocacy groups have argued that sanctions by South Sudan's neighbors could have the greatest effect, if they had the will to enforce them.[63] Uganda, a key trading partner, is seen as most closely aligned with President Kiir—Uganda deployed troops into South Sudan early in the conflict at Kiir's request to protect key infrastructure and state stability. Uganda's intervention was controversial, and some critics viewed it as hindering regional efforts to mediate a political resolution to the conflict. (By some accounts, Uganda's influence was, however, key in pushing President Kiir to sign the 2015 peace accord.) Recent reporting by the U.N. Panel of Experts suggests that Uganda continues to facilitate the transfer of defense equipment to the government in Juba. The Panel, which previously reported on allegations that Sudan had provided ammunition to the opposition, reported in September 2016 that it had no evidence of Sudan providing heavy weapons to the SPLM-iO, or any evidence of significant arms procurement by the SPLM-iO more broadly.[64] It did, though, name Uganda as reportedly facilitating the transfer of ammunition and possibly fighter jets into South Sudan for the government.

[62] Luuk van de Vondervoort, "Prospects for a U.N. Arms Embargo on South Sudan: A Response to HSBA Issue Brief 24," Small Arms Survey, August 11, 2016.

[63] See, e.g., *Spoils of War, Spoilers of Peace: Changing the Calculus of South Sudan's Deadly Conflict*, Enough Project, September 2014. In March 2016, with implementation of the 2015 peace deal months behind schedule, the East Africa Community (EAC), a regional economic bloc, admitted South Sudan as its newest member (the country had applied for membership in 2011 but had previously been granted only observer status). In admitting South Sudan to the EAC, its members appeared to set aside previous concerns regarding the body's stated principles of democratic governance, rule of law and transparency.

[64] U.N. Security Council, *Reports of the Panel of Experts*, January 26, 2016 and September 19, 2016.

U.S. Policy and Foreign Assistance

The United States played a major role in facilitating the CPA and South Sudan's independence, and is the country's largest bilateral foreign aid donor. It also plays a key role in U.N. Security Council deliberations on South Sudan. Obama Administration officials have made repeated public reference to the United States playing a role in the "birth" of the nation and have expressed a sense of responsibility for the country.[65] Congressional engagement has been historically driven by human rights and humanitarian concerns, and some Members of Congress, including the Congressional Caucus on Sudan and South Sudan, have frequently engaged South Sudanese leaders directly. The current conflict and previous allegations of corruption and human rights abuses by South Sudanese state actors have strained the bilateral relationship, and congressional committees have held multiple hearings on the country since the crisis began.

In May 2014, President Obama imposed targeted sanctions under Executive Order 13664 on two military leaders deemed responsible for fueling the war—a senior rebel commander and the head of the presidential guard. Four additional commanders, two from each side, have since been added to the U.S. sanctions list. The Administration has not named the two individuals proposed for sanction by the U.N. Security Council in September 2015 (one of them is the head of South Sudan's army) under the Executive Order. Some Members of Congress have called for the Administration to press the Security Council for an immediate arms embargo.[66]

U.S. officials have been increasingly critical of South Sudan's leaders, on both sides, in public statements: in March 2015, Secretary of State John Kerry declared that "legitimacy is not a presumed right of any government," accusing the government of neglecting its responsibility to "demonstrat[e] leadership to protect and serve all citizens" and criticizing both sides for failing to make needed compromises.[67] On the fourth anniversary of South Sudan's independence, in July 2015, National Security Advisor Susan Rice went further:

> The government and rebels are committing appalling crimes against innocent women, children and the elderly. President Kiir and Riek Machar and their cronies are personally responsible for this new war and self-inflicted disaster. And only leaders on both sides can end this violence. Yet, President Kiir and Riek Machar would rather haggle over personal power and wealth than agree on solutions.... The government has abdicated its responsibilities, failed to protect its citizens, and squandered its legitimacy.68

The Obama Administration welcomed the August 2015 peace agreement, and has maintained a stated commitment to sanction those who undermine the peace process.

The U.S.-based Enough Project has called for the United States and others in the international community to curb the laundering of proceeds of corruption in South Sudan and to impose new sanctions on leaders responsible for misappropriating state assets, obstructing civil society, committing mass atrocities, and fueling the war. Enough's *Sentry* initiative released a report in September 2016 which documents questionable business deals and reported acts of corruption by

[65] Testimony of Assistant Secretary Thomas-Greenfield, SFRC, January 9, 2014, op. cit.

[66] See, e.g., Representatives Michael Capuano and Representative Brian Higgins, "To End the Civil War, It's Time for an Arms Embargo in South Sudan," May 20, 2016. Thirteen Members of Congress sent a letter to President Obama on August 11 calling again for an embargo.

[67] State Department, Press Statement by Secretary Kerry on South Sudan Negotiations, March 2, 2015.

[68] The White House, Statement by National Security Advisor Susan E. Rice, July 9, 2015.

several senior South Sudanese leaders, including President Kiir.[69] Kiir's spokesman has rejected the report as "rubbish" and has threatened to sue the Enough Project.[70]

With U.S. spending on humanitarian, development, reconstruction, security sector, and peacekeeping support approaching, and sometimes exceeding, $1 billion per year in South Sudan since the CPA was signed in 2005, the United States has invested over $11 billion in the country since 2005. That level of U.S. support is unprecedented in sub-Saharan Africa, and represents one of the largest U.S. foreign aid investments globally in the past decade.

As noted above, the United States has provided almost $1.9 billion in humanitarian aid in response to the South Sudan crisis since the conflict began in late 2013. U.S. non-emergency aid to South Sudan totaled over $160 million in FY2016, down from almost $260 million in FY2015. The State Department has requested $225 million in FY2017 foreign aid for South Sudan (not including humanitarian aid) to deliver essential health and education services, mitigate conflict, foster stability and recovery, and promote reforms. In addition to its support for the humanitarian response and ongoing development programs, the United States is the largest financial contributor to UNMISS and a key donor for ceasefire monitoring and other efforts to mitigate conflict. With the authorization of the proposed Regional Protection Force, the assessed U.S. share of U.N. funding for UNMISS for FY2016 is estimated by the State Department to be almost $400 million.

Security assistance is currently suspended, although President Obama granted a partial waiver for South Sudan from the Child Soldiers Protection Act of 2008 (CSPA), which restricts security assistance to countries that recruit or use child soldiers.[71] Prior to the current conflict, the SPLA received comparatively significant security sector reform aid, totaling $40 million to $60 million annually. According to the waiver, security assistance funds could support the disarmament, demobilization, and reintegration (DDR) of armed forces and support defense sector reform.

U.S. Special Envoy Donald Booth has suggested that South Sudan requires a more inclusive political process and has proposed an "all-parties conference to reconstruct the power-sharing provisions of the peace agreement."[72] He cautions, however, that new arrangements would only succeed if those in power are willing to share control of the state and its resources, and without more inclusive representation in government, the violence will continue. He and others in the Administration view the deployment of the Regional Protection Force as a necessary first step to create conditions for a more inclusive process.

The U.S. embassy in Juba, led by Ambassador Mary Catherine (Molly) Phee, is currently operating with limited staff under an "ordered departure" of non-emergency personnel. On July 12, the U.S. military deployed 47 personnel to Juba to protect U.S. citizens and property. Additional U.S. military personnel are pre-positioned in Uganda, should they be needed, including to possibly evacuate U.S. citizens in other areas of the country, as was required in December 2013. The operation in 2013, during which three U.S. military aircraft were hit with heavy machine gun fire while trying to evacuate U.S. citizens from Bor, demonstrated the risks associated with evacuation efforts in the country, as did the security conditions in Juba in July,

[69] The Sentry, *War Crimes Shouldn't Pay: Stopping the looting and destruction in South Sudan*, September 2016.

[70] "S Sudan to take legal action after corruption report," Al Jazeera, September 13, 2016.

[71] The waiver allows for the provision of International Military Education and Training (IMET); Peacekeeping Operations (PKO) assistance, which was the primary vehicle for U.S. security sector reform assistance prior to the conflict; and Department of Defense support for SPLA participation in regional operations against the Lord's Resistance Army (LRA), which operates in the border area with the Central African Republic, the DRC, and Sudan.

[72] Testimony of Special Envoy Booth before the House Subcommittee on Africa, Global Health, Global Human Rights and International Organizations, "The Growing Crisis in South Sudan," September 7, 2016.

when U.N. peacekeepers were unable to move around the city.[73] This is the second ordered departure for the embassy since the conflict began; additional military personnel were previously deployed in December 2013. The State Department currently warns against travel to the country.

Challenges Ahead

Experts agree that South Sudan's development and humanitarian needs are massive, and the current conflict is one the country cannot afford.[74] South Sudan has the world's highest rates of population growth and maternal mortality, and less than 30% of the population is literate. The country has abundant natural resources, but less than 200 miles of paved roads. It is also the country most dependent on oil for income in the world, and based on its current reserve estimates, oil production is forecast to decline and be negligible by 2035.[75] Many reports suggest that the government has accrued considerable debt, in part due to military spending. The low global price of oil puts further strain on the fragile economy, and rampant inflation, surging food costs, and an extreme shortage of hard currency further exacerbate already severe food insecurity.

While many viewed the August 2015 peace agreement as an important milestone toward ending the conflict, the violence has continued, spurring new displacement. The security situation in much of the country is volatile. Conflict has increased in the past year in areas previously considered comparatively stable. The humanitarian community warns that security conditions and access constraints have worsened in 2016, at a time when humanitarian needs are unprecedented. Relations between the government and UNMISS, already poor, have deteriorated.

In 2015, U.N. human rights monitors described violence in the parts of the country as demonstrating a "new brutality and intensity," with "a scope and level of cruelty" that "suggests a depth of antipathy that exceeds political differences."[76] The conflict in South Sudan, which began with a political dispute, will not be resolved by simply reconciling rival political leaders—the manipulation by political elites of ethnic and communal grievances and atrocities committed by combatants against civilians are likely to have long-term effects on social cohesion of the country. Surveys suggest that levels of post-traumatic stress disorder (PTSD) and exposure to trauma in South Sudan are comparable to those found in post-genocide Rwanda and Cambodia.[77]

Despite its rhetorical commitment to the August 2015 peace agreement, there is little evidence that the government of President Salva Kiir is currently willing to share power with the opposition, and the prospects for the opposition's return to Juba are unclear. The reported

[73] The risk posed by surface-to-air weapons in South Sudan is significant - two U.N. helicopters have been shot down there in recent years. For more on the Bor evacuation operation, see, e.g., Gareth Jennings, "AFSOC reveals details of aborted South Sudan rescue mission," IHS Jane's Defense Weekly, August 7, 2014 and Richard Whittle, "MacKay Trophy for AFSOC Osprey Crews: A Tale of Bullet Riddled Planes," Breaking Defense, November 3, 2014.

[74] According to one study, another year, or five, of conflict could cost South Sudan between $22 billion and $28 billion, with greater losses (more than $100 billion) if the effects of the conflict are measured over 20 years. See Frontier Economics, *South Sudan: The Cost of War*, January 2015. See also The Enough Project, *Addressing South Sudan's Economic and Fiscal Crisis*, February 12, 2016.

[75] Total oil revenue was reportedly $3.38 billion in 2014 (from 36.6 million barrels of oil). Of that total, the government received $1.71 billion, having paid $884 million in transit fees to Sudan and $781 million in loan payments. According to the World Bank, gross oil revenue fell from $29.7 million in December 2015 to $10.8 million in January 2016. A 2016 IMF visit found that South Sudan would likely receive no net oil revenue in 2016 if it meets its obligations to Sudan; negotiations are ongoing to potentially reschedule payments to Sudan for a later date.

[76] UNMISS, *Human Rights Report on the Escalation of Fighting in Greater Upper Nile April/May 2015*, June 29, 2015.

[77] South Sudan Law Society, *Search for a New Beginning: Perceptions of Truth, Justice, Reconciliation and Healing in South Sudan*, June 2015.

crackdown on civil society raises further questions about the trajectory of governance under the so-called transitional arrangements that the government committed to in the peace deal. The government has proceeded in implementing President Kiir's controversial October 2015 decree to reconstitute the country's administrative divisions, which was opposed by the opposition as well as some ruling party legislators, and which IGAD deemed to be inconsistent with the peace agreement. The division of the existing states has been identified by some analysts as an underlying driver of the spreading conflict in the past year. The increasing instability in the greater Equatoria region is, to many, a worrying sign that the country could further fragment.

The AU Commission of Inquiry affirmed previous human rights monitors' findings that there are reasonable grounds to conclude that war crimes and crimes against humanity have been committed during the civil war. The U.N. High Commissioner for Human Rights, among others, has described South Sudanese efforts to hold perpetrators of serious abuses accountable as "few and inadequate."[78] The U.N. Panel of Experts reports that there is little to no evidence of formal judicial proceedings being undertaken by the government and has suggested that "the pervasive impunity marking the current conflict... is deepening the political and ethnic divides within South Sudanese society." An assessment mandated by the U.N. Human Rights Commission warned in March 2016: "Failure to address the deeply engrained disregard for human life will only lead to such violations re-occurring."[79]

Given the gravity of the abuses committed during the conflict and the shortcomings of South Sudan's criminal justice system, the 2015 peace deal included the creation of a hybrid court, to be established by the African Union and independent from the national judiciary, with a majority of its judges from African countries other than South Sudan. Among the greatest challenges for the court would be its treatment of allegations against senior leaders—in its final report, the AUCISS found evidence of "a state or organizational policy to launch attacks against civilians based on their ethnicity or political affiliation." According to the peace deal, government officials are not exempt from criminal responsibility, and individuals indicted or convicted by the court would be ineligible to participate in the transitional government or its successor. Per the agreement, the court was to be operational by November 2016, but the AU has yet to take steps to establish it.

In its assessment of the underlying causes of South Sudan's current crisis, the AUCISS attributed the conflict, in part, to flaws in the 2005 Comprehensive Peace Agreement and its implementation. Specifically, the Commission suggested that the international community was preoccupied with ending the north-south violence and as a result paid little attention to democracy and structural transformation. The AUCISS noted criticism of the CPA for its failure to address human rights violations, finding that both parties to the CPA "deliberately excluded the question of accountability and reconciliation ... for fear of what any accountability project would portend." While South Sudan's 2015 peace agreement places a high priority on reconciliation, accountability, healing, and combatting impunity, to date there has been little to no measurable progress toward any of these aims.

Looking ahead, the challenges for international engagement in South Sudan are myriad. In the aftermath of the fighting in Juba in July, it is unclear how, or when, regional or international mediators may be able to bring the warring sides back together for peace talks. The government in Juba has been hostile toward proposals that suggest expanded foreign intervention may be

[78] U.N. Human Rights Council, *Report of the U.N. High Commissioner for Human Rights on the Human Rights Situation in South Sudan*, A/HRC/28/49, March 9, 2015.

[79] U.N. Human Rights Council, *Assessment mission by the Office of the U.N. High Commissioner for Human Rights to improve human rights, accountability, reconciliation and capacity in South Sudan*, A/HRC/31/49, March 10, 2016.

needed to stabilize the country, and its increasingly antagonistic rhetoric toward the U.N. may, potentially, pose an increasing threat to peacekeepers, aid workers, and other expatriates in the country.[80] By some accounts, South Sudan is on the brink of collapse, a potential "failed state." In the view of other experts, it never fully transitioned to a state after independence.[81] Some observers, including former U.S. Special Envoy Princeton Lyman, have suggested that it may be time to put South Sudan "on life support" by establishing "an executive mandate for the U.N. and the AU to administer the country until institutions exist to manage politics nonviolently and break up patronage networks underlying the conflict."[82] They argue that piecemeal technical investments, such as financial bailouts, development initiatives, or disarmament and demobilization programs, will be insufficient without an accountable and functional government in place. The reaction to such a proposal among other African leaders—some of whom may view such an arrangement as a dangerous post-colonial precedent—is uncertain.

Many longtime South Sudan watchers view the dearth of political inclusion and government accountability, along with entrenched corruption, as root causes of the ongoing conflict. Given the Kiir government's sensitivity to perceived threats to its sovereignty, the path to any major political restructuring in Juba is unclear. President Kiir and his supporters view him as the elected president of South Sudan (pursuant to 2010 elections held in Sudan), although the country has not held elections since independence. While some international observers have challenged the legitimacy of his government, his peers in the region have yet to publicly question his right to govern.[83] Many foreign donors are reluctant to take policy stances (e.g., a more aggressive condemnation of the Kiir government's practices) that could potentially threaten the ability of aid agencies to deliver life-saving relief in the midst of a humanitarian crisis. Other key global powers, such as Russia, often oppose tactics designed to diplomatically isolate problematic regimes, such as sanctions, as a matter of policy. Without robust international leadership or greater international consensus on how to address South Sudan's continuing crisis, the situation may worsen. Given the country's structural problems and the legacies of its divisive conflicts, South Sudan appears likely to present policy challenges for U.S. executive branch officials and Congress for years to come.

[80] See, e.g., "What did the U.N. Security Council achieve in South Sudan?" Radio Tamazuj, September 7, 2016.

[81] See, e.g., former AUCISS Commissioner Mahmood Mamdani, "Who's to Blame in South Sudan?" *Boston Review,* June 28, 2016.

[82] See Princeton Lyman and Kate Almquist Knopf, "To save South Sudan, put it on life support," Financial Times Beyondbrics Blog, July 20, 2016 and Testimony of Kate Almquist Knopf before the Senate Foreign Relations Committee, "South Sudan: Options in Crisis," September 20, 2016.

[83] Ibid.

Appendix. Additional Background

Historic Tensions within South Sudan's Ruling Party

In the 1990s, during Sudan's north-south war, Riek Machar was a senior Nuer SPLA commander who, along with others, split from the SPLM/A, citing grievances with the centralized leadership of the SPLM under John Garang, a Dinka; alleged human rights abuses; and disagreement on the objectives of the insurgency against Khartoum.[84] Machar and his allies, who were primarily ethnic Nuer or Shilluk, later allied themselves with the government in Khartoum and briefly held positions in the Sudanese government. Machar's struggle with Garang's forces cost thousands of southern Sudanese lives—Amnesty International estimated that 2,000 civilians, mostly Dinka, were killed in a series of raids, referred to as the Bor Massacre, by Nuer forces under Machar's command.[85] Abuses against civilians by both sides fueled ethnic hatred and fighting, particularly in the Greater Upper Nile area throughout the 1990s. Machar reconciled with the SPLM in the early 2000s and assumed the third-highest post in the leadership structure, after Garang and his deputy, Salva Kiir. After John Garang died in a helicopter crash in 2005, shortly after the signing of the 2005 peace accord, Kiir became head of the SPLM, with Machar as his deputy.

Sudan held national elections in 2010, prior to the 2011 referendum on southern independence. As part of the CPA deal, the SPLM had formed a temporary Government of National Unity with Sudan's ruling party. Kiir, as chairman of the SPLM, served as first vice president under Sudanese President Omar al Bashir, and concurrently as president of a then-semi-autonomous Government of Southern Sudan (GoSS). Rather than Kiir running against Bashir in 2010, the SPLM decided to field a northern candidate on their national ticket. Kiir, who by many accounts viewed secession as imminent, instead ran to retain the GoSS presidency, winning the position with almost 93% of the votes cast.[86] As incumbent GoSS president, Kiir kept his post, now as president of the Republic of South Sudan, under a transitional constitution after independence, with Machar as his vice president, for a four-year term beginning July 9, 2011.[87]

SPLM initiatives, often led by Kiir himself, to seek reconciliation with various armed groups and among communities throughout the country have been ongoing for more than a decade. As part of these efforts, and out of apparent concern for political stability, Kiir has granted amnesty to a number of individuals who once led rebellions against the SPLM. In addition to Machar, other faction leaders who reconciled with the SPLM and accepted amnesty have often been incorporated into either the government or the security forces. Many have brought their forces with them (some with their units still largely intact), adding to the government's challenge, since 2005, of reforming, "right-sizing," and professionalizing an increasingly bloated security sector. Some faction leaders, including Peter Gadet, another Nuer commander who fought against Garang during the war, received senior posts in the SPLA (now South Sudan's military).[88] (Gadet was among the first SPLA commanders to mutiny after the outbreak of violence in December 2015.) Efforts by the government to disarm communities in the aftermath of the war were contentious and often accompanied by charges of ethnic favoritism by SPLA commanders and abuses against rival communities.

In 2013, President Kiir made major changes to his government in a stated effort to downsize and address governance concerns, but also, it appears, in response to perceived threats to his leadership and international donor pressure to crack down on corruption. He replaced two state governors, both elected in 2010, by presidential decree. In June 2013, he dismissed two senior cabinet ministers over alleged corruption charges, and conducted a major cabinet reshuffle in July, removing Vice President Machar and the entire cabinet. Kiir also dismissed ruling party secretary-general Pagan Amum, who had been publicly critical of the dismissals. The SPLM-dominated parliament approved a new, leaner cabinet in August. Among Kiir's notable appointments was the

[84] For additional information, see, e.g., Douglas H. Johnson, *The Root Causes of Sudan's Civil Wars* (Bloomington, IN: Indiana University Press, 2003).

[85] The raids took place from September through November 1991 as forces loyal to Machar advanced on the town of Bor, which was considered Garang's home territory. Reprisal raids against Nuer areas followed. Amnesty International, "Sudan: A Continuing Human Rights Crisis," AI Index: AFR 54/03/92, April 15, 1992. See also Human Rights Watch, *Civilian Devastation: Abuses by All Parties in the War in Southern Sudan*, June 1, 1994.

[86] See, e.g., The Carter Center, *Observing Sudan's 2010 National Elections, April 11-18, 2010: Final Report*.

[87] Under South Sudan's transitional constitution, the vice president was appointed by the president and could be removed by him, or by a two-thirds majority of the legislature on a vote of no confidence.

[88] For further information on armed groups and realignments, see, e.g., reports by the Small Arms Survey's Human Security Baseline Assessment for Sudan and South Sudan (HSBA), at http://www.smallarmssurvey.org.

naming of the powerful Dinka governor of Jonglei as defense minister. Jonglei, which is believed to have significant untapped oil reserves, has been a historic flashpoint for inter-ethnic fighting. Human rights groups have repeatedly raised concerns with abuses committed by both ethnic militia and government forces in the state.[89] Given existing tensions, its mixed ethnic composition, and the strategic location of its capital, Bor, Jonglei was among the first areas where fighting spread in December 2013.

While ethnicity has played a key role in the current conflict, the political dispute that appears to have triggered the crisis was not based on an ethnic or communal dispute. The leaders who were seen as politically aligned with Machar prior to the fighting represented multiple ethnicities. Several were key Garang allies throughout the civil war. Broadly, they contended that Kiir had grown increasingly dictatorial—concentrating decisionmaking in the president's office among a small group of advisors (many from the Dinka-dominated states of Northern Bahr El Ghazal and Warrap, his home area), letting "regional and ethnic lobbies" override collective decisionmaking in the ruling party, using corruption allegations to sideline perceived rivals, increasingly condoning human rights violations, and abandoning the ideals of the independence struggle. To Kiir and those loyal to him, Machar's charges are viewed as politically motivated and part of a long personal quest for power. Machar was expected to challenge Kiir for the party's nomination to be its presidential candidate in 2015 (the elections have been postponed). Several of the key SPLM figures who shared Machar's views of Kiir's leadership did not support his presidential ambitions; some suggested in 2013 that they would also seek the party's nomination for the presidency. Outside observers, including the U.S. intelligence community, have made similar assessments of Kiir's increasingly centralized approach to governing.[90]

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Acknowledgments

Amber Hope Wilhelm and Hannah Fischer contributed to this report.

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[89] See, e.g., HRW, *They are Killing Us: Abuses Against Civilians in South Sudan's Pibor County*, September 2013 and International Crisis Group, South Sudan: Jonglei – "We Have Always Been at War," December 22, 2014.

[90] See, e.g., Testimony of Director of National Intelligence James R. Clapper, Senate Select Committee on Intelligence, *U.S. Intelligence Community Worldwide Threat Assessment*, January 29, 2014.

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