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# Conflict in South Sudan and Challenges Ahead

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## Summary

South Sudan became the world's newest country in 2011, separating from Sudan after almost 40 years of civil war. In late 2013, just over two years after achieving independence, the people of South Sudan were drawn into a devastating new conflict when a political dispute that overlapped with preexisting ethnic and political fault lines sparked a war, causing mass displacement and suffering. Civilians have been routinely targeted in the violence, often along ethnic lines, and the warring parties have been accused of war crimes and crimes against humanity.

Along with Syria, Iraq, and Yemen, South Sudan is currently classified by the United Nations as one of four “Level 3” (the highest level) humanitarian emergencies in the world. By U.N. estimates, more than 50,000 people have been killed, but some experts contend that the actual number of fatalities may be much higher. More than 2.4 million people have been displaced by the conflict, including more than 186,000 who are still sheltering at U.N. peacekeeping bases in the country. U.N. agencies report that the humanitarian situation—already dire with almost one-quarter of the population facing life-threatening hunger—has worsened in early 2016. Parts of the country most affected by fighting in the past year face what some experts refer to as “a borderline famine situation.”

The international community welcomed a peace agreement signed in August 2015 by South Sudan's warring parties, but it has yet to result in a clear end to the conflict. Repeated ceasefire violations, ongoing obstructions of the movement of peacekeepers and aid workers, and delays in implementation of key aspects of the agreement raise questions about the parties' commitment to the deal, despite slow progress toward the formation of a Transitional Government of National Unity (TGNU). Violence has spread to areas of the country previously seen as comparatively stable, sparking new displacement. The return on April 26, 2016 of opposition leader Riek Machar to the capital, Juba, for the first time since the conflict began, marks an important milestone in the peace process. Per the terms of the peace deal, he assumes a position he held from 2010-2013, as the country's vice president, now in a new unity government. Mistrust among the parties remains high, however, and it remains to be seen whether the TGNU's formation will stem the violence, reverse the collapse of state institutions, or set the conditions for reconciliation.

The United States, which played a key role in supporting the country's independence from Sudan, has been its leading donor. With congressional support, the United States made major investments in South Sudan's recovery and development after the Sudanese civil war ended in 2005—many of those gains have now been reversed. The Obama Administration has contributed nearly \$1.6 billion in humanitarian aid since the new conflict began. In addition to its support for the humanitarian response and ongoing development programs, the United States is the largest financial contributor to the United Nations (U.N.) peacekeeping mission in the country and a key donor for ceasefire monitoring and other efforts to mitigate conflict. The United States also plays a lead role in the U.N. Security Council on deliberations regarding South Sudan.

As Congress considers available options for engagement, several key questions arise. How can the United States most effectively facilitate an end to violence and a path toward reconciliation, both among political factions and rival communities? If fighting continues, what leverage—further targeted sanctions, an arms embargo, or new types of aid—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 both sides of the conflict, what role, if any, should the United States play in the reform of a security sector that will combine the forces of the warring parties? 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?

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## Overview

South Sudan emerged in 2011 as the world's newest country, and as 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. Over 2.5 million people were killed in the civil war, and more than 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. The war created massive, chronic humanitarian needs that persisted, despite abundant natural resources, including oil fields from which Sudan 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, growing 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, 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). During that time the warring parties periodically recommitted themselves to a January 2014 cessation of hostilities deal that was repeatedly violated.<sup>1</sup> In May 2014, the two sides 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 late August 2015. Kiir, who signed the deal more than a week after Machar, did so with reservations, calling the agreement divisive and an attack on South Sudan's sovereignty. He has nevertheless publicly committed to its implementation.

Both sides have since repeatedly violated a permanent ceasefire set under the agreement, and fighting is ongoing in parts of the country.<sup>2</sup> Beyond challenges related to security provisions of the agreement, experts have expressed concern about delays in progress on other aspects of the peace deal, most notably the formation of a new Transitional Government of National Unity

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<sup>1</sup> The IGAD talks were hosted by Ethiopia. IGAD also managed the ceasefire monitoring mission, which issued public reports on violations. In March 2015, IGAD modified its approach, unveiling a new "IGAD-plus" mediation mechanism with a greater role for the United States, African Union, the Europeans, the United Nations, and China. A parallel effort by Tanzania to facilitate intra-party dialogue among the rival camps provided a venue for the factions to address political grievances—under its auspices the factions acknowledged collective responsibility for the conflict. That effort was intended to complement, rather than replace, the IGAD mediation.

<sup>2</sup> U.N. Security Council, *Report of the Secretary-General on South Sudan*, U.N. Document S/2016/341, April 13, 2016. Reports on ceasefire violations are available at <http://www.jmecsouthsudan.org/ctsamm.php>.

(TGNU).<sup>3</sup> Under the peace accord, the parties had agreed to form the transitional government within 90 days (by late November 2015), a deadline that has been repeatedly extended. In February 2016, President Kiir officially appointed Machar as First Vice President of South Sudan. Machar, who had fled Juba when the conflict began, stipulated that his return to the capital was contingent on the implementation of agreed security arrangements for the city.<sup>4</sup> His arrival in Juba and swearing in on April 26 occurred a week behind schedule, fueling further frustration with the delayed formation of the TGNU.<sup>5</sup> He has identified ensuring a permanent ceasefire and humanitarian access throughout the country, and stabilizing the economy, as his main priorities.<sup>6</sup>

Prior to Machar's return to Juba, official monitors of the peace agreement had warned that the agreement was at risk.<sup>7</sup> By many accounts it remains so.<sup>8</sup> The U.N. Secretary-General reported in early April 2016 indications that government and opposition forces "appear to be mobilizing for a further escalation of hostilities" in Upper Nile State, while fighting continued in other areas.<sup>9</sup> Machar's top military commander, who arrived in Juba ahead of Machar, suggested that the city had not been demilitarized as agreed. Noting aerial bombardments in parts of the country, he said that "maybe the government is not serious about peace. That could lead us back to war."<sup>10</sup> Mistrust between two sides, and among communities pitted against each other during this and previous conflicts, remains high, and small arms are readily available among the population.

Experts suggest that corruption has fueled the conflict, which, according to The Sentry initiative is "driven by elites attempting to re-negotiate their share of the politico-economic power balance through violence."<sup>11</sup> Oil revenue, reportedly been used by the government to buy the political allegiance of the country's various militia commanders and fund patronage networks for the past decade, has declined precipitously, and regional expert Alex de Waal suggests that political loyalty is now "rewarded with license to plunder."<sup>12</sup> With South Sudan's economy collapsing and minimal oil revenue forecast for 2016, it may prove exceedingly difficult for the country's leaders to "buy peace" at this critical moment. Should implementation of the peace agreement and

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<sup>3</sup> Per the peace agreement, the TGNU's composition is based on a power-sharing formula for the executive branch, with 53% of positions to be held by Kiir's faction, 33% by Machar's faction, 7% by a group of former political detainees (who were top members of the ruling party before the conflict began), and 7% by other political parties. President Kiir remains in his position, with Riek Machar as First Vice President and the incumbent vice president also retaining his post. Machar is to appoint state governors for the states in Unity and Upper Nile. The warring sides' armed forces are to be cantoned and remain separate in the near term, but are to be unified within 18 months.

<sup>4</sup> Per agreed security arrangements for the start of the transitional period, a significant portion of government forces stationed in Juba were to withdraw and up to 1,370 opposition troops were to be deployed to the capital, with UNMISS, IGAD, and donor facilitation.

<sup>5</sup> Jason Patinkin, "South Sudan partners demand Machar's return, movement on peace deal," VOA, April 21, 2016; State Department, "South Sudan: Failure of Government of South Sudan and Opposition to Form TGNU," April 24, 2016.

<sup>6</sup> "South Sudan rebel chief Riek Machar sworn in as vice president," BBC, April 26, 2016.

<sup>7</sup> Joint Monitoring and Evaluation Commission, "JMEC calls on South Sudanese parties to urgently demonstrate flexibility to implement peace agreement," Press Statement, April 19, 2016.

<sup>8</sup> See, e.g., Justin Lynch, "S. Sudan takes tentative step forward as former rebel leader becomes VP," *Christian Science Monitor*, April 26, 2016.

<sup>9</sup> U.N. Security Council, S/2016/341, April 13, 2016, op. cit.

<sup>10</sup> Jacey Fortin, "Riek Machar, South Sudan opposition leader, returns as part of a peace deal," *New York Times*, April 26, 2016.

<sup>11</sup> The Sentry, *The Nexus of Corruption and Conflict in South Sudan*, July 2015.

<sup>12</sup> Alex de Waal, *A Political Marketplace Analysis of South Sudan's Peace*, World Peace Foundation, March 24, 2016. See also Alex de Waal, *The Real Politics of the Horn of Africa: Money, War, and the Business of Power*, (Cambridge: Polity Press, 2015).

pledges of reform continue at a halting pace, donor fatigue and frustration with ruling elites may slow the flow of international funding to support the unity government's efforts.

### **Oversight and Implementation of the Peace Agreement**

The IGAD Heads of State selected Festus Mogae, former President of Botswana, to lead the Joint Monitoring and Evaluation Commission (JMEC), a group of South Sudanese and international representatives responsible for overseeing and supporting the implementation of the August 2015 peace agreement. The JMEC's role is to "encourage and accelerate progress, to facilitate dialogue and overcome difficulties in implementation, and, if necessary, to take action to ensure the Agreement is fulfilled."<sup>13</sup> Several entities proscribed by the peace agreement are expected to report to the JMEC, including the new Ceasefire and Transitional Security Arrangements Monitoring Mechanism (CTSAMM), which is supported by the United States, among donors. Another institution critical to the establishment of the transitional government, the National Constitutional Amendment Committee, completed the drafting of amendments prescribed by the peace agreement in February but then suspended its work because of disagreement between the government and the opposition on four issues: (a) the proposed creation of 28 states (see below), (b) the number and mode of selection of presidential advisors, (c) the filling of vacant legislative seats, and (d) the selection of Speaker of the transitional legislature. Those decisions are now to be referred to the TGNU. The work of other transitional institutions has also stalled, and key commissions tasked with drafting a new constitution, preparing for elections, and promoting reconciliation and healing have yet to be formed.

## **Context**

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, for a time, 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. In early 2012, South Sudan's government, angered by Khartoum's decisions regarding the transit and export of South Sudanese 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 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

<sup>13</sup> Opening Statement by Festus G. Mogae, JMEC Chairperson, at the JMEC inaugural meeting, November 27, 2015.

major fissure in the ruling party. Tensions rose as Machar and others publicly 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 (see **Figure 1**). 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.<sup>14</sup> The detained politicians were later released, but not exonerated, and they formed a third block at the peace talks. They 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 have been allotted several cabinet positions in the new unity government.

## **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.<sup>15</sup> More than 2.4 million people have been displaced by the conflict since December 2013. Of the displaced, some 706,600 people have fled as refugees to Ethiopia, Sudan, Uganda, and Kenya.<sup>16</sup> U.N. officials estimate that more than 6.1 million people need humanitarian aid and that some 2.8 million people—nearly one-quarter of the population—face life-threatening hunger. The rate of severe food insecurity—12%—is double what it was one year ago. In Unity State, where government-aligned forces reportedly conducted a "scorched earth" campaign against civilians in 2015, 40,000 people are classified as in "catastrophe" (facing starvation), and many parts of the state remain largely inaccessible to aid agencies.<sup>17</sup> The fighting has disrupted farming cycles, grazing patterns, and trade routes, and local markets have collapsed. Nearly one in every three schools has been destroyed, damaged, occupied or closed. The conflict also affects humanitarian access to 240,000 Sudanese refugees sheltering in camps in South Sudan.

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<sup>14</sup> 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." African Union, *Final Report of the African Union Commission of Inquiry on South Sudan*, October 15, 2014.

<sup>15</sup> '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.

<sup>16</sup> Ethiopia hosts the largest number of refugees (230,000, plus 55,000 refugees who arrived pre-2013). Sudan hosts over 222,700, Uganda 200,000 (plus 22,500 pre-2013 refugees), and Kenya 54,000 (plus 46,000 pre-2013 refugees). UNHCR, "South Sudan: Refugees residing in and originating from South Sudan: 31 March 2016," April 14, 2016.

<sup>17</sup> U.N. Security Council, S/2016/70, January 22, 2016, op. cit. A leading food security consortium, The IPC Global Partnership, uses the term "borderline famine situation" in reference to parts of Unity State, where a lack of data prevents aid agencies from determining whether the "catastrophic" state of 40,000 people meets the technical definition of a famine. See Ben Parker, "Extreme hunger in South Sudan," IRIN, February 20, 2016 and Action Against Hunger USA, "South Sudan: Data is the difference between life and death," March 28, 2016.







numerous accounts, many fear that they may be targeted based on political or ethnic affiliation if they leave.<sup>19</sup> Tensions among communities in some of the POC sites are also of concern—in February 2016, 25 people died in clashes and a fire at the POC site in Malakal; government troops were reportedly involved in the event, which resulted in the destruction of 3,700 shelters.

## The Human Rights Situation

U.N. human rights officials assert that targeted attacks by both government and opposition forces against civilians and U.N. personnel during the conflict may constitute war crimes or crimes against humanity.<sup>20</sup> 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.”<sup>21</sup> Hospitals, religious sites, relief compounds, and U.N. bases have been attacked.<sup>22</sup> Entire villages have been destroyed. UNICEF has estimated that 16,000 children have been recruited as child soldiers, with a majority linked to opposition-aligned community forces, according to Human Rights Watch.<sup>23</sup> Conflict-related sexual violence has reportedly been prevalent, and U.N. officials have raised particular concern with “systematic” ethnically-targeted rape.<sup>24</sup> The U.N. Panel of Experts established under Resolution 2206 found that all parties to the conflict had targeted civilians “as part of their military tactics,” including through the deliberate use of rape.<sup>25</sup> In April 2016, the U.N. Secretary-General reiterated there is “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,” noting particular concern with recent extrajudicial killings by government forces in Western Equatoria State.<sup>26</sup>

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.”<sup>27</sup>

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<sup>19</sup> A 2014 focus group study found that many in the POC sites feared attack by government forces on the camps and perceived threats of rape, abduction, beatings, or killing, based on their ethnicity. Some residents of the Juba sites left periodically to buy food or clothes, go to school or the bank, visit their homes, etc., but most minimized their time outside and some, particularly Nuer men with traditional facial markings, did not leave the sites. Aditi Gorur, *Perceptions of Security Among Internally Displaced Persons in Juba, South Sudan*, Stimson Center, September 2014.

<sup>20</sup> 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.

<sup>21</sup> UNMISS, *Conflict in South Sudan: A Human Rights Report*, May 8, 2014.

<sup>22</sup> 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.

<sup>23</sup> 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.

<sup>24</sup> “South Sudan at ‘crossroads’ as it seeks to combat sexual violence, says U.N. official,” U.N. News, October 20, 2014.

<sup>25</sup> 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.

<sup>26</sup> U.N. Security Council, *Report of the Secretary-General on South Sudan*, S/2016/341, April 13, 2016.

<sup>27</sup> African Union, *Final Report of the African Union Commission of Inquiry on South Sudan*, October 15, 2014.

Its investigations corroborated 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.

There was a sharp escalation in violence in mid-2015, as the warring sides struggled to gain and hold territory to improve their position in peace negotiations. The international community condemned allegedly widespread atrocities against civilians in the states of Unity and Upper Nile, including the torture, rape, and killing of hundreds of women and children.<sup>28</sup> 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.”<sup>29</sup> 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.<sup>30</sup> U.N. officials report that the army has at times denied U.N. peacekeepers and human rights monitors access to various sites in the state.<sup>31</sup> 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 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.”<sup>32</sup>

The State Department reports that, in addition to serious conflict-related abuses, press and political freedoms in South Sudan have deteriorated.<sup>33</sup> 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.<sup>34</sup> Likewise, reports indicate that political space has tightened, especially in Juba: protests, when they occur, are violently suppressed by security services, opposition party leaders are routinely detained, and civilians describe a pervasive fear of

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<sup>28</sup> 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 Department of State Press Releases, “South Sudan: New Reports of Fighting in Northern State of Unity,” May 12, 2015, and “Condemning Escalating Violence in South Sudan,” May 20, 2015.

<sup>29</sup> United Nations, “Statement attributable to the Spokesman for the Secretary-General on South Sudan,” May 20, 2015.

<sup>30</sup> The government offensive against the SPLM-iO in Unity State is notable for the involvement of militia from a Nuer sub-group (the Bul Nuer) that now dominates the state government and 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 under a transitional government much more difficult. See, e.g., Small Arms Survey, *The Conflict in Unity State*, July 1, 2015, available at <http://www.smallarmssurveysudan.org>.

<sup>31</sup> “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.

<sup>32</sup> U.N. Security Council, S/2016/70, January 22, 2016 and S/2015/656, August 21, 2015, op. cit.

<sup>33</sup> 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.

<sup>34</sup> Waakhe Simon Wudu, “South Sudan Warns Media Not to Publish Rebel Interviews,” VOA, February 16, 2015.

government that leads to strict self-censorship.<sup>35</sup> 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 2015 Freedom in the World index, the group downgraded South Sudan's political rights rating to the worst possible score, noting, "South Sudan's military, the SPLA, continues to exercise strong influence over political affairs ... Public discussion of political issues is muted for fear of harassment by authorities. The government uses the NSS [National Security Service] to track and intimidate perceived critics and is believed to use telephone surveillance to monitor opponents."<sup>36</sup> In March 2016, 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 to monitor and report on the situation in the country and make recommendations for its improvement.

## **The International Response to the Crisis**

The international community has mobilized diplomatic, humanitarian, and peacekeeping resources to protect civilians, respond to needs, and bring an end to the conflict. The United States is by far the largest bilateral humanitarian donor, allocating nearly \$1.6 billion in FY2014, FY2015, and FY2016 funds (including support for South Sudanese refugees in neighboring countries). The U.N.'s estimated cost for humanitarian partners' responses to the most life-threatening needs in 2016 is \$1.3 billion.<sup>37</sup>

The humanitarian response 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. Insecurity, the looting of relief supplies, and heavy seasonal rains have necessitated the costly distribution of food supplies by air to some areas, and in some cases air-drops have been required. More than 50 relief workers have been killed since the conflict began, and U.N. officials have described harassment, threats, and "active hostility toward" aid workers as an increasing problem.<sup>38</sup> A rise in criminality in Juba in the past year, including dozens of intrusions into NGO compounds, has also affected humanitarian operations. By some accounts, violence against aid workers may be designed to deter assistance to certain communities. In his April 2016 report, the U.N. Secretary-General expressed concern with "roadblocks and other restrictions on access, attempts at extortion and harassment by security officials and denial of freedom of movement." He also 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."<sup>39</sup> Donors and nongovernmental organizations (NGOs) have also expressed concern with a new NGO law passed in February 2016 that imposes new regulations, including restrictions on the percentage of NGOs' international staff, that may impact their operations.

## **UNMISS**

The U.N. Security Council, which unanimously authorized a substantial increase in peacekeeping forces for UNMISS in December 2013 (from 7,000 troops and 900 police to 12,500 troops and

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<sup>35</sup> See, e.g., Venno Muchler, "In South Sudan, Lots of Anger But No Protests," VOA, December 17, 2014.

<sup>36</sup> Freedom House, "Freedom in the World 2015: South Sudan," available at <http://www.freedomhouse.org>.

<sup>37</sup> As of March 2016, the U.N. humanitarian response plan for 2016 was only 9% funded.

<sup>38</sup> OCHA, "Humanitarian Bulletin: South Sudan," April 16, 2016; U.N. Security Council, *Report of the Secretary-General on South Sudan*, S/2015/902, November 23, 2015.

<sup>39</sup> U.N. Security Council, *Report of the Secretary-General on South Sudan*, S/2016/341, April 13, 2016.

1,323 police), modified the mission's mandate in 2014 to focus on four key tasks: protecting civilians, monitoring and investigating human rights abuses, facilitating aid delivery, and supporting the cessation-of-hostilities deal.<sup>40</sup> 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 troop level is intended to facilitate the deployment of more troops further afield; by many accounts UNMISS's responsibility for the security of the POC sites hinders its ability to protect civilians elsewhere.<sup>41</sup> Force generation has been a challenge for UNMISS, however, and the mission has faced increasing access restrictions and status-of-forces agreement violations, primarily by the government.<sup>42</sup> 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." Another controversial issue related to UNMISS is the mission's proposed use of unarmed, unmanned aerial vehicles (UAVs) to strengthen its early warning and early response capabilities, which the government has resisted as a violation of its sovereignty.

## Sanctions

In March 2015, days prior to a deadline set by IGAD for the warring parties to reach a peace deal, the U.N. Security Council unanimously passed a U.S.-sponsored resolution, 2206, laying the framework for targeted sanctions if the parties failed to reach an agreement. That deadline passed without a deal, and the Sanctions Committee commenced its work in April 2015, approving the names of six individuals for sanctions in July 2015. Russia and Angola blocked efforts to designate 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. 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."

Discussions reportedly continue among Security Council Members regarding a possible U.N. arms embargo to increase leverage on the parties to uphold the peace agreement, although some Members (including Russia and Venezuela) reportedly contend further sanctions would be counterproductive. The European Union currently maintains a ban on the provision of arms and related materiel and services to the country. The U.N. Panel of Experts reported in August 2015 that the supply of arms and ammunition to the warring sides "has been instrumental in prolonging and escalating the war ... leading to large-scale violations of international humanitarian law." The Panel specifically cited 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.) It has recommended that the Security Council impose an arms embargo.

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<sup>40</sup> 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.

<sup>41</sup> "U.N. chief says protection of civilians sites divert peacekeeping resources from other areas." Radio Tamazuj, November 28, 2015.

<sup>42</sup> The Secretary-General's April 2016 report notes 32 violations of the status-of-forces agreement in a two-month period (February-March 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.

East African officials have repeatedly threatened punitive measures against the warring parties, and, if the peace agreement falters, advocacy groups have argued that targeted sanctions by South Sudan's neighbors could have the greatest effect.<sup>43</sup> It is unclear, however, how many neighboring governments have the political will to adopt or enforce such measures. In March 2016, with implementation of the 2015 peace agreement 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), appearing to set aside previous concerns expressed by some members regarding the EAC's stated principles of democratic governance, rule of law and transparency.

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 nevertheless key in pushing President Kiir to sign the 2015 peace accord, under which foreign forces, including Uganda's, must withdraw. Uganda's withdrawal began in October; per the agreement, units involved in regional operations against the Lord's Resistance Army (LRA, a formerly Ugandan-based armed group) will remain in the southwest. Other neighbors have sought to maintain the appearance of neutrality in the current conflict. The U.N. Panel of Experts reports that Sudan, however, has been "the default arms supplier for the opposition, providing ammunition and other supplies to Machar's forces."<sup>44</sup>

## **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.<sup>45</sup> Congressional engagement has been historically driven by human rights and humanitarian concerns, and 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.

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. 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

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<sup>43</sup> *Spoils of War, Spoilers of Peace: Changing the Calculus of South Sudan's Deadly Conflict*, Enough Project, September 2014.

<sup>44</sup> U.N. Security Council, S/2016/70, January 26, 2016, op. cit.

<sup>45</sup> Testimony of Assistant Secretary Thomas-Greenfield, SFRC, January 9, 2014, op. cit.



criticizing both sides for failing to make needed compromises.<sup>46</sup> On the 4<sup>th</sup> 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.<sup>47</sup>

The Obama Administration welcomed the August 2015 peace agreement, and has maintained a stated commitment to sanction those who undermine the peace process. In October, Secretary Kerry met with Riek Machar and Vice President James Wani Igga and expressed "serious concern" about fighting in Unity State and urged the parties to respect the ceasefire; a planned meeting with National Security Advisor Susan Rice was reportedly cancelled to express disappointment with both sides. U.S. Envoy Donald Booth has described a common refrain by party leaders to donors that "If you want peace, you will have to pay for it" as troubling.<sup>48</sup> He contends that patronage has underpinned South Sudanese politics and created a perception that armed conflict generates rewards.

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 a request for \$372 million to support UNMISS. Non-emergency U.S. assistance to the country in FY2015 totaled over \$576 million. Most security assistance is currently suspended, although President Obama issued a partial waiver for South Sudan in October 2015 from the Child Soldiers Protection Act of 2008 (CSPA), which restricts security assistance to countries that recruit or use child soldiers.<sup>49</sup> 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 disarmament, demobilization, and reintegration (DDR) of armed forces and support defense sector reform efforts. The Administration has sought to explore options for linking DDR efforts with infrastructure and other physical reconstruction programs. In 2014, the President had issued a more restrictive waiver, limiting assistance to support LRA operations and the SPLA's participation in the IGAD ceasefire monitoring mechanism.

In an April 2016 statement expressing disappointment with leaders on both sides of the conflict for blocking progress toward peace, the State Department declared that "the scope of future U.S. engagement in helping South Sudan confront the country's security, economic and development challenges ... will depend on the parties demonstrating commitment to work together to implement the Agreement."<sup>50</sup> U.S. officials have suggested that, with the formation of the unity government, they expect "a fundamental shift in the relationship with the humanitarian

<sup>46</sup> State Department, Press Statement by Secretary Kerry on South Sudan Negotiations, March 2, 2015.

<sup>47</sup> The White House, Statement by National Security Advisor Susan E. Rice on South Sudan Independence Day, July 9, 2015.

<sup>48</sup> Ambassador Donald Booth, "South Sudan, Africa, and the Challenges of Peacemaking," Remarks at Chatham House in London, February 9, 2016.

<sup>49</sup> 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 LRA.

<sup>50</sup> State Department, "South Sudan: Failure of Government of South Sudan and Opposition to Form TGNU," Press Statement, April 24, 2016.



community” to ensure that aid reaches those in need “without regard to ethnic or political discrimination” or the harassment of aid workers.<sup>51</sup>

## Challenges Ahead

Experts agree that South Sudan’s development and humanitarian needs are massive, and the current conflict is one the country cannot afford.<sup>52</sup> 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 (estimated in 2015 at 160,000 barrels per day and now reportedly lower) is forecast to decline and be negligible by 2035.<sup>53</sup> Many reports suggest that the government has accrued considerable debt since the 2012 oil shutdown, in part due to increased military spending. In the near term, the low global price of oil puts further strain on the fragile economy, and high inflation, surging food costs, and an extreme shortage of hard currency further exacerbates food insecurity.

While many viewed the August 2015 peace agreement as an important milestone toward ending the conflict, violence continues eight months later, with ceasefire violations by both sides. The security situation in Unity and parts of Upper Nile remains volatile—intercommunal tensions are high and U.N. reporting suggests that the targeting of civilians continues in some areas. Violence has increased in recent months in areas previously considered comparatively stable: Western Bahr el-Ghazal and the Equatoria region. The humanitarian community warns that security conditions and access constraints have worsened in early 2016, with increasing criminality and armed attacks even in Juba. Relations between the government and UNMISS are strained. Implementation of key aspects of the peace agreement lags far behind schedule, and establishing conditions in which opposition representatives—and Nuer civilians—feel secure in government-controlled areas like Juba may take much longer than was anticipated in the peace negotiations. The return of Riek Machar and other opposition leaders to the capital is a major development, but it is only a one step in a complicated transition and reconciliation process.

President Kiir issued a controversial decree in October 2015 that has complicated implementation of the peace agreement and, by some accounts, may be a principal underlying driver of the spreading conflict in the past six months. The decree, which reconstitutes the country’s administrative divisions from 10 to 28 states, alters the ethnic balance of the states, and creates potential new fiscal challenges. Critics contend that it intensifies local competitions over land and resources.<sup>54</sup> The SPLM-iO was not consulted on the decision and has opposed it. The Kiir government has proceeded with implementation of the changes and newly appointed governors

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<sup>51</sup> State Department, “United States Announces Additional Humanitarian Assistance for the People of South Sudan,” April 27, 2016.

<sup>52</sup> 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 *South Sudan: The Cost of War*, January 2015, op. cit. See also The Enough Project, *Addressing South Sudan’s Economic and Fiscal Crisis*, February 12, 2016.

<sup>53</sup> 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 recent 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.

<sup>54</sup> See, e.g., Amanda Sperber, “South Sudan’s Next Civil War is Starting,” *Foreign Policy*, January 22, 2016.

have assumed their posts. The government suggests that Machar will be able to make new appointments in accordance with the peace agreement's power-sharing formula, but if Machar endorses the new administrative divisions he could lose the support of communities that feel aggrieved by the new dispensation. In November 2015, the legislature failed to pass by a necessary two-thirds majority in the lower chamber a constitutional amendment to create the new states, indicating opposition to the move from within the ruling party.<sup>55</sup> Several committee chairmen (most of them from the Equatoria region) were subsequently removed from their positions, reportedly for opposing the amendment, and the legislature's upper chamber ratified the amendment. The IGAD Heads of State have determined that the decree is inconsistent with the peace agreement and have called for Kiir to suspend implementation of the order until a proposed boundary review commission is established to consider the number of states and their boundaries.

The U.N. Secretary-General reported in April 2016 that violence against civilians had increased in five states, and that in many cases the violence was "seemingly distinct from the central political conflict, signaling a worrying trend of increasing intercommunal violence and fragmentation." Rising tensions between the army and local communities in Western and Central Equatoria States—far from the front lines in the Greater Upper Nile area—were exacerbated in August 2015 when President Kiir dismissed the governors of those states (by 2016, Kiir had replaced all but one of the ten state governors elected in 2010—while this is constitutionally permitted, by-elections have not been held in accordance with the law). Communities have complained of looting and arbitrary killings by SPLA soldiers, and clashes between soldiers and local youth and ongoing insecurity in Western Equatoria have caused mass displacement. In Eastern Equatoria, outside Juba, where government forces are alleged to have burned homes and targeted civilians whom they suspected of harboring opposition elements, U.N. reporting suggests that the forces "fall outside the regular command and control structure, making it difficult for state officials to resolve the crisis."<sup>56</sup> These local conflicts highlight the increasing fragility of the entire country, beyond the primary conflict zones.

Some observers have expressed concern that the power-sharing arrangement set out by the peace agreement, which establishes a unity government for a period of 30 months before elections are held, may not address the root causes of the conflict, leaving open the possibility for a return to war. U.N. human rights monitors described the violence in 2015 as demonstrating a "new brutality and intensity," with "a scope and level of cruelty" that "suggests a depth of antipathy that exceeds political differences."<sup>57</sup> This conflict, 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.<sup>58</sup> President Kiir's apparent crackdown on dissent within his own government since the peace agreement was signed also raises questions about the trajectory of governance under the proposed transitional arrangements. Some experts also caution that foreign donor aid may inadvertently serve to enable further corruption by "pay[ing] for what the leaders are supposed to be paying for."<sup>59</sup>

<sup>55</sup> A number of legislators from the Equatorian, Nuer and Shilluk communities reportedly boycotted the vote.

<sup>56</sup> U.N. Security Council, *Report of the Secretary-General on South Sudan*, S/2015/902, November 23, 2015.

<sup>57</sup> UNMISS, *Human Rights Report on the Escalation of Fighting in Greater Upper Nile April/May 2015*, June 29, 2015.

<sup>58</sup> South Sudan Law Society, *Search for a New Beginning: Perceptions of Truth, Justice, Reconciliation and Healing in South Sudan*, June 2015.

<sup>59</sup> Jason Patinkin, "Fuelled by corruption, South Sudan war enters third year," IRIN, December 17, 2015.

The AUCISS has affirmed previous human rights monitors' findings that there are reasonable grounds to conclude that war crimes and crimes against humanity have been committed in the South Sudan conflict. The U.N. High Commissioner for Human Rights has described South Sudanese efforts to hold perpetrators of serious abuses accountable as "few and inadequate."<sup>60</sup> 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 has only been exacerbated by the recent events in the greater Upper Nile area and 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."<sup>61</sup>

Given the gravity of the abuses committed during the conflict and the shortcomings of South Sudan's criminal justice system, the 2015 peace deal includes 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 will be its treatment of allegations against senior leaders, from both sides—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." The Commission has compiled a confidential list of those who may bear the greatest responsibility for the most serious abuses, which could be submitted to the court. According to the peace agreement, government officials will not be exempt from criminal responsibility, and individuals indicted or convicted by the court will be ineligible for participation in the transitional government or its successor. Per the agreement, the court is to be operationalized by November 2016. IGAD and the African Union have called for international donors to support the court's establishment and operations; the United States committed \$5 million in 2015 to promote justice and accountability in South Sudan.

In its assessment of the underlying causes of South Sudan's current crisis, the AUCISS contends that the conflict can be attributed, in part, to flaws in the CPA and its implementation. Specifically, the Commission suggests that the international community was preoccupied with ending the north-south violence and that as a result democracy and structural transformation received limited attention. 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." The 2015 peace agreement, by comparison, places a high priority on reconciliation, accountability, healing, and combatting impunity, at least rhetorically. Given the high cost of South Sudan's conflicts, both for the country and its donors, Congress may seek to follow progress in the implementation of these aspects of the agreement, among others.

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<sup>60</sup> 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.

<sup>61</sup> 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.

## 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.<sup>62</sup> 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.<sup>63</sup> 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.<sup>64</sup> 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.<sup>65</sup>

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).<sup>66</sup> (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 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

<sup>62</sup> For additional information, see, e.g., Douglas H. Johnson, *The Root Causes of Sudan's Civil Wars* (Bloomington, IN: Indiana University Press, 2003).

<sup>63</sup> 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.

<sup>64</sup> See, e.g., The Carter Center, *Observing Sudan's 2010 National Elections, April 11-18, 2010: Final Report*.

<sup>65</sup> 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.

<sup>66</sup> 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>.

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.<sup>67</sup> 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 decision-making 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 decision making 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.<sup>68</sup>

## Author Contact Information

(name redacted)  
Specialist in African Affairs  
[redacted]@crs.loc.gov-....

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(name redacted) and (name redacted) contributed to this report.

<sup>67</sup> 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.

<sup>68</sup> 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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