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# Spoils of War, Spoilers of Peace

Changing the Calculus of South Sudan's Deadly Conflict

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By Justine Fleischner  
September 2014



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COVER PHOTO:

South Sudan President Salva Kiir, front right, and former Vice President Riek Machar pay respects at the grave of Dr. John Garang in Juba, South Sudan. AP image, 2010

# Spoils of War, Spoilers of Peace

## Changing the Calculus of South Sudan's Deadly Conflict

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### Executive Summary and Recommendations

South Sudan's civil war, which has exacted a terrible toll on its civilian population, has its origins in a power struggle between factions aligned with President Salva Kiir and those who have joined former Vice President Riek Machar. Despite repeated pledges to put down their weapons,<sup>1</sup> both sides have demonstrated a clear commitment to a military “solution” instead of a negotiated settlement.<sup>2</sup> The country's competing privileged elites are sacrificing their own peoples' lives to secure the political and economic benefits—including massive state-corroding corruption—derived from control of the state.<sup>3</sup> In his opening remarks at the latest round of peace talks underway in Bahir Dar, Ethiopia, chief negotiator Seyoum Mesfin told the parties, “If you are committed to peace, you will not find it through the barrel of the gun, but around this table.”<sup>4</sup>

Simply put, unless the calculations of the leaders of the warring parties are altered, the war will continue and likely intensify. The application of a globally enforced targeted sanctions regime could change the calculus of warring elites and end impunity for mass atrocities, the obstruction of humanitarian aid, and violations of the cessation of hostilities agreement. While the United States<sup>5</sup> and the European Union<sup>6</sup> have already made limited sanctions designations against key military commanders on both sides, the impact of these unilateral measures has been inconsequential since most South Sudanese elites' wealth is concentrated in neighboring states. Although they have threatened punitive measures repeatedly, regional states, in particular Kenya, Uganda, and Ethiopia, have failed to impose targeted sanctions as a regional body in the interest of peace and security.<sup>7</sup>

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In the absence of regionally- and internationally-enforced targeted sanctions, the warring parties appear to see no reason to adjust their behavior. Alongside a renewed push for regionally-led sanctions, deeper diplomatic engagement and stronger support for South Sudanese civil society are necessary in order to prevent a backroom deal brokered by regional heads of state that may temporarily freeze the conflict, but will not address the root causes of war in the world's newest and perhaps most fragile state.

The regionally-appointed mediators from the Intergovernmental Authority on Development (IGAD) have dedicated themselves to an inclusive process in order to prevent another instance where the spoils of the state are simply split between warring elites. Nonetheless, in late August 2014, regional heads of state attempted to circumvent their own mediators' efforts with a last-minute protocol that rewrote key passages of a framework document based on months of inclusive consultations by the mediation team.

The last-minute intervention by regional heads of state has led the warring parties to conclude that they only need to pay lip service to the mediators while focusing their real efforts on lobbying regional heads of state, thus undermining the entire peace process. For the credibility of the process to be restored, at a minimum the mediators will need to be given autonomy by the heads of state to pursue their task without interference or last-minute alteration. The peace agreement must be created and owned by the stakeholders—the warring parties and other key constituencies—for peace to have a chance in South Sudan.

These obstacles are further complicated by dynamics in the three main regions of South Sudan, which could widen or deepen the war. In the oil-rich Greater Upper Nile region, there are at least a dozen rebel commanders that may ignore any agreement reached if it does not adequately address their interests.<sup>8</sup> In the Greater Bahr el Ghazal region, rising intra-ethnic tensions within the government's cadres risk further fragmentation of the conflict.<sup>9</sup> In the Greater Equatoria region, restrictions on public dialogue around the issue of federalism threaten to destabilize the otherwise peaceful region, where diverse ethnic groups are demanding greater say in the national government and autonomy for state governments.<sup>10</sup>

In order to build the necessary leverage to change the cost-benefit analysis of the warring parties, ensure inclusivity at the peace talks, and provide war-ravaged communities with accountability and compensation, the Enough Project recommends:

### **Building Leverage for a Sustainable Peace Agreement and an End to Mass Atrocities**

1. IGAD must act on previous threats to impose consequences on the warring parties for obstructing peace. On the expiration of their 45 day extension to the August 10 deadline in mid-October, IGAD states should impose punitive and coercive targeted sanctions against key South Sudanese officials on either side who actively undermine the peace process, obstruct humanitarian aid, or commit further grave human rights abuses. IGAD should request the UN Security Council immediately follow regional action with its own globally enforced targeted sanctions regime. At the regional level, there are a number of meaningful measures that could be taken to create leverage for the IGAD mediators and create real consequences for spoilers. Assets should be frozen in bank accounts, houses and cars should be seized, businesses shut down, travel restricted except for essential peace process activity, and visas for family members should be revoked. Further unrealized threats diminish IGAD's capacity to negotiate and so

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action must be taken. To improve sanctions enforcement, the UN Security Council Sanctions Committee, the U.S. Department of Treasury, and the U.S. Department of Justice should offer assistance to regional states to build the required legal frameworks and technical capacity to enforce these measures.

2. The U.S. government should seek to identify, recover and return the assets stolen by corrupt individuals to the people of South Sudan through the expertise of the Department of Justice Kleptocracy Initiative. Tracing and identifying ill-gotten gains will be a lengthy and cumbersome process, but will be invaluable for economic transparency and accountability where there is currently none. Asset forfeiture investigations could have an unparalleled reach over South Sudanese elites that have stashed or monetized their ill-gotten gains outside of South Sudan. The government of South Sudan should ratify the UN Convention Against Corruption (UNCAC)<sup>11</sup> and consider joining the global Extractive Industry Transparency Initiative (EITI).<sup>12</sup> These state-based transparency measures could be complemented by strong donor support for South Sudanese civil society efforts to generate public accountability on the use of the country's vast natural resource wealth.

### **Fixing the IGAD Peace Process**

3. The IGAD heads of state should respect the integrity of their own mediation process and empower the mediation team as negotiations commence based on the text agreed to by the parties. Key issues that need to be resolved at the latest round of talks underway in Bahir Dar, Ethiopia, include the political leadership of the transition, term limits for currently elected officials, and the mandate of the proposed position of the prime minister. The mediation team will need to take on an active role to reconcile the two parties that remain at an impasse on these key issues.
4. The IGAD mediation team needs to ensure adequate space for civil society participation, in light of demands by the warring parties for direct talks. The U.S. government and international donors could support inclusivity by providing additional skills training to civil society delegates on coalition-building, crisis communication, and negotiations skills to help them take advantage of their presence at the talks. The international community should also apply pressure on the government of South Sudan to respect freedom of the media and allow opposition voices to be heard inside South Sudan. Most importantly, donors should invest in public opinion polling to help galvanize civil society efforts to represent the most marginalized voices in South Sudan. Polling would not only improve connectivity between the talks and communities displaced by the violence but also provide statistically significant data to inform the mediation process. This would make it much more difficult for the warring parties to ignore popular sentiment on the key issues being addressed at the talks.

### **Providing Accountability and Compensation to War-ravaged Communities**

5. The U.S. government and other international donors should strongly support the call of South Sudanese civil society groups to establish a hybrid Special Court for Serious Crimes, included in the August 25 protocol as a proposed "independent judicial body to investigate and prosecute" those bearing the greatest responsibility for violations of both international and South Sudanese

law. The African Union (AU) Commission of Inquiry (CoI) previously endorsed the idea of a hybrid court.<sup>13</sup> The government of South Sudan also has an obligation to hold its own forces accountable for human rights violations and obstruction of humanitarian aid. Donors should also direct additional resources and technical assistance toward enhancing South Sudanese civil society groups' capacity to establish a secure database to collect and store evidence on mass atrocities and human rights violations, including sexual and gender-based violence and the use of child soldiers, which could later be used for criminal prosecutions and truth-telling.

6. The government of South Sudan should create a compensation commission funded by oil revenues and the return of ill-gotten gains to provide financial reparations to communities that have been devastated by the conflict. The government of South Sudan could invite the World Bank's Stolen Asset Recovery Initiative (StAR) to assist with the recovery of stolen assets.<sup>14</sup> Reparations, which were included in the draft framework agreement presented by the mediation team in mid-August, were not included in the August 25 protocol endorsed by regional heads of state. Reparations should be included in any final agreement reached so that communities may begin to rebuild.

## Introduction

On December 15, 2013, long simmering tensions between President Salva Kiir and his former Vice President, Dr. Riek Machar, exploded into fighting on the streets of Juba between Dinka and Nuer elements of the elite Presidential Guard.<sup>15</sup> The violence quickly spread from the army barracks into residential areas.<sup>16</sup> Multiple sources confirm door-to-door searches for ethnic Nuer and in one dramatic incident documented by Human Rights Watch and Amnesty International at least 200 Nuer men were shot by security forces at a police station in the neighborhood of Gudele.<sup>17</sup> Thousands of Nuer civilians fled to the U.N. Mission in South Sudan (UNMISS) base nearby and cut through the barbed wire fence seeking protection.<sup>18</sup>

Since then, violence has moved along ethnic lines in many places across the country, including towns in Jonglei, Unity, and Upper Nile states. In Akobo, local Nuer youth stormed a U.N. base looking for Dinka civilians sheltering inside and killed two Indian peacekeepers in the process.<sup>19</sup> In Bor, opposition forces targeted Dinka civilians in a church and hospital.<sup>20</sup> Later, in Leer, government troops razed Machar's hometown.<sup>21</sup> In April, Darfuri civilians were brutally attacked by rebel forces in Bentiu who saw them as aligned with the government.<sup>22</sup> In Malakal, where Dinka, Nuer, and Shilluk have lived together in peace for years, fighting forces split along ethnic lines and vicious retaliatory attacks targeted civilians.<sup>23</sup>

Today over 100,000 civilians are currently sheltering on U.N. bases around the country as South Sudan continues its slide towards an entirely man-made famine.<sup>24</sup> Some 1.7 million people have been displaced and four million people are at risk of starvation.<sup>25</sup> Notwithstanding the growing humanitarian catastrophe, both sides continue to recruit, train, and resupply their forces in advance of the dry season, when fighting has historically intensified.<sup>26</sup> The government has received \$38 million in weapons and ammunition from the Chinese since the start of the civil war.<sup>27</sup> There is some evidence that opposition forces may have received resupplies of ammunition from Khartoum.<sup>28</sup>

To better understand the elite interests and motivations behind the current conflict, this report draws on dozens of interviews with current and former government officials, civil society activists, opposition leaders, international experts, and internally displaced people. The Enough Project also traveled to the negotiations in Addis Ababa, Ethiopia, and to Juba and Bentiu in South Sudan. Interviews and focus groups were conducted anonymously in order to protect the integrity of sensitive information obtained and to prevent any of the parties from advancing their political agenda through the research.

Over the past nine months, the IGAD mediation process has been undermined by the warring parties, but also by regional heads of state who intervened at the last moment in favor of Juba. The warring parties have repeatedly ignored agreements brokered by the IGAD mediation team, dating back to the January 23 Cessation of Hostilities (CoH) agreement.<sup>29</sup> Both the opposition and the government delegations have alternated between stalling the peace process and making last-minute concessions in order to maintain their credibility. Without adequate leverage to change the cost of war, deeper and more effective diplomacy on inclusivity and economic transparency, and a constant push towards accountability and reparations for war-ravaged communities, it will be impossible to commit the parties to peace.

## Changing the Cost of War

South Sudan's warring elites have promised to lay down their weapons numerous times. There have been five extraordinary IGAD heads of state summits<sup>30</sup> on South Sudan and agreements concluded between the warring parties on January 23,<sup>31</sup> May 9,<sup>32</sup> June 10,<sup>33</sup> and August 25.<sup>34</sup> In spite of ongoing fighting and a looming humanitarian catastrophe, sanctions have not been imposed by regional states. The IGAD mediation team has repeatedly threatened "punitive measures"<sup>35</sup> without acting on those threats, further diminishing their own leverage at the negotiating table. A recent report by the Kenyan Central Bank suggests political will in Kenya may be lacking as a result of close ties to South Sudanese elites.<sup>36</sup>

Without regionally- and globally-enforced targeted sanctions, neither side feels pressured to adjust its behavior. South Sudan's people are bearing the cost of the conflict while the leaders on both sides continue to pursue a path of intransigence.

Sanctions targeting individuals that are both politically influential and have significant assets and property in the region could help shift their calculus. President Kiir himself has estimated that since the Comprehensive Peace Agreement (CPA) was signed in 2005, elites have stolen well over \$4 billion from the state.<sup>37</sup> Senior political and military leaders maintain lavish homes in places like Kenya, Uganda, Ethiopia, South Africa, and Australia.<sup>38</sup> Families of the leaders of South Sudan's warring parties are living in neighboring countries and their children are attending the finest schools available. Meanwhile the education system back in South Sudan has collapsed, with potentially damaging implications for peace and development for future generations.

Oil concessions, land deals, construction contracts, and business partnerships with high-risk investment firms have provided much of the cash that has fueled corruption in South Sudan.<sup>39</sup> Between 2007 and 2010, private interests sought or secured nearly eight percent of South Sudan's total land area.<sup>40</sup> Without legal recourse or adequate protections in place, rural communities are at the mercy of private corporations that lay claim to their lands through backroom deals with political elites. The economic livelihoods of these communities depend on their land for agriculture and pastoralism. In spite of South Sudan's vast natural resource wealth, there has been little investment of public money in state infrastructure. South Sudan's tax base is routinely undermined by generous tax exemptions and limited legal enforcement for tax collection.<sup>41</sup>

The overwhelming lack of consequences for South Sudan's political elites had culminated in an environment of impunity for mass atrocities and human rights violations as well. Over the past nine months, the IGAD Monitoring and Verification Mechanism (MVM) has documented at least a dozen violations of the CoH agreement reached in January.<sup>42</sup> In July, government forces attacked a food distribution point in the Nhialdiu area in Unity state, killing more than 30 civilians and disrupting the distribution of food aid to more than 37,000 people.<sup>43</sup> In August, the Sudan People's Liberation Army In Opposition (SPLA-IO) arrested the MVM team from Pariang in Unity state. The South Sudanese government representative died while in custody from a heart attack.<sup>44</sup> On August 26, rebel forces under the command of General Peter Gadet shot down a U.N. helicopter, killing three Russian crewmembers on board.<sup>45</sup>

On the expiration of their 45-day extension to the August 10 deadline in mid-October,<sup>46</sup> IGAD states should take action on promised punitive measures and request that the U.N. Security Council adopt targeted sanctions against key South Sudanese officials that undermine the peace process, commit atrocity crimes, and obstruct humanitarian aid. Travel bans and asset freezes are the basis of the United Nation's existing sanctions architecture. However, IGAD could also decide to take additional punitive and coercive measures as the threat of famine and regional insecurity intensifies.<sup>47</sup>

Assets should be frozen, houses and cars should be seized, businesses shut down, travel restricted except for essential peace process activity, and visas for family members should be revoked. IGAD could reinforce regional travel restrictions by rescinding travel documents and restricting the entry or stay of those with ties to sanctioned individuals that are not part of the delegations at the talks and have no official business in the region outside of South Sudan. These measures could dramatically change the cost benefit analysis on both sides of South Sudan's conflict. It would also provide IGAD with the necessary leverage to move the peace process forward in an inclusive and serious manner. Further unrealized threats diminish IGAD's credibility to negotiate between the warring parties.

These punitive measures could be lifted once a political settlement has been reached and serious implementation has begun. For example, in Mali, sanctions imposed by the West African regional organization ECOWAS were lifted after coup leader General Amadou Sanogo and his backers agreed to the restoration of the national constitution.<sup>48</sup>

The U.S. Department of the Treasury and U.S. Department of Justice could also provide technical support and capacity building assistance to improve the implementation of targeted sanctions. There is a precedent for this type of regional cooperation, specifically on counter-terrorism and anti-money laundering efforts.<sup>49</sup> Once the U.N. Security Council adopts its own sanctions regime, the United Nations can also help build regional capacity to improve sanctions enforcement.

## Beyond Addis: Linking the Peace Process with War-Affected Communities

Sanctions alone will not address the challenge of linking the peace process with war-affected communities in South Sudan. In order to accomplish this important task, greater attention must be paid to securing space for political dialogue and the media, investing in public opinion polling to galvanize civil society efforts, and empowering civil society to meaningfully participate in the negotiations. Inclusivity as a pillar of the peace process was adopted as a result of advocacy efforts led by South Sudanese civil society groups that garnered strong international backing in January 2014.<sup>50</sup> Since then, the selection and participation of civil society delegates has been deeply politicized. Both the government and opposition delegations attempted to stack decks with civil society delegates in favor of their positions. The talks were suspended in June as a result,<sup>51</sup> and the mediation team engaged in weeks of consultations to rebuild consensus around civil society inclusion.

The participation of political parties has now become a flashpoint for the mediation process. In September 2014, Dr. Lam Akol, the head of the political parties delegation and chairman of SPLM-Democratic Change (DC), was removed from his role at the head of the delegation by Martin Elias Lomoro, the chairman of South Sudan Democratic Front (SSDF) and the current Minister of Cabinet Affairs in the Office of the President.<sup>52</sup>



Despite these challenges, a commitment to inclusivity is essential in order to prevent a backroom deal between warring elites who have torn South Sudan apart. In particular, the political leadership of the transition, term limits for currently elected officials, and the mandate of the proposed position of the prime minister should be decided through the multi-stakeholder process in consultation with those who have been most directly affected by the conflict. While there was a process in place for the multi-stakeholder group, including civil society, political parties, the SPLM leaders and others to provide feedback on the mid-August draft framework presented by the mediation team, that document was superseded by the intervention of regional heads of state during the 27th extraordinary session on South Sudan, which resulted in the August 25 protocol.<sup>53</sup> Going forward, the Troika should make it clear to regional heads of state that international support for the IGAD led effort will be pulled if they continue to undermine their own process.

Among South Sudanese policy experts, intellectuals, and civil society leaders, there is no shortage of ideas on the key issues that the political transition must seek to address. In July, representatives from the Sudd Institute and Ebony Institute, among others, presented a conceptual framework for resolving the crisis emphasizes the need for direct talks between the warring parties, an open and inclusive national dialogue on governance reforms, and intra-SPLM dialogue.<sup>54</sup> The Sudd Institute has separately warned that there can be no “quick fix” peace agreement forced on the parties by the mediation team.<sup>55</sup> In an August report, the Sudd Institute argued, “Although it is enticing, any solution that seeks to exclude Salva Kiir and Riek Machar from having a role in the interim arrangement is unsustainable.”<sup>56</sup> The SPLM leaders have also presented a comprehensive agenda for governance reforms, many of which they conspicuously failed to implement while they were in power.<sup>57</sup> While there is broad consensus on the key issues for the political transition, there is deep disagreement over who should lead the transition.

In South Sudan, space for political dialogue on issues like federalism, justice and accountability, and human rights violations is shrinking.<sup>58</sup> In recent months, state security forces have intimidated, harassed, and detained local journalists, and security forces have also shut down local newspapers and radio stations.<sup>59</sup> Broadcasters have been forbidden from sharing opposition voices inside South Sudan.<sup>60</sup> The South Sudanese government’s repressive response to the federalism debate has had the unintended consequence of broadening Machar’s political tent. Machar has successfully captured the reform narrative on issues where the government has not been willing to engage. This is particularly ironic since South Sudan’s existing governance structure already incorporates many key features of a federal system. Sudd Institute Research Director Augustino Ting Mayai points out that while neither the regional nor interim constitution mentions federalism specifically, both documents “unambiguously emphasize the importance of participatory governance, democracy, and the devolution of powers among different layers of government.”<sup>61</sup>

In the otherwise peaceful Equatorias region, calls for federalism by state governors and civil society groups have been met with animosity by the government of South Sudan.<sup>62</sup> Some Equatorians have championed the push for federalism based on their affinity for the *kokora* system, a decentralized system of local governance introduced by the Bari tribe.<sup>63</sup> Others, however, have warned against a return to the *kokora* system since it would undermine national unity and could possibly promote increased fragmentation.<sup>64</sup> Unfortunately, due to the restrictions on public dialogue around this issue of federalism, a robust public debate has been stifled. As Douglas Johnson points out, “until there is a full

and open discussion of the issue, there will be no common understanding of what federalism might mean for South Sudan, and once understood, whether the majority of South Sudanese will want to adopt it.”<sup>65</sup>

In July 2014, Machar unveiled a plan to create 21 federal states in South Sudan.<sup>66</sup> Some have speculated that Machar’s plan is simply an attempt to accommodate and reward his political supporters. But as one commentator points out, the appeal of greater decentralization through federalism “is not very difficult to comprehend. It is to promote justice where none is above the law... it is for sustainable national unity... and it is to promote prosperity for all in contrast to absolute poor service delivery.”<sup>67</sup> Federalism has become a catchall in South Sudan for those demanding greater transparency and accountability at the national and local level.

Efforts to embrace inclusivity at the talks in Addis Ababa have also led to conflicts over who has the right to represent South Sudanese voices.<sup>68</sup> Nevertheless, there is a genuine need to ensure war-affected communities are represented at the talks. One way to accomplish this and complement the direct participation of a limited number of civil society delegates is to invest in robust public opinion polling. International aid agencies and the United Nations have conducted polling on a limited basis in South Sudan, but so far statistically significant data is unavailable on key issues related to the transition.

The U.S. government and international donors should invest in polling as a way to improve policy and improve connectivity between the peace negotiations and war-affected communities in South Sudan. Questions might address the leadership issue, what kinds of political arrangements would be most acceptable to the people of South Sudan, and thoughts on justice and reconciliation. Domestic polling firms, such as Opinions Oyee, possess the cultural orientation and expertise to develop a robust survey methodology across government and rebel held areas, amplifying the voices of the most marginalized. Polling could provide statistically significant data to inform the negotiations and support the capacity of civil society to represent broad constituencies from South Sudan.

Empowering South Sudanese civil society is both challenging and deeply important. These groups are in some cases as deeply divided as the warring parties, and they have been largely ignored by regional heads of state. In order to galvanize civil society efforts and build coalitions between groups that seek to represent the most marginalized voices in South Sudan, donors should go beyond facilitating conferences. Civil society groups need training on advocacy, crisis communication, and negotiations skills to help them take advantage of their position at the talks. Inclusivity requires not only providing civil society and political parties with a seat at the table, but also empowering participation that is both meaningful and representative of war-affected communities.

## Disrupting the Economics of Violence

South Sudan’s civil war is not simply about “historic tribal differences,” or political power. The country’s elites are also battling over access to oil revenues and other economic windfalls associated with control over the government. As head of state and former vice president, President Kiir and Riek Machar sit at the top of established patronage networks that have benefited from years of unfettered access to South Sudan’s oil revenues. Alex de Waal and others have argued that South Sudan gained independence as a

kleptocracy and that corruption was not an anomaly of the system, but the very foundation on which it was based.<sup>69</sup> In a recent interview with journalist Ilona Eveleens, the Sudd Institute's Abraham Awolich points out, "The driver for the present conflict is corruption." Eveleens summarizes, "it is therefore important for the leaders in South Sudan to keep or get the power because that alone guarantees access to the wealth of the country."<sup>70</sup>

In an open letter to the government of South Sudan dated July 2013, Enough Project co-founder John Prendergast and a coalition of U.S.-based advocates warned of the threat of corruption, but also impunity.<sup>71</sup> In spite of evidence of massive corruption, the government has failed to conclude legal proceedings against any of those accused of corruption. One commentator remarks, "Public money in South Sudanese seems to be like holy water where everyone helps himself with it. I wondered when villagers with their briefcase companies [traveled] to Juba and after a month, some of them used to come back with new cars and huge amount of money in 2008. What did these innocent villagers do to deserve money and cars? Was it a bloody deal between the ministry concerned and the local companies' owners?"<sup>72</sup>

When President Kiir removed him from office, Machar was not just politically isolated. His access to economic windfalls and the fuel for his patronage network was also cut off. Both men have long exchanged accusations over the scale and scope of corruption. In June 2012, President Kiir sent a letter to 75 current and former government ministers requesting the return of \$4 billion in stolen funds.<sup>73</sup> Machar invited the World Bank to investigate corruption, including lucrative grain contracts.<sup>74</sup> But as one official commented, "everyone benefited from it."<sup>75</sup> He described the situation as "a mother stealing milk from her baby," since these were the very funds South Sudanese were depending on to build their young nation.<sup>76</sup> When the austerity budget hit after South Sudan shut down oil production in January 2012, the economy crashed.<sup>77</sup> The austerity budget most directly affected the security forces through delayed salaries and reduced allowances. As one commander remarked, "the SPLA is the most patient army in the world," since they routinely go without their salaries for months.<sup>78</sup> Nonetheless, austerity has undermined the government's ability to use the SPLA payroll to buy off rebel militias.

South Sudan has a long history of using amnesty arrangements to deal with Southern militias. Before the onset of the current war, in April 2013, President Kiir offered a new round of deals to entice almost all the remaining rebel insurgencies to join the government's side. Within a few months, nearly all of the rebel commanders had accepted the deal, with the exception of Murle rebel leader David Yau Yau who fought on for another few months. By holding out, Yau Yau successfully guaranteed his home area special status as Greater Pibor Administrative Area, and he was appointed administrator in a recent deal.<sup>79</sup> The Murle are a minority tribe in Jonglei state, and they have a long history of political and economic marginalization.<sup>80</sup> Some have speculated that the special status given to Pibor might provide a model for political power sharing across Greater Upper Nile, which is predominantly Nuer. Yet others have cautioned that this approach reinforces the pursuit of political power through military means that has long undermined peace and stability in South Sudan.<sup>81</sup>

In this way, the economics of violence are closely linked to both security sector reform and political inclusion, since militias fight for status and political power based on established patronage networks. In South Sudan today, one of the most concerning developments is rising intra-ethnic tensions between Nuer people in Unity state as well as between Dinka people in Northern Bar el Gazahl and Lakes states.<sup>82</sup>

When members of the same tribe go to battle against one another, the economic rather than ethnic dimensions of the conflict become clearer.

Most of the fighting in oil-rich Unity state has developed between rival factions of the Nuer ethnic community. The intra-ethnic violence has been fueled by personal and political rivalries over control of the state government. When fighting broke out in December 2013, the South Sudan Liberation Army (SSLA) remained on the side of the government. After all, the former rebel commander's brother, Joseph Nguen Minytil, was appointed caretaker governor of Unity state.<sup>83</sup> Taban Deng Gai, who serves as the head of the rebel's delegation in Addis Ababa, was governor of Unity until July 2013.

Intra-ethnic tensions are also rising within government loyalists. In May, Gen. Dau Aturjong, a Dinka commander from Northern Bahr el Ghazal state, defected to the opposition after President Kiir appointed his long-time rival Gen. Paul Malong Awan as the Chief of General Staff. Dau had previously contested Malong for governor and likely defected for personal reasons.<sup>84</sup> In Lakes state, military caretaker governor Matur Chut Dhuol has been at odds with local Dinka youth.<sup>85</sup> According to one former government official, after December 15, the governor requested weapons to arm local youth, but they refused to fight on his behalf.<sup>86</sup> Instead, cattle raiding and revenge attacks have intensified. South Sudan's parliament recently passed a bill recommending the removal of the caretaker governor, citing the death of more than 300 people, including women and children, over the last few months.<sup>87</sup>

Curbing the illicit flows of revenue tied to corruption would also help address the underlying economic dimensions of the current conflict and disrupt the rent-seeking patterns that have come to define South Sudan's governance structure. Economic transparency has already been prioritized in the August 25 protocol, which promotes the establishment of oversight bodies and agreements on resource sharing between the warring parties. To accelerate this process, the international community should initiate investigations into the current location of the millions of dollars in corrupt assets siphoned from the state.

South Sudan has some of the most advanced and detailed legislation on the extractive industries, but it has struggled with weak implementation and a barely functioning judicial system.<sup>88</sup> This has led some to suggest joint national-international oversight over South Sudan's finances,<sup>89</sup> which the government has rejected as a violation of national sovereignty.<sup>90</sup> The government of South Sudan should ratify the U.N. Convention Against Corruption (UNCAC),<sup>91</sup> which would bring it into compliance with the international framework accepted by the vast majority of the international community on oversight and accountability. Joining the U.N. convention would also allow South Sudan to accept donor support with UNCAC implementation efforts. The global Extractive Industry Transparency Initiative (EITI)<sup>92</sup> is a well-established coalition of governments, companies, and civil society organizations that work to improve the management of natural resource wealth. The EITI would also provide access to resources and tools to help South Sudan achieve compliant status.

These measures could also be complemented by strong donor support for civil society initiatives to improve transparency and accountability, drawing on successful efforts launched in Sierra Leone and the Congo. The global Publish What You Pay (PWYP)<sup>93</sup> campaign, for instance, requires companies disclose payments to host country governments. These efforts would also help galvanize civil society activism around specific instances of corruption and economic mismanagement in order to begin to hold their own elites accountable.

South Sudan's continuing oil production remains a source of income for the government and a channel for corruption and funding the conflict. Although the war has damaged some of the oil infrastructure in Unity state, production has fallen by a third to around 160,000 barrels per day.<sup>94</sup> Recently, China agreed to send 700 peacekeepers to South Sudan to protect oil workers and installations in Unity and Upper Nile states based on a provision included in the revised UNMISS mandate under U.N. Security Council Resolution 2155.<sup>95</sup> The deployment has been deeply controversial in light of the battalion's focus on the protection of oil workers and infrastructure as opposed to South Sudanese civilians.<sup>96</sup> State-owned China National Petroleum Corporation (CNPC) has a 40 percent stake in a joint venture over South Sudan's oil fields.<sup>97</sup>

In July, South Sudan allegedly received a \$1 billion loan from the Export-Import Bank of China.<sup>98</sup> Researcher Zhou Hang points out, "As detailed information of this agreement is not available, it remains unclear whether this is a scaled-down version of the 2-billion USD loans that the Exim bank was considering offering last December."<sup>99</sup> Yet the government of South Sudan is already having trouble making debt payments, including to CNPC.<sup>100</sup> In light of the ongoing crisis, the Chinese have become more hesitant to offer loans based on future oil production.<sup>101</sup> U.S.-based ExxonMobil, which shared exploratory rights to a block B in Jonglei state with France-based Total, recently pulled out of South Sudan altogether.<sup>102</sup> Global Witness has called on the government of South Sudan to issue a moratorium on new oil contracts<sup>103</sup> until the regulatory environment can ensure that South Sudan's elites are not selling off all of South Sudan's future oil production.

One key issue in the conflict is the presence of the vast majority of South Sudan's oil wealth in the Greater Upper Nile region, which is predominantly Nuer. The Greater Bar el Gazahl region has much less oil wealth, which is one reason the opposition has championed federalism in order to secure greater control over the resource rich region. Yet as one government official in Juba points out, many of those engaged in the federalism debate "don't know the economic part."<sup>104</sup>

The other side of federalism is that it requires a transfer payment system so that the government can equalize wealth distribution across South Sudan's regions. A transfer payment system would also promote national unity by minimizing regional disparities and supporting national development projects, such as road and transportation networks, and education and healthcare systems. In order to overcome the economics of violence, and the ways in which power and wealth sharing have been exclusively negotiated by warring elites, transparency and accountability must be prioritized as key features of any agreement.

## No Peace without Justice

South Sudan has a long history of elites using the militarization of ethnic identities and conflicting narratives of victimhood for their own personal political gain.<sup>105</sup> Impunity for mass atrocities and human rights violations had long undermined peace and stability in South Sudan and threatens to once again unravel any peace deal reached by the IGAD mediation team. While traditional forms of justice and reconciliation remain strong, there is also a need to meet international legal standards for those most responsible for atrocity crimes, including rape and the use of child soldiers.

The August 25 protocol includes a provision for an independent judicial body to investigate and prosecute those most responsible for atrocity crimes.<sup>106</sup> In practice, the application of both international and South Sudanese law would make the court a hybrid, but that point should be made explicit. South Sudanese civil society groups, including the South Sudan Law Society (SSLS), have called for a hybrid court or Special Court for Serious Crimes for South Sudan.<sup>107</sup> Since international law would be applied, the inclusion of international judges and prosecutors would help ensure due process was observed and the law equitably enforced. It would also help ensure the ability of the court to prosecute mass atrocities and human rights violations perpetrated by both sides in the conflict.

In May, the African Union Commission of Inquiry (CoI) released a statement that, “the Commission is leaning towards the creation of a hybrid court along the lines of the Extraordinary African Chambers in Senegal (Hissène Habré Tribunal) to be established jointly by the African Union and United Nations should evidence disclose commission of international crimes.”<sup>108</sup> Yet international jurisdiction over African war crimes has come under intense criticism.<sup>109</sup> The CoI will present its findings to the AU at the end of September.<sup>110</sup> A recent report released by the American Bar Association Rule of Law Initiative suggests, “A large majority of those interviewed, including community and tribal leaders, expressed serious concerns – even fears – that the Commission of Inquiry would ultimately do very little in terms of accountability.”<sup>111</sup>

The August 25 protocol also includes a provision for a hybrid National Commission for Truth, Reconciliation and Healing. Ongoing efforts led by the National Platform for Peace and Reconciliation (NPPR), which includes the church-led Committee for National Healing, Peace, and Reconciliation, the government of South Sudan Peace and Reconciliation Commission, and the Specialized Committee in the National Assembly, has been marred by perceptions among opposition supporters that the platform lacks impartiality.<sup>112</sup> South Sudan has a long history of people-to-people peace efforts, including the 1999 Wunlit Peace Conference, drawing on the power and authority of traditional leaders and the church to bring communities together that have been torn apart by war.<sup>113</sup>

National efforts are equally if not more important for justice and reconciliation. The government has so far failed to provide justice for victims of the violence in Juba and other parts of South Sudan. Steps to address atrocity crimes identified by South Sudan’s own human rights commission<sup>114</sup> would not only demonstrate the government’s commitment to protect the rights of all South Sudanese, but would also help restore trust between communities and state security forces. The Presidential Committee set up to investigate violations committed by the opposition and state security forces since December 15 has so far failed to prosecute any perpetrators of atrocity crimes.<sup>115</sup> Even more worrying is the way in which the government has backtracked from the acknowledgement that civilians were targeted based on ethnicity in Juba.<sup>116</sup>

Although some investigations have been conducted, internal political dynamics have made the government of South Sudan reluctant to allow the prosecution of key individuals responsible for atrocity crimes.<sup>117</sup> Government officials have also failed to create consequences for their own forces that obstruct humanitarian aid, even in spite of the looming famine. As a first step towards reconciliation, the government of South Sudan should take immediate action to combat impunity for atrocity crimes. The attacks on civilians that took place in Juba during the first few days of the violence have drawn a lot of attention, but equally gruesome abuses took place across the country. For his part, Machar announced that forces under his command had investigated the atrocities committed in Bentiu and

identified a unit of 10, in particular one fighter with a machine gun, as responsible for the killing of civilians in a mosque, a hospital, and a church.<sup>118</sup>

Even as the AU Commission of Inquiry completes its work, there is a need to direct additional resources towards enhancing South Sudanese civil society groups' ability collect and store information on mass atrocities and human rights violations, drawing on the Syrian Justice & Accountability Centre model.<sup>119</sup> The creation of a secure database to collect and store information on victims of the conflict would be essential for criminal prosecutions. Groups such as the South Sudan Human Rights Society for Advocacy (SSHURSA) and South Sudan Law Society (SSLS) could play an important role in establishing the database and enhancing documentation efforts, leveraging on the ground networks and intimate knowledge of local dynamics for criminal prosecutions and truth-telling between communities that have survived the conflict.<sup>120</sup>

Finally, the government of South Sudan should be responsible for economic reparations to communities that have been devastated by the war so that they may begin to rebuild. In keeping with tradition of blood compensation, reparations might help address the core grievances of young fighters that have not only perpetrated atrocity crimes, but have had their own economic livelihoods and families destroyed by the conflict.<sup>121</sup> The government of South Sudan could invite the World Bank's Stolen Asset Recovery Initiative (StAR) to assist with asset recovery that could then be used to help fund the compensation commission.<sup>122</sup> The framework agreement presented by the mediation team in mid-August included a provision for reparations under transitional justice, reconciliation, and healing, but this provision was removed from the August 25 protocol that was endorsed by regional heads of state. This provision should be restored to any future agreements.

## Conclusion

Despite numerous agreements to put down their weapons, South Sudan's warring elites remain committed to a military solution. So far, regional heads of state have failed to take action on promised punitive measures, including targeted sanctions against those who undermine the peace process, commit atrocity crimes, and obstruct humanitarian aid. IGAD's efforts to ensure an inclusive process have been undermined by regional heads of state in the search for a last minute backroom deal that favors Juba. Any agreement that fails to address the economics of violence or end cycles of impunity risks a short-order return to conflict.

Accountability, economic transparency, and inclusivity must be prioritized in order to reach a durable peace. In order to change the cost-benefit analysis of the warring parties, political and economic leverage must be deployed through a global targeted sanctions regime. The region and the international community must create consequences for South Sudan's warring elites in order to commit the parties to peace.

## Endnotes

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- <sup>1</sup> Intergovernmental Authority on Development, “Agreement on Cessation of Hostilities between the Government of the Republic of South Sudan (GRSS) and the Sudan People’s Liberation Movement / Army (in opposition) (SPLM / A in opposition),” January 2014, available at [southsudan.igad.int/attachments/article/250/cessation%20of%20hostilities.pdf](http://southsudan.igad.int/attachments/article/250/cessation%20of%20hostilities.pdf); Intergovernmental Authority on Development, “Recommitment on Humanitarian Matters in the Cessation of Hostilities Agreement between the Government of the Republic of South Sudan and the Sudan People’s Liberation Movement / Army (in opposition),” May 2014, available at [southsudan.igad.int/attachments/article/252/Recommittment%20to%20Humanitarian%20Matters%20of%20COH,%205%20May%272014.pdf](http://southsudan.igad.int/attachments/article/252/Recommittment%20to%20Humanitarian%20Matters%20of%20COH,%205%20May%272014.pdf); Intergovernmental Authority on Development, “Agreement to Resolve the Crisis in South Sudan Addis Ababa 9 May 2014,” May 2014, available at [www.sudantribune.com/IMG/pdf/agreement\\_to\\_resolve\\_the\\_crisis\\_in\\_south\\_sudan.pdf](http://www.sudantribune.com/IMG/pdf/agreement_to_resolve_the_crisis_in_south_sudan.pdf); Intergovernmental Authority on Development, “Communiqué of the 26th Extraordinary Session of the IGAD Assembly of Heads of State and Government on the Situation in South Sudan,” June 2014, available at [southsudan.igad.int/attachments/article/216/06\\_10\\_2014\\_Communique%20of%20the%2026th%20extraordinary%20Summit%20of%20the%20IGAD%20HoS%20and%20Gov.pdf](http://southsudan.igad.int/attachments/article/216/06_10_2014_Communique%20of%20the%2026th%20extraordinary%20Summit%20of%20the%20IGAD%20HoS%20and%20Gov.pdf); Intergovernmental Authority on Development, “Resumption IGAD-led South Sudan Peace Talks Rescheduled for 4 August,” Press release, July 31, 2014, available at [igad.int/attachments/923\\_Press%20Release%20-%20Resumption%20of%20IGAD-led%20South%20Sudan%20Peace%20Talks%20rescheduled%20for%204%20August%202014%20\(1\).pdf](http://igad.int/attachments/923_Press%20Release%20-%20Resumption%20of%20IGAD-led%20South%20Sudan%20Peace%20Talks%20rescheduled%20for%204%20August%202014%20(1).pdf).
- <sup>2</sup> In August, opposition forces shot down a U.N. helicopter. Carl Odera and Gabriel Baczynska, “U.N. Helicopter shot down in South Sudan, three killed, Russian Owner says,” Reuters, August 26, 2014, available at <http://www.reuters.com/article/2014/08/26/us-southsudan-unrest-un-idUSKBN0GQ1PF20140826>. For a list of Cessation of Hostilities violations, see Intergovernmental Authority on Development, “Summary of Reports in Cessation of Hostilities (COHs) Violations (as at 21 August 2014),” available at [http://igad.int/attachments/944\\_Summary%20of%20Reports%20of%20Cessation%20of%20Hostilities%20\(COHs\)%20Violations%20\(as%20at%2021August%202014\).pdf](http://igad.int/attachments/944_Summary%20of%20Reports%20of%20Cessation%20of%20Hostilities%20(COHs)%20Violations%20(as%20at%2021August%202014).pdf).
- <sup>3</sup> In 1999, anthropologists Jok Madut Jok and Sharon Elaine Hutchinson published an article in which they documented the people of South Sudan referring to the rise of inter-ethnic violence after the 1991 split between Riek Machar and John Garang as the “new ‘war of the [southern] educated [elite].” See Jok Madut Jok and Sharon Elaine Hutchinson, “Sudan’s Prolonged Second Civil War and the Militarization of Nuer and Dinka Ethnic Identities,” *African Studies Review*, 42, (2) (1999): 125-145.
- <sup>4</sup> Aaron Maasho, “South Sudan’s warring sides told to stop stalling,” Reuters, September 22, 2014, available at <http://www.reuters.com/article/2014/09/22/us-southsudan-unrest-idUSKCN0HH2CO20140922>.
- <sup>5</sup> Reuters, “U.S. sanctions military officers on both sides of South Sudan conflict,” September 18, 2014, available at <http://www.reuters.com/article/2014/09/18/us-southsudan-unrest-sanctions-idUSKBN0HD2O820140918>.
- <sup>6</sup> BBC News, “South Sudan: EU sanctions Peter Gadet, Santino Deng,” July 11, 2014, available at <http://www.bbc.com/news/world-africa-28262592>.
- <sup>7</sup> See, for example, Statement of Ambassador Seyoum Mesfin, Chair – IGAD Special Envoys on the Conflict in South Sudan, African Union Peace and Security Council, Addis Ababa, Ethiopia, August 21, 2014. See also U.S. Department of State, “Remarks With IGAD Leaders After Their Meeting,” August 5, 2014, available at <http://www.state.gov/secretary/remarks/2014/08/230294.htm>.
- <sup>8</sup> Author interview with Sudan People’s Liberation Movement-in-Opposition (SPLM-IO) member, Addis Ababa, June 2014.
- <sup>9</sup> Author interviews in Addis Ababa, Ethiopia, and Juba, South Sudan, June 2014.



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- <sup>10</sup> Augustino Ting Mayai, "How the Federal System of Government is Misunderstood in South Sudan" (Juba: Sudd Institute, June, 2014), available at <http://www.suddinstitute.org/assets/Publications/FederalismMayai.pdf>.
- <sup>11</sup> U.N. Office on Drugs and Crime, "United Nations Convention against Corruption: Signature and Ratification Status as of 5 September 2014," available at <https://www.unodc.org/unodc/en/treaties/CAC/signatories.html> (last accessed September 2014).
- <sup>12</sup> Extractive Industries Transparency Initiative, home page available at <http://eiti.org>.
- <sup>13</sup> African Union, "The Commission of Inquiry on South Sudan undertakes consultations in Nairobi," May 15, 2014, available at <http://www.au.int/en/content/commission-inquiry-south-sudan-undertakes-consultations-nairobi>.
- <sup>14</sup> World Bank Stolen Asset Recovery Initiative, available at <http://star.worldbank.org/star/> (last accessed September 2014).
- <sup>15</sup> Author interviews, Juba, South Sudan, June 2014. See also International Crisis Group, "South Sudan: A Civil War by Any Other Name," (Brussels: April 2014), available at <http://www.crisisgroup.org/en/regions/africa/horn-of-africa/south-sudan/217-south-sudan-a-civil-war-by-any-other-name.aspx>.
- <sup>16</sup> International Crisis Group, "South Sudan: A Civil War by Any Other Name."
- <sup>17</sup> Human Rights Watch, "South Sudan: Ethnic Targeting, Widespread Killings: Civilian Protection, Independent Inquiry Needed," January 16, 2014, available at <http://www.hrw.org/news/2014/01/16/south-sudan-ethnic-targeting-widespread-killings>; Amnesty International, "Nowhere Safe: Civilians Under Attack in South Sudan" (London: May 2014), available at <http://www.amnesty.org/fr/library/asset/AFR65/003/2014/en/3f5822f7-8594-4a64-a6c8-3e02be1eca/afr650032014en.pdf>.
- <sup>18</sup> Author interviews with U.N. Mission in South Sudan (UNMISS) staff, Juba, June 2014.
- <sup>19</sup> Daniel Howden, "South Sudan: UN Peacekeepers from India Killed," *The Guardian*, December 19, 2013, available at <http://www.theguardian.com/world/2013/dec/19/south-sudan-rebel-militia-seizes-strategic-town-bor>.
- <sup>20</sup> John Prendergast, "'Peace Must Come Soon': A Field Dispatch From South Sudan" (Washington: The Enough Project, February, 2014), available at <http://www.enoughproject.org/files/South-Sudan-Dispatch-Peace-Must-Come-Soon.pdf>.
- <sup>21</sup> Satellite Sentinel Project, "South Sudan: Satellite Show Homes Aflame in Opposition Leader's Hometown," February 4, 2014, available at <http://www.satsentinel.org/node/763>.
- <sup>22</sup> Justine Fleischner and John Prendergast, "Before There's a Genocide: The Slaughter in South Sudan Must Stop," *The Daily Beast*, April 23, 2014, available at <http://www.thedailybeast.com/articles/2014/04/23/before-there-s-a-genocide-the-slaughter-in-south-sudan-must-stop.html>; Médecins Sans Frontières, "South Sudan: MSF condemns unspeakable violence in Bentiu," Press release, April 28, 2014, available at <http://www.msf.org/article/south-sudan-msf-condemns-unspeakable-violence-bentiu>; Radio Dabanga, "Death toll 406; condemnation rises in massacre of Darfuris at Bentiu," April 21, 2014, available at <https://www.radiodabanga.org/node/71455>.
- <sup>23</sup> See Small Arms Survey Human Security Baseline Assessment for Sudan and South Sudan, "The Conflict in Upper Nile," available at <http://www.smallarmssurveysudan.org/facts-figures/south-sudan/conflict-of-2013-14/the-conflict-in-upper-nile.html> (last accessed September 2014); Satellite Sentinel Project, "Satellites Show War Crimes in Malakal," January 28, 2014, available at <http://www.satsentinel.org/blog/satellites-show-war-crimes-malakal>.
- <sup>24</sup> U.N. News Center, "South Sudan: Preliminary UN probe shows helicopter was shot down," September 9, 2014, available at <http://www.un.org/apps/news/story.asp?NewsID=48674#.VBIJ0Eu-UpE>.
- <sup>25</sup> U.N. Office for the Coordination of Humanitarian Affairs, "South Sudan," available at <http://www.unocha.org/south-sudan/> (last accessed September 2014).
- <sup>26</sup> See Ilya Gridneff, "China Sells South Sudan Arms as Its Government Talks Peace," *Bloomberg News*, July 9, 2014, available at <http://www.bloomberg.com/news/2014-07-08/norinco-sells-south-sudan-arms-as-chinese-government-talks-peace.html>. Recent findings from Small Arms Survey also suggest that SPLM-IO is receiving ammunition from Khartoum. See Small Arms Survey Human Security Baseline Assessment for Sudan and South Sudan and Conflict Armament Research, "Small arms ammunition documented at Bentiu mosque, May 2014" (Geneva: July 2014), available at <http://www.smallarmssurveysudan.org/fileadmin/docs/facts-figures/arms-ammunition-tracing-desk/HSBA-Tracing-Desk-Bentiu-July-2014.pdf>.
- <sup>27</sup> Gridneff, "China Sells South Sudan Arms as Its Government Talks Peace."

- 
- <sup>28</sup> Small Arms Survey Human Security Baseline Assessment for Sudan and South Sudan and Conflict Armament Research, "Small arms ammunition documented at Bentiu mosque, May 2014."
- <sup>29</sup> Intergovernmental Authority on Development, "Agreement on Cessation of Hostilities between the Government of the Republic of South Sudan (GRSS) and the Sudan People's Liberation Movement / Army (in opposition) (SPLM / A in opposition)," January 2014, available at [southsudan.igad.int/attachments/article/250/cessation%20of%20hostilities.pdf](http://southsudan.igad.int/attachments/article/250/cessation%20of%20hostilities.pdf).
- <sup>30</sup> See Office of the Intergovernmental Authority on Development Special Envoys for South Sudan home page, available at <http://southsudan.igad.int> (last accessed September 2014).
- <sup>31</sup> Intergovernmental Authority on Development, "Agreement on Cessation of Hostilities between the Government of the Republic of South Sudan (GRSS) and the Sudan People's Liberation Movement / Army (in opposition) (SPLM / A in opposition)," January 2014, available at [southsudan.igad.int/attachments/article/250/cessation%20of%20hostilities.pdf](http://southsudan.igad.int/attachments/article/250/cessation%20of%20hostilities.pdf).
- <sup>32</sup> Intergovernmental Authority on Development, "Agreement to Resolve the Crisis in South Sudan," May 9, 2014, available at [http://www.sudantribune.com/IMG/pdf/agreement\\_to\\_resolve\\_the\\_crisis\\_in\\_south\\_sudan.pdf](http://www.sudantribune.com/IMG/pdf/agreement_to_resolve_the_crisis_in_south_sudan.pdf); Intergovernmental Authority on Development, "Recommitment on Humanitarian Matters in the Cessation of Hostilities Agreement between the Government of the Republic of South Sudan and the Sudan People's Liberation Movement / Army (in opposition)," May 5, 2014, available at [southsudan.igad.int/attachments/article/252/Recommittment%20to%20Humanitarian%20Matters%20of%20COH,%205%20May%272014.pdf](http://southsudan.igad.int/attachments/article/252/Recommittment%20to%20Humanitarian%20Matters%20of%20COH,%205%20May%272014.pdf).
- <sup>33</sup> Intergovernmental Authority on Development, "Communique of the 26th Extraordinary Session of the IGAD Assembly of Heads of State and Government on the Situation in South Sudan."
- <sup>34</sup> Intergovernmental Authority on Development, "Protocol on Agreed Principles on Transitional Arrangements Towards Resolution of the Crisis in South Sudan," August 25, 2014, on file with Enough.
- <sup>35</sup> See, for example, Agence France-Presse, "South Sudan warring sides face 'punitive' sanctions," *The East African*, August 25, 2014, available at <http://www.theeastafrican.co.ke/news/South-Sudan-warring-sides-face-sanctions/-/2558/2430140/-/43vyj4z/-/index.html>.
- <sup>36</sup> Charles Wachira, "Kenyan Banks Face Risk Due to Threat of Sanctions on South Sudan," Bloomberg News, September 15, 2014, available at <http://www.bloomberg.com/news/2014-09-15/kenyan-banks-face-risk-due-to-threat-of-sanctions-on-south-sudan.html>.
- <sup>37</sup> Hereward Holland, "South Sudan officials have stolen \$4 billion: president," Reuters, June 4, 2012, available at <http://www.reuters.com/article/2012/06/04/us-southsudan-corruption-idUSBRE8530QI20120604>.
- <sup>38</sup> Author interviews in Addis Ababa, Ethiopia, and Juba, South Sudan, June 2014.
- <sup>39</sup> See McKenzie Funk, "Capitalists of Chaos," *Rolling Stone*, May 27, 2010, available at [www.jennwarren.net/content/R1105LandGrab.pdf](http://www.jennwarren.net/content/R1105LandGrab.pdf). See also Robert Young Pelton, "Cowboy Capitalists," *Vice News*, May 12, 2014, available at [http://www.vice.com/en\\_uk/read/cowboy-capitalists-0000296-v21n4](http://www.vice.com/en_uk/read/cowboy-capitalists-0000296-v21n4).
- <sup>40</sup> See David Deng, "Understanding Land Investment Deals in Africa: South Sudan" (Oakland: Oakland Institute, 2011), available at [http://www.oaklandinstitute.org/sites/oaklandinstitute.org/files/OI\\_country\\_report\\_south\\_sudan\\_1.pdf](http://www.oaklandinstitute.org/sites/oaklandinstitute.org/files/OI_country_report_south_sudan_1.pdf).
- <sup>41</sup> See Matthew Benson, "South Sudan: Making Tax Work," *African Arguments*, November 14, 2011, available at <http://africanarguments.org/2011/11/14/making-tax-work-in-south-sudan-by-matthew-benson/>.
- <sup>42</sup> See Intergovernmental Authority on Development, "Summary of Reports in Cessation of Hostilities (COHs) Violations (as at 21 August 2014)," available at [http://igad.int/attachments/944\\_Summary%20of%20Reports%20of%20Cessation%20of%20Hostilities%20\(COHs\)%20Violations%20\(as%20at%2021August%202014\).pdf](http://igad.int/attachments/944_Summary%20of%20Reports%20of%20Cessation%20of%20Hostilities%20(COHs)%20Violations%20(as%20at%2021August%202014).pdf).
- <sup>43</sup> Radio Tamazuj, "South Sudan army attacks food distribution," July 16, 2014, available at <https://radiotamazuj.org/en/article/south-sudan-army-attack-food-distribution>.
- <sup>44</sup> Sudan Tribune, "South Sudan rebels accuse monitors of spying," August 25, 2014, available at <http://www.sudantribune.com/spip.php?article52163>.
- <sup>45</sup> U.N. News Center, "South Sudan: Preliminary UN probe shows helicopter was shot down."

- 
- <sup>46</sup> Intergovernmental Authority on Development, "Protocol on Agreed Principles on Transitional Arrangements Towards Resolution of the Crisis in South Sudan," August 25, 2014, on file with Enough.
- <sup>47</sup> Intergovernmental Authority on Development, "About Us - Our Mission and Vision," January 9, 2010, available at [http://igad.int/index.php?option=com\\_content&view=article&id=93&Itemid=124&limitstart=1](http://igad.int/index.php?option=com_content&view=article&id=93&Itemid=124&limitstart=1).
- <sup>48</sup> South Africa Press Association and Agence France-Presse, "Mali Sanction Lifted: ECOWAS," *Times Live*, April 8, 2012, available at <http://www.timeslive.co.za/africa/2012/04/08/mali-sanctions-lifted-ecowas>.
- <sup>49</sup> See, for example, U.S. Embassy to Kenya, "Ambassador Convenes Anti-Money Laundering and Counter-terrorism Financing Meeting," Press release, June 12, 2013, available at <http://nairobi.usembassy.gov/laundrying2.html>, and U.S. Embassy to Kenya, "U.S. Department of the Treasury Official in Charge of Terrorist Financing and Financial Crimes Visits Kenya," Press release, March 5, 2012, available at [http://nairobi.usembassy.gov/pr\\_20120305.html](http://nairobi.usembassy.gov/pr_20120305.html).
- <sup>50</sup> Akshaya Kumar, "In South Sudan, Listen to Those Not Carrying Guns," *The New York Times*, January 8, 2014, available at <http://www.nytimes.com/roomfordebate/2014/01/07/preventing-civil-war-in-south-sudan/in-south-sudan-listen-to-those-not-carrying-guns>.
- <sup>51</sup> Sudan Tribune, "South Sudanese peace talks adjourned over inclusivity crisis," June 23, 2014, available at <http://www.sudantribune.com/spip.php?article51444>.
- <sup>52</sup> Sudan Tribune, "Opposition parties dismiss leader from S. Sudan peace talks," September 12, 2014, available at <http://www.sudantribune.com/spip.php?article52375>.
- <sup>53</sup> Intergovernmental Authority on Development, "Communiqué of the 26th Extraordinary Session of the IGAD Assembly of Heads of State and Government on the Situation in South Sudan."
- <sup>54</sup> Lual Deng and others, "A Conceptual Framework for Resolving the Crisis of Governance and Leadership in South Sudan, presented at the Development Policy Forum in Juba," July 19, 2014, available at [http://paanluelwel2011.files.wordpress.com/2014/08/july-30-version\\_conceptual-framework.pdf](http://paanluelwel2011.files.wordpress.com/2014/08/july-30-version_conceptual-framework.pdf).
- <sup>55</sup> Jok Madut Jok, "South Sudan's Crisis: Weighing the Cost of the Stalemate in the Peace Process" (Juba: Sudd Institute, August 2014) available at [www.suddinstitute.org/assets/Publications/Stalemate-at-Peace-Talks.pdf](http://www.suddinstitute.org/assets/Publications/Stalemate-at-Peace-Talks.pdf).
- <sup>56</sup> Sudd Institute, "South Sudan's Crisis: Its Drivers, Key Players, and Post-conflict Prospects" (Juba: August 2014), available at <http://www.suddinstitute.org/assets/Publications/South-Sudan-Crisisfinal.pdf>.
- <sup>57</sup> Document circulated by the Sudan Peoples' Liberation Movement (SPLM) Political Leaders, "Framework and Program for Resolving the Governance Crisis in South Sudan," August 11, 2014.
- <sup>58</sup> See Amnesty International and Human Rights Watch, "'The Price of Silence': Freedom of Expression in South Sudan," August 2014, <http://www.amnesty.org/en/library/asset/AFR65/007/2014/en/32db6451-df60-4f0f-b91f-056b1e4cd45a/afr650072014en.pdf>.
- <sup>59</sup> Ibid.
- <sup>60</sup> Interviews with South Sudanese and international journalists, Washington, D.C., May 2014.
- <sup>61</sup> Mayai, "How the Federal System of Government is Misunderstood in South Sudan."
- <sup>62</sup> Sudan Tribune, "Western Equatoria governor backs calls for federalism," June 10, 2014, available at <http://www.sudantribune.com/spip.php?article51283>.
- <sup>63</sup> Ibid. p. 2.
- <sup>64</sup> Ibid.
- <sup>65</sup> Rift Valley Institute, "A debate on federalism at Juba University," July 5, 2014, available at <http://riftvalley.net/event/debate-federalism-juba-university#.VBTNG0u-UpF>.
- <sup>66</sup> Sudan Tribune, "South Sudan's Machar unveils plan to create more states," July 16, 2014, available at <http://www.sudantribune.com/spip.php?article51712>.
- <sup>67</sup> Jacob K. Lupai, "Federalism: The Difference Between Riek And Equatoria," Gurtong, June 30, 2014, available at <http://www.gurtong.net/ECM/Editorial/tabid/124/ctl/ArticleView/mid/519/articleId/15405/Federalism-The-Difference-Between-Riek-And-Equatoria.aspx>.
- <sup>68</sup> Author interviews at the talks in Addis Ababa, Ethiopia in June 2014, where the civil society selection was taking place.
- <sup>69</sup> Alex de Waal, "When Kleptocracy Becomes Insolvent: Brute Causes of the Civil War in South Sudan," *African Affairs* 113 (452) (2014): 347-369.

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- <sup>70</sup> Ilona Eveleens, "Despite talks, in South Sudan both war leaders still believe each could win on the battlefield," *Mail & Guardian Africa*, July 15, 2014, available at <http://mgafrica.com/article/2014-07-15-despite-talks-in-south-sudan-both-war-leaders-still-believe-each-could-win-on-the-battlefield/>.
- <sup>71</sup> Letter from Roger Winter, Eric Reeves, John Prendergast, and Ted Dagne to President Salva Kiir Mayardit, July 2013, available at [http://enoughproject.org/files/FriendsofSouthSudanLetter\\_July2013.pdf](http://enoughproject.org/files/FriendsofSouthSudanLetter_July2013.pdf).
- <sup>72</sup> Deng Mangok Ayuel, "The First War on Corruption Started With Deng Alor," South Sudan News Agency, June 20, 2013, available at <http://www.southsudannewsagency.com/opinion/articles/the-first-war-on-corruption>.
- <sup>73</sup> Holland, "South Sudan officials have stolen \$4 billion: president."
- <sup>74</sup> Robert Young Pelton, "A Grain of Truth," Vice News, June 9, 2014, available at <http://www.vice.com/read/a-grain-of-truth-0000300-v21n4>.
- <sup>75</sup> Author interview with government official, Juba, June 2014.
- <sup>76</sup> Author interview with government official, Juba, June 2014.
- <sup>77</sup> Jenn Christian, "Fact Sheet: What Could the Oil Shutdown Mean for South Sudan?" (Washington: The Enough Project, March 2012), available at <http://www.enoughproject.org/files/OilShutdown.pdf>.
- <sup>78</sup> Author interview with Sudan People's Liberation Army (SPLA) commander, Juba, November 2013.
- <sup>79</sup> Jacob Achiek, "South Sudan President Gives 'Marginalized' Pibor County Special Status," Voice of America, July 25, 2014, available at <http://www.voanews.com/content/south-sudan-pibor-county-jonglei-/1965423.html>.
- <sup>80</sup> Small Arms Survey Human Security Baseline Assessment project, "Pendulum swings: The rise and fall of insurgent militias in South Sudan," (Geneva: November 2013), available at <http://www.smallarmssurveysudan.org/fileadmin/docs/issue-briefs/HSBA-IB22-Pendulum-Swings.pdf>.
- <sup>81</sup> Author interviews in Addis Ababa, Ethiopia, and Juba, South Sudan, June 2014.
- <sup>82</sup> Author interviews in Addis Ababa, Ethiopia, and Juba, South Sudan, June 2014.
- <sup>83</sup> Small Arms Survey Human Security Baseline Assessment project, "Pendulum swings: The rise and fall of insurgent militias in South Sudan."
- <sup>84</sup> Author interview with former government official, Addis Ababa, Ethiopia, June 2014. See also Sudan Tribune, "S. Sudanese army general defects to rebels," May 30, 2014, available at <http://www.sudantribune.com/spip.php?article51174>.
- <sup>85</sup> Interview with former government official, Addis Ababa, Ethiopia, June 2014. See also Sudan Tribune, "South Sudan: Lakes State Caretaker Governor Criticized Over Military Calls," May 2, 2014, available at <http://www.sudantribune.com/spip.php?article50851>.
- <sup>86</sup> Author interview with former government official, Addis Ababa, Ethiopia, June 2014.
- <sup>87</sup> Sudan Tribune, "Lakes state's military caretaker voted out by national parliament," August 26, 2014, available at <http://www.sudantribune.com/spip.php?article52179>.
- <sup>88</sup> Global Witness, "EITI in South Sudan: The case for caution," (London: October 2013), available at [http://www.globalwitness.org/sites/default/files/library/131021\\_Global%20Witness%27%20recommendations%20on%20South%20Sudan%27s%20application%20for%20EITI.pdf](http://www.globalwitness.org/sites/default/files/library/131021_Global%20Witness%27%20recommendations%20on%20South%20Sudan%27s%20application%20for%20EITI.pdf).
- <sup>89</sup> Princeton N. Lyman, Jon Temin, and Susan Stigant, "Crisis and Opportunity in South Sudan," (Washington: United States Institute of Peace, January 2014), available at <http://www.usip.org/publications/crisis-and-opportunity-in-south-sudan>.
- <sup>90</sup> Drazen Jorgic and Edmund Blair, "South Sudan conflict drives idea of oil wealth monitoring," Reuters, August 1, 2014, available at <http://www.reuters.com/article/2014/08/01/us-southsudan-security-oil-idUSKBN0G145520140801>.
- <sup>91</sup> U.N. Office on Drugs and Crime, "United Nations Convention against Corruption: Signature and Ratification Status as of 5 September 2014."
- <sup>92</sup> Extractive Industries Transparency Initiative, home page available at <http://eiti.org>.
- <sup>93</sup> Publish What You Pay, home page available at <http://www.publishwhatyoupay.org>.
- <sup>94</sup> Mading Ngor, "South Sudan to Split Oil Concession as Lawmakers Question Award," Bloomberg News, September 12, 2014, available at <http://www.bloomberg.com/news/2014-09-12/south-sudan-to-split-oil-concession-as-lawmakers-question-award.html>.

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<sup>95</sup> U.N. Security Council, “Resolution 2155 (2014) Adopted by the Security Council at its 7182nd meeting on 27 May 2014,” S/RES/2155 (2014), May 27, 2014, available at [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=S/RES/2155\(2014\)](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/2155(2014)).

<sup>96</sup> Nicholas Bariyo, “China Deploys Troops in South Sudan to Defend Oil Fields, Workers,” *The Wall Street Journal*, September 9, 2014, available at <http://online.wsj.com/articles/china-deploys-troops-in-south-sudan-to-defend-oil-fields-workers-1410275041>.

<sup>97</sup> Ibid.

<sup>98</sup> Zhou Hang, “China and South Sudan: economic engagement continues amid conflict,” African Arguments, September 12, 2014, available at <http://africanarguments.org/2014/09/12/china-and-south-sudan-economic-engagement-continues-amid-conflict-by-zhou-hang/>.

<sup>99</sup> Ibid.

<sup>100</sup> Jorgic and Blair, “South Sudan conflict drives idea of oil wealth monitoring.”

<sup>101</sup> Nicholas Bariyo, “South Sudan's Debt Rises as Oil Ebbs,” *The Wall Street Journal*, August 5, 2014, available at [http://online.wsj.com/articles/south-sudans-debt-rises-as-oil-ebbs-1407280169?mod=wsj\\_india\\_main](http://online.wsj.com/articles/south-sudans-debt-rises-as-oil-ebbs-1407280169?mod=wsj_india_main).

<sup>102</sup> Global Witness, “South Sudan: The Call for a Moratorium on New Oil Contracts,” (London: June 2014), available at [http://www.globalwitness.org/sites/default/files/south\\_sudan\\_briefing\\_june14\\_web.pdf](http://www.globalwitness.org/sites/default/files/south_sudan_briefing_june14_web.pdf); Ilya Gridneff, “Exxon Ends Oil Search With Total in South Sudan as War Rages,” Bloomberg News, August 14, 2014, available at <http://www.bloomberg.com/news/2014-08-13/exxon-abandons-oil-search-with-total-in-south-sudan-as-war-rages.html>.

<sup>103</sup> Global Witness, “South Sudan must urgently halt the issuing of new oil contracts, warns Global Witness,” Press release, June 4, 2014, available at <http://www.globalwitness.org/library/south-sudan-must-urgently-halt-issuing-new-oil-contracts-warns-global-witness>.

<sup>104</sup> Author interview with government official, Juba, June 2014.

<sup>105</sup> Jok Madut Jok and Sharon Elaine Hutchinson, “Sudan's Prolonged Second Civil War and the Militarization of Nuer and Dinka Ethnic Identities,” *African Studies Review* 42 (2) (1999): 125-145.

<sup>106</sup> Intergovernmental Authority on Development, “Protocol on Agreed Principles on Transitional Arrangements Towards Resolution of the Crisis in South Sudan,” August 25, 2014, on file with Enough.

<sup>107</sup> Remote author interview with civil society legal expert, September 2014. See also William Eagle, “Hybrid Court Suggested for South Sudan,” Voice of America, March 31, 2014, available at <http://www.voanews.com/content/hybrid-court-suggested-for-south-sudan/1883130.html>.

<sup>108</sup> African Union, “The Commission of Inquiry on South Sudan undertakes consultations in Nairobi.”

<sup>109</sup> Thabo Mbeki and Mahmood Mamdani, “Courts Can't End Civil Wars,” *The New York Times*, February 5, 2014, available at <http://www.nytimes.com/2014/02/06/opinion/courts-cant-end-civil-wars.html>.

<sup>110</sup> African Union, “Interim Report of the African Union Commission of Inquiry on South Sudan (CISS),” June 2014, available at [http://au.int/en/sites/default/files/Assembly%20AU%2019%20\(XXIII\)%20 E.pdf](http://au.int/en/sites/default/files/Assembly%20AU%2019%20(XXIII)%20 E.pdf).

<sup>111</sup> American Bar Association Rule of Law Initiative, “Assessment of Justice, Accountability, and Reconciliation Measures in South Sudan: Final Report and Recommendations,” p. iii, June 2014, available at [http://www.americanbar.org/content/dam/aba/directories/roli/sudan/aba\\_rolisudan\\_assessment\\_final\\_report\\_0614.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/directories/roli/sudan/aba_rolisudan_assessment_final_report_0614.authcheckdam.pdf).

<sup>112</sup> Justine Fleischner and Akshaya Kumar, “A Path to Peace for South Sudan,” (Washington: The Enough Project, June 2014), available at <http://www.enoughproject.org/reports/whitepaper-south-sudan-201406>.

<sup>113</sup> Mark Bradbury, John Ryle, Michael Medley, and Kwesi Sansculotte-Greenidge, “Local Peace Processes in Sudan: A Baseline Study” (Nairobi: Rift Valley Institute, April 2006), available at [http://southsudanngoforum.org/wp-content/uploads/2011/05/Rift-Valley-Institute\\_2006\\_Sudan-Local-Peace-Report.pdf](http://southsudanngoforum.org/wp-content/uploads/2011/05/Rift-Valley-Institute_2006_Sudan-Local-Peace-Report.pdf).

<sup>114</sup> South Sudan Human Rights Commission, “Interim Report on South Sudan Internal Conflict December 15, 2013 - March 15, 2014,” p. 6, available at <http://www.gurtong.net/LinkClick.aspx?fileticket=RO6rWq-ogw%3D&tabid=124>.

<sup>115</sup> Government of South Sudan, “Republican Order No.06/2014 for the Formation of an Investigation Committee to Investigate on Human Rights Abuses in the Attempted Coup of 15 December 2013,” issued January 24, 2014.

<sup>116</sup> Author interviews with government officials, Juba, South Sudan, June 2014.

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<sup>117</sup> Author interviews with civil society representatives, government officials, and internally displaced civilians, Addis Ababa, Ethiopia, and Juba, South Sudan, June 2014.

<sup>118</sup> The Africa Report, "South Sudan's people are forced to fight this war - Riek Machar," August 11, 2014, available at <http://www.theafricareport.com/East-Horn-Africa/south-sudans-people-are-forced-to-fight-this-war-riek-machar.html>.

<sup>119</sup> Syria Justice and Accountability Center, home page available at <http://syriaaccountability.org> (last accessed September 2014).

<sup>120</sup> David Deng, "Truth and Dignity Commission: A Proposal to Reconcile the Many Truths of South Sudan from 1972 to the Present," Working Paper (South Sudan Law Society, August 2014), available at [http://www.sslawsociety.org/public\\_html/SLS Truth and Dignity Commission.pdf](http://www.sslawsociety.org/public_html/SLS Truth and Dignity Commission.pdf).

<sup>121</sup> Prendergast, "Peace Must Come Soon," p. 8.

<sup>122</sup> World Bank Stolen Asset Recovery Initiative, home page available at <http://star.worldbank.org/star/> (last accessed September 2014).