

# Spoiler Alert

The African Union's and IGAD's  
Contribution to South Sudan's War

By Brian Adeba and John Prendergast

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Photo: An overview of the 50th anniversary African Union Summit in Addis Ababa, Ethiopia, as seen on May 25, 2013.  
Credit: U.S. State Department.

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### Executive Summary

Spoilers on the battlefield and in the negotiations process have completely undermined the search for peace in South Sudan. After numerous threats from the African Union and the Intergovernmental Authority on Development (IGAD), the lack of any meaningful and escalating consequences for significant cease-fire violations and obstruction has emboldened spoilers on all sides and led to a spiraling of the conflict.

The recently signed Cessation of Hostilities (CoH) agreement offers no respite, as it was violated barely 48 hours after its signature and frequently thereafter. These violations eclipse hope for injecting the confidence measures required to make IGAD's High Level Revitalization Forum (HLRF) a viable endeavor. The ultimate outcome could result in upending the entire peace process and plunging South Sudan into even deeper and wider conflict, exacerbating the already dire humanitarian situation in the country and imperiling the region's security.

On the eve of the African Union Heads of State Summit, the central problem facing South Sudan's peace process is its complete lack of leverage over the warring parties, who no longer take international threats and pressures seriously. Since the conflict's 2013 start, the African Union has issued 13 statements that threaten action against violators of any of the truces in effect the past four years.<sup>1</sup> Similarly, IGAD issued seven statements threatening consequences over the same time period.<sup>2</sup> However, the African Union to date has not imposed one solitary consequence on any spoiler, thus undermining its condemnations and threats in response to horrific violations on the battlefield and continuing obstruction in the negotiations. As a result, the spoilers continue to violate cease-fire and peace agreements, showing no meaningful inclination to pursue peace.

1 [The Enough Project](http://TheEnoughProject.org) • [enoughproject.org](http://enoughproject.org)  
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Thus, the next step is rather clear. It is time for the African Union to impose specific consequences on South Sudan's spoilers in the form of asset freezes, travel bans, anti-money laundering investigations, an arms embargo, and other measures that demonstrate Africa's seriousness about peace in the continent's newest nation. Such a move would provide essential leverage to IGAD's HLRF and at least give it a chance to begin to press the parties for compromises at the negotiating table and a reduction—if not an end—to the frequent violations of the CoH agreement.

The following actions can move the peace process forward:

### **1. Impose Consequences on Senior Military and Political Figures in the Government and Rebellion**

The Ceasefire and Transitional Security Arrangements Monitoring Mechanism (CTTSAMM), a body authorized to monitor compliance with the CoH, has recorded CoH violations by troops from the government led by President Salva Kiir and the armed opposition under the leadership of Riek Machar, in multiple locations across South Sudan. In these violations, women, children, and the elderly have been killed.<sup>3</sup> Both the government and the armed opposition deny their role in these violations and have accused each other of violating the CoH.

To end this charade, the African Union should levy sanctions against leaders with command and control responsibilities on both sides. In this regard, the chief of defense staff for the South Sudan army, Lt. Gen. James Ajongo, should be held responsible for the actions of his troops. Similarly, the SPLM-IO's chief of defense staff, Lt. Gen. Simon Gatwech Dual, should face further sanctions, in addition to sanctions imposed on him by the U.N. Security Council in 2015.<sup>4</sup> Beyond these two figures, other military and political officials who share decision-making responsibilities with Ajongo and Gatwech should also be subject to targeted sanctions, visa bans, and investigations into money laundering through regional banking institutions.

And to be clear, sanctioning one or two people every six months will have no impact on the warring parties' calculations. For leverage to be built and pressure to be meaningful, entire networks around these key officials need to be sanctioned, and a number of them at once to demonstrate seriousness of purpose. "Network sanctions" are utilized in other higher-priority global crises, but rarely in Africa and almost never in support of peace. The African Union would make a bold statement in support of peace should it impose network sanctions on key leaders and their commercial facilitators inside and outside South Sudan, as these leaders who are destroying the country through war are the same leaders who are bankrupting it through their looting of state assets and natural resources. In support, IGAD should continue to encourage the African Union's Peace and Security Council to levy sanctions.<sup>5</sup>

### **2. Urgently Review the Peace Process**

The current process is fraught with many obstacles, not least among them the competing geopolitical interests of the IGAD countries themselves. Regional contests over a variety of factors ranging from border issues, sharing of water resources, and support for opposition groups threaten to impede progress at the talks, as member countries play out their differences to secure leverage and influence.

There is no easy answer. Removing IGAD from the negotiations would simply enhance the spoiler status of its member states. Therefore, the African Union should establish a process to urgently review

the existing negotiations at the scheduled February 2018 IGAD-led HLRF talks. The African Union<sup>6</sup> and United Nations should consider how their dual roles can be enhanced in the process to help lend gravitas to the negotiations and counter in part the competition among IGAD states that is so damaging to the peace efforts.

### 3. Strengthen CoH Monitoring Processes

CTSAMM's ability to monitor and verify compliance should be strengthened to include the use of surveillance technology. Monitoring and verification responsibilities should be expanded to include civil society partners to augment and amplify oversight on multiple fronts. The African Union should consider availing resources for civil society efforts to engage and sensitize the warring factions on compliance responsibilities including consequences for non-compliance.

Finally, an enhanced monitoring capacity should be directly linked to an African Union committee tasked with working to impose immediate consequences for further observed violations by any warring party.

## The Pattern of Failure in South Sudan's CoH Agreements

In the past, the African Union and the Intergovernmental Authority on Development (IGAD) have threatened retaliatory measures against spoilers in the South Sudan conflict, but have failed to follow through on these threats.<sup>7</sup> That is a central reason that barely 48 hours after it was signed on December 21, 2017, the Cessation of Hostilities (CoH) agreement between the South Sudanese government and the armed opposition was violated continuously in multiple locations.<sup>8</sup> On all sides of the conflict, the spoilers are in charge and feel little to no heat from Africa and the broader international community for their continuing commitment to violence, atrocities, and corruption.

By the start of 2018, there was no let-up in hostilities, despite repeated calls for restraint from the international community.<sup>9</sup> Key stipulations, such as the release of political prisoners, have not been adhered to. For all practical purposes, the CoH agreement exists in name only as the fighting rages on. The unabated perpetuation of these violations will unravel the peace process entirely unless the international community acts to change the calculations of the parties to the conflict. A collapse of the peace process will worsen the condition of the South Sudanese and possibly precipitate the state's demise, which in turn will birth unforeseen security challenges for neighboring countries and the region.

The CoH violations represent a pattern that the conflicting parties have followed since the December 2013 outbreak of war. Previous agreements to halt the fighting have been violated repeatedly.<sup>10</sup> So far, agreements designed to stop the fighting have lacked concrete incentives for building trust and confidence between warring factions, including parameters for implementing and monitoring compliance.

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The December 2017 CoH agreement caps the efforts of a long process after progress on the South Sudan peace process stalled.<sup>11</sup> After almost a year of inaction by mediators, during which the conflict metastasized with devastating consequences, the region, led by IGAD, finally embarked on a process to resuscitate the peace process in June 2017. IGAD then created the High Level Revitalization Forum (HLRF), a road map envisaged to lead to a CoH, negotiations, a revised electoral calendar, and finally a permanent cease-fire. The first round of the HLRF talks included the parties to the conflict: the government and the armed opposition. As well, new armed groups that emerged after the July 2016 peace agreement's collapse, were included in the discussions. Civil society representatives, youth groups and faith leaders were also represented. In this manner, the HLRF secured a broader representation of all stakeholders beyond the key belligerents.

### The Cessation of Hostilities violations will exacerbate communal tensions leading to intensified ethnic-based conflicts.

But the continuous violations cast a dim pall on future prospects for peace. At a time when a significant number of South Sudanese depend on humanitarian aid, the cease-fire violations impede the unhindered movement of humanitarian workers and their ability to deliver much-needed assistance to thousands of vulnerable people across the country. Continued violations will exacerbate the country's humanitarian crisis.

From January to March this year, an estimated 5.1 million people will face "severe" food insecurity, according to the World Food Programme.<sup>12</sup> An estimated 6 million people are in need of assistance and require about \$1.72 billion to stay alive.<sup>13</sup> The United Nations has issued a call for more funding to procure food to feed these vulnerable people.<sup>14</sup> In total, the conflict has displaced 4 million people, internally and externally. An estimated 2.1 million people are internally displaced. Early last year, the number of refugees fleeing the conflict reached 1.5 million people. Globally, South Sudan is the third largest producer of refugees after Syria and Afghanistan.<sup>15</sup> Continued CoH violations will likely increase the number of displaced people fleeing conflict, adding an extra burden to the international community to cater to their needs. In December 2016, the United Nations warned that the risk of genocide in South Sudan was high.<sup>16</sup> Although the risk has since diminished, the CoH violations will exacerbate communal tensions leading to intensified ethnic-based conflicts.

Most significantly, and perhaps more deserving of attention, is the fact that the violations represent an egregious assault on confidence-building measures for the next round of peace talks scheduled for February.

### Shortcomings of Current Policies on CoH and Their Impact

The key weakness of the CoH agreement is enforcement and compliance.<sup>17</sup> The agreement stipulates that the Joint Monitoring and Evaluation Committee (JMEC) will report any violations to the IGAD Council of Ministers in a "timely manner for quick remedial action and accountability." Similarly, JMEC would report the violation to the IGAD Heads of State, the AU Peace and Security Council (AUPSC) and the U.N. Security Council. In terms of consequences for spoilers, the agreement refers to measures outlined in the 28<sup>th</sup> Extra-Ordinary Summit of the IGAD Heads of State in November 2014. As spelled out in this summit's communiqué, these punitive measures include, but are not limited to, asset freezes, travel bans within the region, and an arms embargo.<sup>18</sup>

However, continuous violations to the CoH agreement signed on December 21, 2017, have not compelled the African Union to act decisively against the spoilers in the South Sudanese conflict. Disappointed by the violations and the lack of action from the African Union, civil society in South Sudan has called for the spoilers to be punished.<sup>19</sup> In fact, this glaring lack of action by the African Union and IGAD is not new. Since this conflict's start in 2013, the African Union has threatened consequences on spoilers 13 times, while IGAD has issued similar empty threats seven times.<sup>20</sup> In part, the spoilers' impunity is spurred on by this lack of action by both organizations.

On imposing asset freezes, the African Union has demonstrated a lackluster commitment to blocking financial assets owned by South Sudanese military and political leaders that are complicit in violating cease-fire agreements and perpetuating war. Investigations by The Sentry show that South Sudanese leaders continue to park illicit assets in financial institutions in neighboring countries, including owning luxurious properties in these countries, a move that allows them to get away with impunity.<sup>21</sup> If anything, AU member states lag behind in effective enforcement of international anti-money laundering standards developed by organizations such as the Financial Action Task Force on Money Laundering (FATF).

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The African Union's lackluster stance is also visible in how it has addressed travel bans and arms embargoes on South Sudanese spoilers. On the former, the evidence suggests that individuals subject to travel bans by resolutions from the U.N. Security Council enjoy freedom of movement within African countries.<sup>22</sup> On the latter, the African Union is opposed to an arms embargo at the U.N. Security Council.

As the fighting in South Sudan rages on, and the actors have little incentive to sue for peace despite the conflict's rising toll, the African Union Peace and Security Council (AUPSC) has urged the parties to fully cooperate with mediators to ensure that the HLRF succeeds in mapping out a clear political strategy that will result in peace. The AUPSC has termed the HLRF as a "unique window of opportunity" and a "last chance" for sustainable peace and stability.<sup>23</sup> Implicit in this description is the fact that if the revitalization process fails, there is no Plan B.

## Radical Rethink of the Peace Process

Millions of South Sudanese lives are at stake as the conflict escalates. Meanwhile, the African Union and IGAD continue to utter threats on repercussions for spoilers without acting on those threats. The African Union and IGAD need to radically rethink their handling of the peace process in a manner that would create meaningful consequences for spoilers. A major missing ingredient has always been how to build sufficient leverage that will compel the parties to the conflict to change their calculations in favor of peace, and imposing significant consequences would finally create that missing leverage.

## Endnotes

<sup>1</sup> African Union Peace and Security Council, “720<sup>th</sup> Meeting,” Communiqué, September 20, 2017, available at <http://www.peaceau.org/en/article/communique-of-the-720th-meeting-of-the-psc-at-the-ministerial-level-on-the-situation-in-south-sudan>; United Nations Secretary-General, “Joint statement by the Chairperson of the African Union and the Secretary-General of United Nations on the situation in South Sudan,” January 12, 2018, available at <https://www.un.org/sg/en/content/sg/statement/2018-01-12/joint-statement-chairperson-african-union-and-secretary-general>; African Union Peace and Security Council, “611<sup>th</sup> Meeting,” Communiqué, July 11, 2016, available at <http://www.peaceau.org/uploads/psc-communique-on-south-sudan-11-july-2016.pdf>; African Union Peace and Security Council, “526<sup>th</sup> Meeting at the Level of Ministers,” Communiqué, July 24, 2015, available at <http://www.peaceau.org/uploads/psc-526-comm-south-sudan-24.07.2015.pdf>; African Union Peace and Security Council, “515<sup>th</sup> Meeting at the Level of Heads of State and Government,” Communiqué, June 13, 2015, available at <http://www.peaceau.org/uploads/psc-515-com-south-sudan-13-june-2015.pdf>; African Union Peace and Security Council, “Report of the Chairperson of the Commission on the Situation in South Sudan,” 515<sup>th</sup> Meeting at the Level of Heads of State and Government, June 13, 2015, available at <http://www.peaceau.org/uploads/rpt-south-sudan-june-summit-south-africa.pdf>; African Union Peace and Security Council, “510<sup>th</sup> Meeting,” Press Statement, May 22, 2015, available at <http://www.peaceau.org/uploads/psc-510-press-statement-south-sudan-22-may-2015.pdf>; African Union Peace and Security Council, “494<sup>th</sup> Meeting,” Press Statement, March 24, 2015; <http://www.peaceau.org/uploads/psc-494-press-statement-south-sudan-24-3-2015.pdf>; African Union Peace and Security Council, “484<sup>th</sup> Meeting at the Level of Heads of State and Government,” Communiqué, January 29, 2015, available at <http://www.peaceau.org/uploads/484psc-com..s.sudan.29-1-2015.pdf>; African Union Peace and Security Council, “474<sup>th</sup> Meeting,” Communiqué, December 5, 2014, available at <http://www.peaceau.org/uploads/psc.474.com.south-sudan-5-12-2014.pdf>; African Union Peace and Security Council, “458<sup>th</sup> Meeting,” Press Statement, September 17, 2014, available at <http://www.peaceau.org/uploads/psc-458-south-sudan-17-09-14.pdf>; African Union Peace and Security Council, “440<sup>th</sup> Meeting,” Communiqué, June 12, 2014, available at <http://www.peaceau.org/uploads/psc-com-440-south-sudan-12-6-2014.pdf>; African Union Peace and Security Council, “440<sup>th</sup> Meeting,” Communiqué, June 12, 2014; African Union Peace and Security Council, “416<sup>th</sup> Meeting at the Level of Heads of State and Government,” January 29, 2014, available at <http://www.peaceau.org/uploads/psc-com-416-south-sudan-29-01-2014.pdf>.

<sup>2</sup> See the following statements and communiqués issued by the Intergovernmental Authority on Development: “Communique of the 26<sup>th</sup> Extra-Ordinary Session of the IGAD Assembly of Heads of State and Government on the Situation in South Sudan,” June 10, 2014, available at <https://igad.int/communique/856-communique-of-26th-extra-ordinary-summit-meeting-of-the-igad-assembly-of-heads-of-state-and-government>; “Communique of the 27<sup>th</sup> Extra-Ordinary Session of the IGAD Assembly of Heads of State and Government on the Situation in South Sudan,” August 25, 2014, available at <https://igad.int/communique/943-communique-of-the-27th-extra-ordinary-summit-of-igad-heads-of-state-and-government-on-south-sudan>; “Communique of the 55<sup>th</sup> Extra-Ordinary Session of the IGAD Council of Ministers,” January 30-31, 2016, available at <https://igad.int/communique/1275-55th-igad-com-communique>; “Communique of the 31<sup>st</sup> Extra-Ordinary Summit of IGAD Assembly of Heads of State and Government on south Sudan,” June 12, 2017, available at <https://igad.int/communique/1575-communique-of-the-31st-extra-ordinary-summit-of-igad-assembly-of-heads-of-state-and-government-on-south-sudan>; “Communique of the 58<sup>th</sup> Extra-Ordinary Session of IGAD Council of Ministers on the Situation in South Sudan,” July 23-34, 2017, available at <https://igad.int/communique/1599-communique-of-the-58th-extra-ordinary-session-of-igad-council-of-ministers-on-the-situation-in-south-sudan>; “Communique of the 59<sup>th</sup> Extra-Ordinary Session of the IGAD Council of Ministers on the Situation in South Sudan,” December 17, 2017, available at <https://igad.int/communique/1726-communique-of-the-59th-extra-ordinary-session-of-igad-council-of-ministers-on-the-situation-in-south-sudan>; “Statement by the Chairperson of IGAD Council of Ministers on Violations of the Agreement on Cessation of Hostilities,” December 29, 2017, available at <https://igad.int/programs/115-south-sudan-office/1732-statement-by-the-chairperson-of-igad-council-of-ministers-on-violations-of-the-agreement-on-cessation-of-hostilities>.

<sup>3</sup> Details of violations collected by IGAD’s Monitoring and Verification Mission (MVM) can be found in reports at Ceasefire and Transitional Security Arrangements Monitoring Mechanism, “MVM Violation Reports,” available at <http://ctsamm.org/reports-documents/mvm-violation-reports/>.

<sup>4</sup> U.N. Security Council Committee Established Pursuant to Resolution 2206 (2015) Concerning South Sudan, “Narrative Summaries of Reasons for Listing,” July 1, 2015, available at <https://www.un.org/sc/suborg/en/sanctions/2206/materials/summaries/individual/simon-gatwech-dual>.



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<sup>5</sup> The Intergovernmental Authority on Development (IGAD) is a regional body that has no powers to enforce punitive measures on any of the parties to the conflict. However, it can recommend actions that the African Union Peace and Security Council could take to enforce compliance.

<sup>6</sup> Three high-level former cabinet ministers from Angola, Ghana, and Algeria were involved in mediating the CoH as of December 21, 2017.

<sup>7</sup> For African Union statements, see Endnote 1. For Intergovernmental Authority on Development statements, see Endnote 2.

<sup>8</sup> The United Kingdom Foreign and Commonwealth Office, “Troika statement on conflict in South Sudan,” January 12, 2018, available at <https://www.gov.uk/government/news/troika-statement-on-conflict-in-south-sudan>, and Sudan Tribune, “South Sudan rival forces trade accusations of truce violation,” December 25, 2017, available at <http://www.sudantribune.com/spip.php?article64338>.

<sup>9</sup> Reuters, “U.S, Britain, and Norway warn South Sudan parties over ceasefire violations,” January 2, 2018, available at <https://www.reuters.com/article/us-southsudan-unrest/u-s-britain-and-norway-warn-south-sudan-parties-over-ceasefire-violations-idUSKBN1ER0LM>.

<sup>10</sup> Community Empowerment for Progress Organization (CEPO), South Sudan, “Cessation of Hostilities Agreement First Oversight Observation Report,” (January 2018), available at <http://cepo-southsudan.org/news/cessation-hostilities-agreement-first-oversight-obsersation-report>.

<sup>11</sup> Intergovernmental Authority on Development High Level Revitalization Forum, “Agreement on Cessation of Hostilities, Protection of Civilians and Humanitarian Access,” (Addis Ababa: December 21, 2017), available at <https://igad.int/attachments/article/1731/1712%2021%20Signed%20CoH%20Agreement.pdf>.

<sup>12</sup> World Food Programme, “WFP South Sudan: Situation Report #210,” January 5, 2018, available at <https://reliefweb.int/sites/reliefweb.int/files/resources/WFP%20Situation%20Report%20%23210%20-%205%20January%202018.pdf>

<sup>13</sup> United Nations Office for the Coordination of Humanitarian Affairs (OCHA), “Humanitarian Bulletin: South Sudan,” Issue 19: December 22, 2017, available at [https://reliefweb.int/sites/reliefweb.int/files/resources/SS\\_171222\\_OCHA\\_SouthSudan\\_Humanitarian\\_Bulletin\\_19.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/SS_171222_OCHA_SouthSudan_Humanitarian_Bulletin_19.pdf).

<sup>14</sup> Xinhua, “WFP says urgent food distribution needed in South Sudan,” January 17, 2018, available at [http://www.xinhuanet.com/english/2018-01/17/c\\_136900526.htm](http://www.xinhuanet.com/english/2018-01/17/c_136900526.htm).

<sup>15</sup> Al Jazeera, “UN: Refugees from South Sudan cross 1.5 million mark,” February 10, 2017, available at <http://www.aljazeera.com/news/2017/02/number-refugees-south-sudan-crosses-15m-170210101935179.html>.

<sup>16</sup> Voice of America, “UN Adviser Warns of Genocide Risk in South Sudan,” November 11, 2016, available at <https://www.voanews.com/a/united-nations-adviser-warns-genocide-risk-south-sudan/3593212.html>.

<sup>17</sup> Intergovernmental Authority on Development High Level Revitalization Forum, “Agreement on Cessation of Hostilities, Protection of Civilians and Humanitarian Access,” December 21, 2017, p. 12, Article Thirteen, sections 1, 2, and 3.

<sup>18</sup> Intergovernmental Authority on Development, “Resolutions by the 28<sup>th</sup> Extraordinary Summit of the IGAD Heads of State and Government,” November 7, 2014, available at <https://igad.int/press-release/993-resolutions-from-the-28th-extra-ordinary-summit-of-heads-of-state-and-government>.

<sup>19</sup> Joseph Oduha, “Punish South Sudan Ceasefire Violations, IGAD and Troika Told,” The East African, January 17, 2018, available at <http://www.theeastafrican.co.ke/news/Punish-South-Sudan-ceasefire-violators/2558-4267250-up8t48z/index.html>.

<sup>20</sup> For African Union statements, see Endnote 1. For Intergovernmental Authority on Development statements, see Endnote 2.

<sup>21</sup> See, for example, The Sentry, “War Crimes Shouldn’t Pay: Stopping the looting and destruction in South Sudan,” (September 2016), available at <https://thesentry.org/reports/warcrimesshouldntpay/>; and The Sentry, “Making a Fortune While Making a Famine: The illustrative case of a South Sudanese general,” May 2017, available at <https://thesentry.org/reports/making-a-fortune-while-making-a-famine/>.

<sup>22</sup> U.N. Security Council, “Final Report of the Panel of Experts on South Sudan,” S/2017/326, paras. 130-135, April 13, 2017, available at [http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s\\_2017\\_326.pdf](http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2017_326.pdf); and Helen Achayo, “UN experts urge IGAD countries to enforce individual sanctions on South Sudan,” Eye Radio, April 25, 2017, available at <http://www.eyeradio.org/call-igad-countries-enforce-sanction-individuals/>.

<sup>23</sup> African Union Peace and Security, “Communiqué of the 720th meeting of the PSC, at the ministerial level, on the situation in South Sudan,” September 22, 2017, available at <http://www.peaceau.org/en/article/communique-of-the-720th-meeting-of-the-psc-at-the-ministerial-level-on-the-situation-in-south-sudan>.