

VI. Establish International Commission Against Impunity

The R-TGoNU should request that the United Nations establish an international anti-corruption commission to investigate state capture and endemic corruption. The International Commission Against Impunity in South Sudan (ICAISS) should include international prosecutors and law enforcement mandated to investigate and prosecute systemic violence and corruption in coordination with South Sudan's prosecutors and the Anti-Corruption Commission (ACC).⁸⁶ The commission should narrow its scope of work to focus on current practices, prosecuting corruption that is uncovered during the transitional period rather than during the years of conflict.

How would this action improve economic governance?

South Sudan's courts, prosecutors, and law enforcement are not in a position to effectively investigate and prosecute high-level or state-wide corruption. Only by dismantling the corrupt networks that are embedded in the government and removing the sense of impunity that follows will the country be able to avoid cyclical conflict.

- As a high-visibility, independent investigative body, ICAISS would focus entirely on endemic corruption and systemic violence. ICAISS would collaborate with South Sudan's judiciary to prosecute serious financial crimes in South Sudan and conduct periodic public briefings and consultations with relevant civil society.
- The ultimate goal of ICAISS would be to strengthen South Sudan's judiciary. ICAISS would supplement South Sudan's judicial capacity with the support of experienced international prosecutors and law enforcement. The international expertise would provide technical assistance to local judiciary and open space for more routine judicial reforms at the lower levels of the courts.
- By focusing on widespread corruption among high-level officials, ICAISS would help combat the elite impunity that has contributed to public distrust of the government. For civil society advocates who recognize the destructive role of corruption in the country but have no way to address it, ICAISS would be an outlet for filing complaints and safely providing information to authorities in support of accountability for high crimes of corruption.

Has this policy worked?

In 2006, the government of Guatemala and the United Nations established an anti-corruption commission, the International Commission against Impunity in Guatemala (CICIG), to confront organized crime and illegal groups, such as drug traffickers, that had infiltrated every level of the government.⁸⁷ CICIG has been highly effective as an impartial voice that has exposed corruption, opened space for civil society and the judiciary, and quietly advocated for transparency. The CICIG court includes dozens of judges, prosecutors, and law enforcement from around the world, and works within the Guatemalan legal system.

Continued on the following page

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What are the steps to implementation?

The R-ARCSS outlines the need to prosecute corruption. Because the AU Commission of Inquiry has cited the fight for state resources as a driver of the conflict and backed a Hybrid Court for South Sudan (HCSS),⁸⁸ international prosecution in South Sudan would be consistent with existing frameworks. ICAISS should collaborate with the Commission for Truth, Reconciliation, and Healing (CTRH) mandate.⁸⁹

- **South Sudan:** The R-TGoNU should issue an executive order calling for a commission to help provide technical, prosecutorial, and investigative support to tackle state-level corruption. The specifics of the commission would be a negotiation between the R-TGoNU, ACC, and United Nations.
- **IGAD, AU, United Nations:** Given that it has established a similar commission in Guatemala, the United Nations should lead the effort to implement ICAISS. The commission should report directly to the UNSC to establish true separation from the other U.N. mandates in South Sudan.
- **International Partners, Donors:** The United States, EU, and other donors should be prepared to finance and staff ICAISS and advocate for its formation at the UNSC.