
CONGRESSIONAL TESTIMONY

South Sudan's Conflict and Famine

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Chairman Flake, Ranking Member Booker, and members of the committee, thank you for inviting me to testify today on this pressing topic. Thank you as well for your strong advocacy for wise and committed U.S. action on what is one of the worst conflicts in the world today. With your permission, I would like to submit my written testimony into the record.

My name is Joshua Meservey. I am the Senior Policy Analyst for Africa and the Middle East at The Heritage Foundation. The views I express in this testimony are my own and should not be construed as representing any official position of The Heritage Foundation.

South Sudanese Independence and the Rapid March to Violence

Mr. Chairman, as you are aware, there is an unfortunate history of violence in South Sudan driven by competition for resources and long-standing political, ethnic, and

personal grievances. Even in the midst of fighting successive wars against a brutal common enemy in the north, armed groups in the south frequently turned their guns on each other.

The Comprehensive Peace Agreement signed in 2005 by the Sudanese government and the Sudan People's Liberation Movement/Army (SPLM/A) ended most of the north-south fighting, but did not resolve the many fractures within South Sudanese society, including those within the SPLM/A. Obtaining government power only raised the competitive stakes as governance became a struggle among senior officials for power and the opportunity to distribute looted state resources to their often tribal-based patronage networks.¹

In April 2010, the South Sudanese elected Salva Kiir—a Dinka propelled to the head of the SPLM/A after Garang died in a helicopter

¹ Magali Mores, "Overview of Corruption and Anti-Corruption in South Sudan," Transparency International, March 4, 2013, [https://www.transparency.org/files/content/corru](https://www.transparency.org/files/content/corruptionqas/371_Overview_of_corruption_and_anti-corruption_in_South_Sudan.pdf)

[ptionqas/371_Overview_of_corruption_and_anti-corruption_in_South_Sudan.pdf](https://www.transparency.org/files/content/corruptionqas/371_Overview_of_corruption_and_anti-corruption_in_South_Sudan.pdf) (accessed March 3, 2017).

crash in 2005—in a landslide as the first president of what was then the semi-autonomous region of South Sudan.² In January 2011, the south voted overwhelmingly to part from Sudan.

Upon independence, Salva Kiir and Vice President Riek Machar, a Nuer, took control of a country in name only. Exacerbating the challenge of unresolved grievances was the legacy of decades of war: more than 2.5 million killed, and 4.5 million displaced.³ South Sudan had virtually no infrastructure, and extreme rates of abject poverty, illiteracy, and child malnutrition.⁴ It had natural-resource wealth but only effectively exploited oil, on which it was heavily dependent for government revenues.⁵ Unpacified armed groups still roamed parts of South Sudan, and tensions over contested border regions with Sudan occasionally precipitated armed clashes.

South Sudan did have broad international support, and billions of dollars' worth of aid poured into the country. Yet South Sudan

most needed transformational, principled leadership to overcome the dysfunction at the heart of the country. Unfortunately, its leadership proved to be a key part of the problem.

In 2013, in response to increasing challenges from within the SPLM to his authority,⁶ Kiir fired Vice President Machar and the entire cabinet.⁷ Not long after, on December 15, 2013, fighting within the Presidential Guard unit of the SPLA broke out in the capital, Juba. Kiir claims that Machar attempted a coup, but subsequent investigations by the African Union and the U.S. found no evidence for Kiir's accusations.⁸ Other reports say that Kiir-aligned Dinka elements of the Presidential Guard tried to disarm the Machar-aligned Nuer elements.⁹

Machar escaped and formed the Sudan People's Liberation Movement/Army-In Opposition (SPLM/A-IO). The fighting rapidly spread throughout Juba—where Dinka fighters went door to door executing

² Skye Wheeler, "South Sudan Swears in First Elected President," Reuters, May 21, 2010, <http://www.reuters.com/article/us-sudan-south-president-idUSTRE64K43B20100521> (accessed March 3, 2017).

³ Lauren Ploch Blanchard, "Conflict in South Sudan and the Challenges Ahead," Congressional Research Service, September 22, 2017, <https://fas.org/sgp/crs/row/R43344.pdf> (accessed February 22, 2017).

⁴ Daniel Maxwell, Kirsten Gelsdorf, and Martina Santschi Livelihoods, "Basic Services and Social Protection in South Sudan," Secure Livelihoods Research Consortium Working Paper No. 1, July 2012, <https://www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/7716.pdf> (accessed March 3, 2017).

⁵ CIA World Factbook, "Africa: South Sudan," January 12, 2017, <https://www.cia.gov/library/publications/the-world-factbook/geos/od.html> (accessed March 3, 2017).

⁶ "Conflicts in South Sudan," Enough Project, October 1, 2014, <http://www.enoughproject.org/conflicts/sudans/conflicts-south-sudan> (accessed March 3, 2017).

⁷ UNICEF, "South Sudan Sitrep," No. 1 16-20, December 2013, https://www.unicef.org/appeals/files/UNICEF_South_Sudan_Sitrep1_20Dec2013.pdf (accessed March 3, 2017).

⁸ John Tanza, "South Sudan Government Still Insists Coup Bid Started Conflict," Voice of America, October 28, 2015, <http://www.voanews.com/a/south-sudan-african-union-inquiry-coup/3026843.html> (accessed February 22, 2017), and Nicole Gaouette, "U.S. Asks South Sudan to Free Prisoners, Sees No Coup Effort," Bloomberg, January 9, 2014, <https://www.bloomberg.com/news/articles/2014-01-09/u-s-asks-south-sudan-to-release-prisoners-sees-no-coup-attempt> (accessed March 3, 2017).

⁹ Amnesty International, "Nowhere Safe: Civilians Under Attack in South Sudan," May 8, 2014, <https://www.amnesty.org/en/documents/AFR65/003/2014/en/> (accessed March 3, 2017).

Nuer civilians¹⁰—and eventually to seven of South Sudan’s ten states,¹¹ though the heaviest fighting was in the opposition-stronghold northern states of Jonglei, Unity, and Upper Nile.¹² Neither side gained a decisive advantage, and both routinely committed atrocities, including ethnic-based killings, mass rape, kidnappings, and forced cannibalization.¹³ As many as 20,000 Nuer may have been killed in the first three days of violence alone.¹⁴

The fighting was largely uninterrupted by the various cease-fires that the international community pressured Kiir and Machar into signing. A regional body, the Intergovernmental Authority on Development (IGAD), led the waves of negotiations that resulted in at least 11 agreements committing the parties to peace. All were broken almost immediately.

The presence of the U.N. Mission in South Sudan (UNMISS), a peacekeeping force established in 2011 on the occasion of South Sudan’s independence, did little to deter the

combatants. The U.N. increased UNMISS’s troop strength and refined its mandate in response to the escalating violence in the country,¹⁵ yet it still had little deterrent effect and repeatedly failed in its responsibility to protect civilians.

In August 2015, again under intense international pressure, the two sides agreed to form a transitional government¹⁶ that quickly fell apart. In July 2016, Machar’s and Kiir’s forces in Juba clashed. Kiir re-fired Machar, who is now in exile in South Africa. Kiir then stocked most of the government positions reserved by the peace agreement for the SPLM/A-IO with loyalists, effectively cutting off any hope that non-Dinkas had of political representation.¹⁷

During the July violence, the Presidential Guard that answers directly to Kiir¹⁸ attacked Westerners and Americans specifically, including shooting at a convoy carrying, among others, the U.S.’s second-highest-ranking diplomat in South Sudan.

¹⁰ Ibid.

¹¹ UNMISS, “United Nations Mission in South Sudan: Background,” <http://unmiss.unmissions.org/background> (accessed February 22, 2017).

¹² “Peace Elusive as South Sudan Marks Three Years of War,” Daily Mail, December 15, 2016, <http://www.dailymail.co.uk/wires/afp/article-4036080/Peace-elusive-South-Sudan-marks-three-years-war.html> (accessed March 6, 2017), and Casie Copeland, “De-escalating South Sudan’s New Flare Up,” International Crisis Group, July 12, 2016, <https://www.crisisgroup.org/africa/horn-africa/south-sudan/de-escalating-south-sudan-s-new-flare> (accessed March 6, 2017).

¹³ African Union, “Final Report of the African Union Commission of Inquiry on South Sudan,” October 15, 2014, p. 112, <http://www.peaceau.org/uploads/auciss.final.report.pdf> (accessed February 22, 2017).

¹⁴ Ibid, p. 114.

¹⁵ United Nations Security Council, “Resolution 1996 (2011),” July 8, 2011,

[http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/1996\(2011\)](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/1996(2011)) (accessed March 6, 2017), and UNMISS, “United Nations Mission in South Sudan: Background.”

¹⁶ Marc Santora, “Salva Kiir, South Sudan’s President, Signs Peace Deal with Rebels,” The New York Times, August 26, 2015, <http://www.nytimes.com/2015/08/27/world/africa/south-sudan-peace-deal-rebels-president.html> (accessed March 6, 2017).

¹⁷ United Nations Security Council, “Interim Report of the Panel of Experts on South Sudan Established Pursuant to Security Council Resolution 2206 (2015),” November 15, 2016, http://www.un.org/ga/search/view_doc.asp?symbol=S/2016/963 (accessed March 6, 2017).

¹⁸ International Crisis Group, “South Sudan: A Civil War by Any Other Name,” Africa Report No.217, April 10, 2014, <https://d2071andvip0wj.cloudfront.net/south-sudan-a-civil-war-by-any-other-name.pdf> (accessed March 6, 2017).

Fortunately, the Americans escaped unharmed.¹⁹

Other Americans were not as fortunate four days later when a group of South Sudanese soldiers, including from the Presidential Guard, attacked the Terrain Hotel compound that housed international workers. In what a later U.N. investigation characterized as an orchestrated assault,²⁰ the soldiers sought out Americans, beating those they found. They gang-raped several Western women, and murdered a South Sudanese journalist before the onslaught ended four hours later.²¹

The war revealed the dizzying number of divisions in the country. An estimated 70 percent of the SPLA's formal forces deserted

or defected after the conflict began.²² Some Nuer remain loyal to Kiir,²³ but many high-ranking Nuer soldiers and officers joined Machar.²⁴ Other opposition forces include militias loyal to different opposition leaders, tribal self-defense militias, and groups preoccupied with local issues that sometimes align with SPLM/A-IO goals.²⁵

The chaos has driven the country into even deeper misery. The fighting has spread south into the equatorial region around Juba.²⁶ As of July 20, 2017, nearly 2 million South Sudanese had fled to neighboring countries. As of June 2017, another 1.9 million were internally displaced.²⁷ Fifty percent of South Sudanese have insufficient food, with 1.7 million on the cusp of famine.²⁸

¹⁹ This was not the first time that South Sudanese forces shot at Western diplomats. A soldier fired at the U.S. ambassador's armored vehicle in November 2014. In June 2016, a month before the attack on the U.S. convoy, South Sudanese soldiers fired at a Norwegian delegation. Colum Lynch, "Dinner, Drinks, and a Near Fatal Ambush for U.S. Diplomats," *Foreign Policy*, September 6, 2016, <http://foreignpolicy.com/2016/09/06/dinner-drinks-and-a-near-fatal-ambush-for-u-s-diplomats/> (accessed March 6, 2017).

²⁰ Matina Stevis, "South Sudanese Violence Engulfs Aid Workers, Pushes Nation Closer to the Brink," *The Wall Street Journal*, September 20, 2016, <http://www.wsj.com/articles/south-sudanese-violence-engulfs-aid-workers-pushes-nation-closer-to-the-brink-1474413566> (accessed March 5, 2017).

²¹ Jason Patinkin, "Rampaging South Sudan Troops Raped Foreigners, Killed Local," *Associated Press*, August 1, 2015, <http://bigstory.ap.org/article/237fa4c447d74698804be210512c3ed1/rampaging-south-sudan-troops-raped-foreigners-killed-local> (accessed March 6, 2017) and Michelle Nichols, "U.N. Peacekeepers Failed to Respond to South Sudan Hotel Attack: Inquiry," *Reuters*, November 2, 2016, <http://www.reuters.com/article/us-southsudan-security-un-idUSKBN12W4K1> (accessed March 6, 2017) and United Nations, "Executive Summary of the Independent Special Investigation into the Violence Which Occurred in Juba in 2016 and UNMISS Response," November 1, 2016,

http://www.un.org/News/dh/infocus/sudan/Public_Executive_Summary_on_the_Special_Investigation_Report_1_Nov_2016.pdf (accessed March 6, 2017).

²² International Crisis Group, "South Sudan: A Civil War by Any Other Name," p. 8.

²³ "Kiir Promises to Retain Loyal Nuer in Transitional Govt," *Radio Tamazuj*, October 28, 2014, <https://radiotamazuj.org/en/article/kiir-promises-retain-loyal-nuer-transitional-govt> (accessed March 6, 2017).

²⁴ Amnesty International, "Nowhere Safe: Civilians Under Attack in South Sudan."

²⁵ International Crisis Group, "South Sudan: A Civil War by Any Other Name."

²⁶ "Peace Elusive as South Sudan Marks Three Years of War," *Daily Nation*, December 15, 2016, <http://www.nation.co.ke/news/africa/South-Sudan-marks-three-years-of-devastating-war/1066-3486998-ip0s0bz/> (accessed March 6, 2017), and Copeland, "De-escalating South Sudan's New Flare Up."

²⁷ United Nations Refugee Agency, "South Sudan Situation," July 20, 2017, <http://data.unhcr.org/SouthSudan/regional.php> (accessed July 24, 2017).

²⁸ Deepmala Mahla, "'The Four Famines': Root Causes and a Multilateral Action Plan," testimony before the Subcommittee on Multilateral International Development, Multilateral Institutions, and International Economic, Energy, and Environmental Policy, Committee on Foreign Relations, U.S. Senate, July 18, 2017

A U.N. fact-finding mission determined that ethnic cleansing via killing, starvation, and rape is occurring in parts of the country, and warned of the potential for genocide. Ethnic hate speech is on the rise as well,²⁹ and refugees fleeing the violence tell stories of ethnically based killing by all sides of the conflict.³⁰

A Failed U.S. Policy

The U.S.'s policy towards South Sudan has been to support diplomatically and financially the IGAD-led negotiation process. Since the opening days of the conflict, some of the U.S.'s most senior officials engaged with the South Sudanese in an attempt to bring peace.³¹ Part of the engagement was a stream of lamentations—at least 76 official statements from the White House and State Department between December 2013 and January 2017—over the worsening conflict, pleas to the combatants to stop the violence, and public warnings about the consequences of not doing so.³²

<https://www.foreign.senate.gov/hearings/the-four-famines-root-causes-and-a-multilateral-action-plan-071817p> (accessed July 24, 2017).

²⁹ United Nations Human Rights Office of the High Commissioner, "South Sudan: Dangerous Rise in Ethnic Hate Speech Must Be Reined in—Zeid," October 25, 2016, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20757&LangID=E> (accessed March 6, 2017).

³⁰ Elias Biryabarema, "Hatred Spills Beyond South Sudan Along With Refugees," Reuters, December 15, 2016, <http://www.reuters.com/article/us-southsudan-uganda-refugees-idUSKBN1441QU> (accessed March 13, 2017).

³¹ Including, among others, Secretary of State John Kerry, National Security Advisor Susan Rice, and Assistant Secretary of State for African Affairs Linda Thomas-Greenfield. Linda Thomas-Greenfield, "South Sudan's Broken Promises," testimony before the Committee on Foreign Affairs, U.S. House of Representatives, January 15, 2014,

Yet the various agreements that IGAD and the rest of the international community arm-twisted the sides into signing were all broken almost immediately, and the U.S. response to the repeated scorning of its admonitions was tepid and inconsistent. Even after the South Sudanese army attacked American diplomats and civilians, the U.S. continued to cooperate with the government on peace negotiations and in providing technical assistance.³³ This likely affirmed the South Sudanese elites' belief that there is little to personally fear from the U.S. for their behavior.

The U.S. did suspend direct military assistance to the SPLA after the war broke out in December 2013,³⁴ and later sanctioned six military leaders from both sides of the conflict. Yet the U.S. sanctions do not include many of those most responsible for the violence, such as Salva Kiir or Riek Machar. In December 2016, American diplomats tried to extend the U.N. sanctions regime to Machar and several SPLM/A officials. The motion that also included an arms embargo—which the U.S. had

<http://docs.house.gov/meetings/FA/FA00/20140115/101645/HHRG-113-FA00-Wstate-Thomas-GreenfieldL-20140115.pdf> (accessed March 7, 2017).

³² For some of the many pleas, condemnations, and regrets the U.S. has issued, see news releases, U.S. Department of State, <https://2009-2017.state.gov/r/pa/prs/ps/index.htm> (accessed March 7, 2017), and "South Sudan," Obama White House,

<https://search.archives.gov/search/docs?affiliate=bamawhitehouse&dc=3879&page=1&query=%22south+sudan%22> (accessed March 7, 2017).

³³ Stevis, "South Sudanese Violence Engulfs Aid Workers, Pushes Nation Closer to the Brink."

³⁴ U.S. Embassy in South Sudan, "Clarification regarding U.S. Assistance to South Sudan," Africa Newsroom, October 13, 2016, <http://www.africa-newsroom.com/press/clarification-regarding-us-assistance-to-south-sudan?lang=en> (accessed March 8, 2017).

threatened for more than two years—failed, to the delight of the South Sudanese government.³⁵

The U.S. also failed to capitalize on moments when galvanizing the international community for action against the South Sudanese regime would likely have been easier. In August 2014, unidentified militants shot down an UNMISS helicopter, killing three Russian crew members.³⁶ In February 2016, uniformed SPLA soldiers participated in the slaughter of civilians sheltering in a Protection of Civilians (POC) site in Malakal, with little American response beyond a joint statement with Norway and the United Kingdom three days later.³⁷ After the attacks on the American diplomatic convoy and the Terrain Hotel compound in July 2016, the U.S. also failed to

use its self-evident right to penalize such provocations.

The rest of the international community has done little better. IGAD has not substantively punished either side for violating the 11 agreements, or for their repeated attacks against U.N. and IGAD personnel and facilities.³⁸ The U.S.-backed U.N. motion extending sanctions and imposing an arms embargo failed because nine countries abstained.³⁹ The South Sudanese government frequently impedes UNMISS movements despite its U.N. authorization to move freely,⁴⁰ and for months resisted a U.N.-authorized Regional Protection Force before acquiescing. It reneged after the arms embargo failed at the U.N.⁴¹

³⁵ Colum Lynch, “U.S. Push to Halt Genocide in South Sudan Unravels at United Nations,” *Foreign Policy*, November 30, 2016, <http://foreignpolicy.com/2016/11/30/u-s-push-to-halt-genocide-in-south-sudan-unravels-at-united-nations/> (accessed March 7, 2017), and “S. Sudan Lauds UN Security Councils Failure to Impose Sanctions, Arms Embargo,” *Sudan Tribune*, December 25, 2016, <http://www.sudantribune.com/spip.php?article61206> (accessed March 7, 2017).

³⁶ “South Sudan: Preliminary UN Probe Shows Helicopter Was Shot Down,” U.N. News Centre, September 9, 2014, <https://www.un.org/apps/news/story.asp?NewsID=48674#.WMCG4G8rJpg> (accessed March 8, 2017).

³⁷ News release, “Statement: Troika Condemns Violence at Malakal, South Sudan POC Site,” February 20, 2016, http://www.norway-south-sudan.org/News_and_events/Latest/Statement-Troika-Condemns-Violence-at-Malakal-South-Sudan-POC-Site/#.WMGNtm_ytpg (accessed March 9, 2017).

³⁸ In 2014, the U.N. summed up the violence it and IGAD had suffered to that point: “the attacks by Government and opposition forces and other groups on United Nations and IGAD personnel and facilities, including the December 2012 downing of a United Nations helicopter by the SPLA, the April 2013

attack on a United Nations convoy, the December 2013 attack on the UNMISS camp in Akobo, the August 2014 shooting down of a UN helicopter by unidentified armed groups, the August 2014 arrest and detention of an IGAD monitoring and verification team, the detentions and kidnappings of UN and associated personnel, and the 2014 attacks on the UNMISS camps in Bor and Bentiu.” News release, “Security Council Keeps in Place Peace Mission in South Sudan Until 30 May 2015 as it Calls for Immediate Implementation of Cessation of Hostilities Accord,” United Nations, November 25, 2014, <https://www.un.org/press/en/2014/sc11670.doc.htm> (accessed March 7, 2017).

³⁹ Lynch, “U.S. Push to Halt Genocide in South Sudan Unravels at United Nations.”

⁴⁰ U.S. Embassy in South Sudan, “U.S. Permanent Representative to the United Nations, on a Draft Security Council Resolution on South Sudan,” December 23, 2016, <https://ss.usembassy.gov/explanation-vote-ambassador-samantha-power/> (accessed March 7, 2017).

⁴¹ “South Sudan Rejects More UN Peacekeepers,” South Sudan News Agency, January 11, 2017, <http://www.southsudannewsagency.com/index.php/2017/01/11/south-sudan-rejects-un-peacekeepers/> (accessed March 7, 2017).

South Sudan's Leadership: Inadequate for Peace

The South Sudanese leaders' long history of promptly breaching agreements suggests they are determined to use violence to achieve their goals, and are cynically manipulating peace talks for their own ends.⁴² The overtly ethnic nature of many of the government's policies, and the frequent war crimes their forces commit⁴³—which are so systematic and widespread an African Union Commission report found they are likely part of state policy⁴⁴—further demonstrate the leadership's disinterest in peace.

Both sides victimize civilians in other ways. Since December 2013, 84 aid workers have been killed in South Sudan, and on hundreds of occasions have been assaulted and intimidated.⁴⁵ South Sudanese security

services frequently block humanitarian convoys and loot supplies from aid groups and civic organizations, such as hospitals and schools.⁴⁶ During the July 2016 violence in Juba, government forces pillaged 4,500 tons of food and about 20,000 gallons of diesel, causing nearly \$30 million in damages, from a World Food Programme warehouse. The looted food would have fed 220,000 people for a month.⁴⁷

In the midst of the suffering in South Sudan, the elites' extreme corruption is all the more grotesque. Kiir and various relatives hold stakes in nearly two dozen companies operating in South Sudan, one of which was involved in a scheme that embezzled hundreds of millions of dollars from the state.⁴⁸ Kiir supposedly owns tens of thousands of cows worth millions of dollars,⁴⁹ and the family has a mansion in

⁴² The U.S. Special Envoy for Sudan and South Sudan stated plainly in October 2014: “[B]oth the government and the opposition have failed to engage the process in good faith or to fully honor their commitments.” Donald Booth, “U.S. Policy on Sudan and South Sudan: The Way Forward,” remarks to the Atlantic Council, October 9, 2014, <https://photos.state.gov/libraries/sudan/895/pdf/US-Policy-on-Sudan-and-South-Sudan.pdf> (accessed February 22, 2017).

⁴³ UNICEF, “Hundreds of Children Recruited by Armed Groups in South Sudan, as Violations Against Women and Children Increase—UNICEF,” August 19, 2016, https://www.unicef.org/media/media_92549.html (accessed February 22, 2017), and Justin Lynch, “Wave of Ethnic Killings Engulfs Town in South Sudan” Associated Press, November 17, 2016, <http://bigstory.ap.org/article/ef9991657b82470c848b3aaae56474ee/wave-ethnic-killings-engulfs-town-south-sudan> (accessed March 7, 2017), and African Union, “Final Report of the African Union Commission of Inquiry on South Sudan.”

⁴⁴ African Union, “Final Report of the African Union Commission of Inquiry on South Sudan.”

⁴⁵ United Nations Office for the Coordination of Humanitarian Affairs, “Aid Worker Killed in Eastern Equatoria,” Humanitarian Bulletin No. 16, October 20, 2016, <http://reliefweb.int/sites/reliefweb.int/files/resour>

ces/1601020_OCHA_SouthSudan_humanitarian_bulletin16.pdf (accessed February 22, 2017) and Mahla, “‘The Four Famines’: Root Causes and a Multilateral Action Plan.”

⁴⁶ Ibid.; Denis Dumo, “Aid Convoys Blocked in South Sudan, U.N. Says,” Reuters, December 1, 2016, <http://www.reuters.com/article/us-southsudan-aid-idUSKBN13Q4SR> (accessed March 7, 2017); and Andrew Katz, “South Sudanese Troops Steal Backpacks Meant for Children,” Time, February 4, 2014, <http://world.time.com/2014/02/04/south-sudanese-troops-steal-backpacks-meant-for-children/> (accessed March 7, 2017).

⁴⁷ United Nations, “Executive Summary of the Independent Special Investigation into the Violence Which Occurred in Juba in 2016 and UNMISS Response,” and Stevis, “South Sudanese Violence Engulfs Aid Workers, Pushes Nation Closer to the Brink.”

⁴⁸ “War Crimes Shouldn’t Pay, Stopping the Looting and Destruction in South Sudan,” The Sentry, September 2016, https://thesentry.org/wp-content/uploads/2016/08/Sentry_WCSP_Final.pdf (accessed March 7, 2017).

⁴⁹ Simon Allison, “Following the Herd: How Cows Fuelled the War in South Sudan, and How They Can Consolidate the Peace,” Daily Maverick, October 27, 2016, <https://www.dailymaverick.co.za/article/2016-10-27-following-the-herd-how-cows-fuelled-the-war->

Kenya and a massive ranch outside Juba that Kiir built in the midst of the war.⁵⁰

The government has little to show for the billions of dollars the international community has poured into the country, something the government's own first vice president has criticized.⁵¹ It has also jailed and tortured an unknown number of political prisoners, and the country is ranked fifth-worst in the world for journalists being murdered with impunity.⁵²

Kiir and other senior government officials for years have also whipped up anti-U.S. and anti-U.N. anger in the country.⁵³ It is in this context that the South Sudanese armed forces attacked the American diplomatic convoy and the Terrain Hotel compound.

Finally, Kiir's control over his forces is tenuous. He appealed to his troops to stop fighting during the Juba violence in July, but they ignored him for several days.⁵⁴ The government is in financial crisis and cannot pay many of its soldiers, leading to restlessness and defections. Opposition forces are perhaps even more fractured, as they are motivated by a broad range of

interests and loyalties.⁵⁵ If Kiir cannot control his men, and as there is no unifying opposition leader, there is little reason to believe the elites can deliver peace to the country.

The Difficult Geopolitical Context

Many of South Sudan's neighbors have their own interests inside the country that makes concerted action against all culpable South Sudanese parties difficult. Uganda, for instance, has a long history of supporting the SPLA, and intervened early in the conflict to protect Salva Kiir's government.⁵⁶

A broader unified international response will also be challenging. China has extensive investments in South Sudan that it wants to protect,⁵⁷ and is generally wary of American foreign policy goals, as is Russia. The American-supported U.N. resolution on sanctions and an arms embargo that failed in December 2015 are examples of how difficult it is to get international consensus for action.

Similarly, hopes of assembling and deploying a military force large enough and competent enough to stop the violence are

in-south-sudan-and-how-they-can-consolidate-the-peace#.WHZNS1MrJpg (accessed March 7, 2017).

⁵⁰ "War Crimes Shouldn't Pay, Stopping the Looting and Destruction in South Sudan," *The Sentry*.

⁵¹ "Taban Deng Gai Says the Current Government Is a 'Hand-to Mouth' System that Is Not Providing Any Services," *Nyamilepedia*, October 21, 2016, <http://www.nyamile.com/2016/10/21/tabandeng-gai-says-current-government-is-a-hand-to-mouth-system-that-is-not-providing-any-services/> (accessed March 7, 2017).

⁵² Elisabeth Witchel, "Getting Away with Murder," *Committee to Protect Journalists*, October 27, 2016, <https://cpj.org/reports/2016/10/impunity-index-getting-away-with-murder-killed-justice.php#5> (accessed March 7, 2017).

⁵³ Lynch, "Dinner, Drinks, and a Near Fatal Ambush for U.S. Diplomats," and John Tanza, "South Sudan President Kiir in Washington for US-Africa Leaders Summit," *Voice of America*, August 4, 2014,

<http://www.voanews.com/a/us-africa-leaders-summit-south-sudan-diplomacy-oil/1969939.html> (accessed March 7, 2017).

⁵⁴ "South Sudan Clashes: Salva Kiir and Riek Machar order Ceasefire," *BBC*, July 11, 2016, <http://www.bbc.com/news/world-africa-36763076> (accessed March 7, 2017).

⁵⁵ United Nations, "Interim Report of the Panel of Experts on South Sudan Established Pursuant to Security Council Resolution 2206 (2015)."

⁵⁶ Fanny Nicolaisen, Tove Heggli Sagmo, and Øystein Rolandsen, "South Sudan Uganda Relations: The Cost of Peace," *African Center for the Constructive Resolution of Disputes*, December 23, 2015, <http://www.accord.org.za/conflict-trends/south-sudan-uganda-relations/> (accessed March 7, 2017).

⁵⁷ "China Controls 75% of Oil Investments in Sudan: Minister," *Sudan Tribune*, August 3, 2016, <http://www.sudantribune.com/spip.php?article59816> (accessed March 7, 2017).

unrealistic. South Sudan is nearly the size of Texas, and there is a collage of armed groups scattered throughout the country. Only a few countries in the world have sufficient military resources to impose peace on South Sudan, and they are unlikely to shoulder on their own the burden of a costly and open-ended military intervention in a strategically unimportant country. UNMISS does not have the mandate, or, given how flawed the mission is,⁵⁸ the capabilities for such a task either.

The Case for Accountability

The failure to bring peace to South Sudan is not due to insufficiently persuasive or determined diplomacy, nor to the absence of a perfectly worded cease-fire to which all sides would agree. The primary obstacles to peace are the many unresolved grievances inside the country, and the leadership on all sides of the conflict exploiting those grievances to attain power.⁵⁹ The increasingly prominent ethnic component to the fighting means it is increasingly existential as well, hardening combatants' determination to fight.

⁵⁸ Simona Foltyn, "UN Bases in South Sudan Are a 'Blessing and a Curse,'" *The Guardian*, April 26, 2016, <https://www.theguardian.com/global-development/2016/apr/26/un-bases-south-sudan-malakal-attack-blessing-curse-unmiss> (accessed March 7, 2017) and Medecins Sans Frontieres, "MSF Internal Review of the February 2016 Attack on the Malakal Protection of Civilians Site and the Post-Event Situation," June 2016, http://www.msf.org/sites/msf.org/files/malakal_report_210616_pc.pdf (accessed March 7, 2017) and Merrit Kennedy, "Witnesses: U.N. Peacekeepers Did Nothing as South Sudanese Soldiers Raped Women," *National Public Radio*, July 27, 2016, <http://www.npr.org/sections/thetwo-way/2016/07/27/487625112/report-u-n-peacekeepers-did-nothing-as-south-sudanese-soldiers-raped-women> (accessed March 7, 2017) and United Nations, "Executive Summary of the Independent Special Investigation into the Violence

Because the IGAD process relies on good faith negotiations, it cannot succeed in the current environment. Believing peace negotiations could work long after it was clear the combatants were committed to violence has already hurt the effort to bring peace to South Sudan. The international community's pursuit of the chimera of a sustainable peace deal allowed the combatants to evade responsibility, and delayed the formulation of alternative policies.

Returning to the same failed negotiations would be a grievous mistake with real consequences. It would further drain whatever influence and credibility the U.S. has left with the South Sudanese leadership, weaken the efficacy of any future negotiations when the atmosphere is conducive to meaningful talks, and continue to give the chief purveyors of the violence the cover of meaningless dialogs.

It is time for a new approach that has a better chance of ending the violence than continuing with, or marginally enhancing, a failed policy. The only way to move the South Sudanese leadership now is through

Which Occurred in Juba in 2016 and UNMISS Response" and United Nations Secretary-General, "Note to Correspondents on the Special Investigation and UNHQ Board of Inquiry into the UNMISS Protection of Civilians Site in February 2016," June 21, 2016, <https://www.un.org/sg/en/content/sg/note-correspondents/2016-06-21/note-correspondents-special-investigation-and-unhq-board> (accessed March 7, 2017).

⁵⁹ On multiple occasions, senior U.S. government officials explicitly identified the South Sudanese leadership's failures as the reason for the conflict. As just one example, see U.S. Department of State, "Update on Efforts to Implement the 2015 Agreement on the Resolution of the Conflict in South Sudan," September 22, 2016, <https://2009-2017-fpc.state.gov/262433.htm> (accessed February 22, 2017).

coercive engagement. The U.S. should pursue an accountability-based policy in South Sudan that would include cutting all diplomatic contact with the perpetrators of the violence, working with international partners to isolate and punish them, and refusing to support any talks that include them, unless there is dramatic change in their behavior.

This approach would demonstrate to the South Sudanese government that it no longer has the world's most powerful country as a friend, and that the U.S. is finally serious about imposing penalties for criminal conduct on both sides. It would strip the combatants of the fig leaf of legitimacy they receive from negotiations, and would remove the temptation for the U.S. to continue wasting time, energy, and resources pursuing a meaningful agreement that is impossible to attain in the current context. It would be a chance to re-orient American engagement toward demanding substantive progress from the South Sudanese government in return for the reward of American engagement. It would as well rebuild U.S. credibility until the time is right to use it.

An accountability-based policy may also serve to build unity of purpose within the international community, particularly among regional states with the most to lose. All are anxious to avoid the profoundly destabilizing effects of a South Sudanese collapse. If the U.S. isolates the perpetrators of the violence, other countries will face the possibility that they will primarily bear the burden of South Sudan if they do not participate. It could lend urgency and purpose to their efforts.

Isolating the regime could also empower those South Sudanese who are genuinely interested in peace. Some of the regime's power likely derives from its position as the

primary interlocutor with the international community. If the South Sudanese see that the regime and other culpable elites no longer enjoy the international community's good will, it will weaken the malign actors and provide an opportunity for any South Sudanese committed to peace.

In the meantime, the U.S. will need to put as much pressure on the combatants as possible. The purpose will be two-fold: to punish those who targeted Americans, and to pressure the combatants until their calculus changes to where they see peace as being in their interest. If that fails, the U.S. will have to wait until the facts on the ground change enough that the U.S. can re-engage with a reasonable hope of making a positive difference.

Demanding accountability by disengaging from those causing the violence is not abandoning South Sudan. It would be the continuation of a decades-long U.S. effort to bring stability and protect innocent lives in that country. Cutting off engagement with the violent leadership has the best chance of bringing an end to the conflict in the shortest amount of time.

Accountability in Practice

In order to hold the South Sudanese regime accountable for attacking Americans, and encourage peace in South Sudan, the U.S. should:

- **Cut diplomatic ties with the government of South Sudan and others behind the violence.** This will include shuttering the U.S. embassy in Juba, evacuating all American diplomatic personnel, and ceasing all formal dialogue with the government of South Sudan and with the opposition. The U.S. should explicitly identify those government entities in South Sudan with which U.S.-funded organizations may

engage, as some local government offices might be sufficiently distant in operations from the central government, and sufficiently interested in peace, to be worth engaging.

- **Build a comprehensive sanctions regime targeting anyone involved in fomenting violence**, including Salva Kiir and Riek Machar. South Sudanese leadership will respond only to pressure that affects them directly. It will take time and active diplomacy with neighboring countries to gain their support, and some countries will likely refuse or cheat anyway. The U.S. will have to focus on building a coalition of the willing, and must be prepared to monitor the sanctions closely and enforce them vigorously. The U.S. can also build a painful regime unilaterally if necessary.
- **Expel back to South Sudan, and freeze and seize the assets of, any relatives of the South Sudanese leadership who have benefited from the pillaging of South Sudan.** At least one was attending an American university in 2016. Others drive luxury vehicles, jet about the globe in first class, and live in luxurious villas in foreign countries.⁶⁰ The U.S. should pressure the countries harboring those relatives to expel them and freeze their assets. There is recent precedent for this with Teodoro Nguema Obiang Mangué, the son of the president of Equatorial Guinea.⁶¹
- **Build a coalition of the willing for an arms embargo, and name the entities**

that violate it. A comprehensive arms embargo is unlikely since a U.S.-backed U.N. proposal for one has already failed. South Sudan is also awash in weapons, so an embargo will not have an immediate effect. However, over the long term, even a partial embargo would make it more difficult for the combatants to replenish their weapons stocks. A partial embargo would also expose uncooperative countries to the reputational damage associated with funneling weapons into a disastrous conflict.

- **Expel the South Sudanese ambassador and all South Sudanese embassy personnel from the United States.** This will demonstrate to the regime that it has missed its many opportunities to engage in good faith with the U.S., and that the U.S. is serious about holding it accountable.
- **Restrict the movement of South Sudanese officials attending U.N. activities in New York City.** The U.S. is obliged to allow officials, even those under a travel ban, to attend United Nations' meetings in New York City. However, the U.S. government does not have to allow them free access to the rest of the country. The U.S. should impose a 25-mile movement limit on any South Sudanese official attending a U.N. meeting in New York City, and on any South Sudanese U.N. staff with links to those behind the violence.⁶²
- **Outline a path to re-engagement based on measurable benchmarks of**

⁶⁰ "War Crimes Shouldn't Pay: Stopping the Looting and Destruction in South Sudan," *The Sentry*.

⁶¹ Martin de Bourmont, "Accused of Looting Millions, Son of African Leader Stalls Trial," *The New York Times*, January 4, 2017, <https://www.nytimes.com/2017/01/04/world/afri>

[ca/teodoro-nguema-obiang-mangué-guinea-looting-trial.html?_r=1](https://www.nytimes.com/2017/01/04/world/afri-ca/teodoro-nguema-obiang-mangué-guinea-looting-trial.html?_r=1) (accessed March 7, 2017).

⁶² The U.S. has in the past applied such restrictions on diplomats from Afghanistan, Bulgaria, Cuba, Czechoslovakia, Iran, Libya, Romania, Russia, Sudan, and Vietnam, among others. For an articulation of the U.S. policy, see United Nations, "Travel

progress. Benchmarks should include concrete demonstrations of the combatants' commitment to peace, such as a cease-fire that is respected, the establishment of a framework for an inclusive reconciliation process, and facilitating the delivery of emergency aid to needy populations.

- **Determine which developments would trigger spontaneous U.S. diplomatic re-engagement.** The situation in South Sudan could change sufficiently that the U.S. should diplomatically re-engage. The new context could include the rise of leaders genuinely committed to peace, the formation of an inclusive political movement with broad grassroots support, or a successful organic reconciliation process with a reasonable chance of further success.
- **Articulate U.S. strategy to the public and to partners.** An accountability-based approach might be misinterpreted as abandoning South Sudan. The U.S. should clearly and consistently communicate that it is, in fact, designed to bring stability to South Sudan and stop the suffering there as quickly as possible.
- **Engage directly with the South Sudanese public where possible.** Bypassing those at fault for the violence to engage directly with South Sudanese citizens could embolden those seeking peace and drain support from

perpetrators. Such engagement could include radio programs promoting reconciliation and describing American support for the South Sudanese people, and supporting grassroots South Sudanese organizations and movements working to bring peace.

- **Determine whether the proposed African Union–run hybrid court to try South Sudanese war criminals can be effective, and, if so, support it.** The August 2015 peace agreement provided for the African Union to establish the Hybrid Court for South Sudan to try any South Sudanese implicated in war crimes. The U.S. should wait to see if the African Union creates the framework for an effective court. If it does, the U.S. should support it, as the court would be another means for holding those fomenting the violence accountable.
- **Urge all American citizens to leave South Sudan.** The government and the opposition may retaliate against any Americans still inside the country.
- **Investigate South Sudanese elites' corruption.** Private organizations have already exposed some corruption, but the U.S. government should use its resources and expertise, or sponsor a competent organization, to document the corruption as comprehensively as possible. The results should then be released publicly.
- **Engage with neighboring countries to build consensus for unified action.**

Regulations, Immigration, Entry Visa Dominate Proceedings in Meeting of Host Country Committee," July 9, 2007, <http://www.un.org/press/en/2007/hq656.doc.htm> (accessed February 22, 2017). For a partial list of countries that have come under the restriction, see Marvine Howe, "U.N. Panel on U.S. Ties Faces Weightier Issues," *The New York Times*, October 17, 1988,

<http://www.nytimes.com/1988/10/17/world/un-panel-on-us-ties-faces-weightier-issues.html> (accessed February 22, 2017). For an example of the U.S. restricting the movement of U.N. staff members from a specific country, see United Nations, "Report of the Committee on Relations with the Host Country," 2006, https://usun.state.gov/sites/default/files/organization_pdf/218090.pdf (accessed February 22, 2017).

Bringing a measure of peace to South Sudan will require the international community to behave in as unified a manner as possible. The U.S. should focus on building a coalition that can act when the moment is right in South Sudan.

- **Lead an international effort to deliver emergency aid**, but only in a way that reasonably ensures that it remains out of government and rebel clutches. There is a long history of South Sudanese armed groups seizing humanitarian aid and manipulating it to punish enemies.⁶³ Delivering emergency aid without armed groups benefiting will require creative delivery methods and tough decisions that will likely mean that sometimes aid will not reach people who need it, but over the long term will save more lives by not buttressing the groups fighting the war.
- **Require any U.S.-funded organizations still operating in South Sudan to reasonably ensure that their operations do not benefit any of the warring groups.** Donor aid in South Sudan has at times inadvertently fueled corruption and conflict, and empowered warring groups.⁶⁴ Not only does the U.S. government have a responsibility to American taxpayers to ensure that their money is not wasted, it also has a

responsibility to ensure that the same money does not exacerbate the problem it is meant to mitigate.

- **Mobilize the international community to help front line countries with refugees.** Nearly two million South Sudanese have already fled their country, and receiving states will need further help to house and feed them.
- **Document the crimes inside South Sudan** for use in any future trials and reconciliation processes. A U.S. withdrawal will make this more difficult, but there are still ways to gather information on what is happening, such as interviewing refugees, analyzing satellite imagery, and consulting with organizations still operating in South Sudan and neighboring countries that have strong intelligence on South Sudan.
- **Request that Congress commission a study on what went wrong with U.S. engagement in South Sudan.** The U.S. invested a great deal of energy, time, and money into South Sudan, only to have the country fail quickly and spectacularly. The U.S. government needs to determine what went wrong with its South Sudan policy to ensure it does not repeat the mistakes, and to be accountable to taxpayers for the billions of dollars it spent with no return. An

⁶³ Deborah Scroggins, *Emma's War* (New York: Vintage Books, 2004), pp. 256 and 257, and Claire Metelits, "Back to the Drawing Board: What the Recent Peace Agreement Means for South Sudan," Carnegie Council for Ethics in International Affairs, October 22, 2015, http://www.carnegiecouncil.org/publications/articles_papers_reports/750 (accessed March 7, 2017).

⁶⁴ Daniel van Oudenaren, "Politicised Humanitarian Aid Is Fueling South Sudan's Civil War," IRIN, February 27, 2017, [http://www.irinnews.org/opinion/2017/02/27/politicised-humanitarian-aid-fuelling-south-sudans-](http://www.irinnews.org/opinion/2017/02/27/politicised-humanitarian-aid-fuelling-south-sudans-civil-war)

[civil-war](http://www.irinnews.org/opinion/2017/02/27/politicised-humanitarian-aid-fuelling-south-sudans-civil-war) (accessed February 27, 2017); Lindsay Hamsik, "A Thousand Papercuts: The Impact of NGO Regulation in South Sudan," Humanitarian Practice Network, January 2017, <http://odihpn.org/magazine/a-thousand-papercuts-the-impact-of-ngo-regulation-in-south-sudan/> (accessed February 27, 2017); and "The Taxmen: How Donors Lost Millions in South Sudan's Forex Market," Radio Tamazuj, undated, <https://tamazuj.atavist.com/understanding-south-sudans-collapsing-health-system#chapter-1017381> (accessed February 27, 2017).

unclassified version of the report should be publicly released.

None of these recommendations is a silver bullet. Many of them have flaws, loopholes, and work-arounds. Collectively, however, they can demonstrate to the South Sudanese leadership the costs of abusing American citizens and manipulating the U.S. government, and could precipitate change inside the country to the point where the U.S. can diplomatically re-engage with the hope of making a difference.

A Difficult and Painful Road Ahead

The short history of South Sudan is one of the most disappointing stories on Earth. At independence it had immense international goodwill and support, yet the rivalries and cleavages that led to so much violence in the past quickly led the new country into ruin. The IGAD-led process that the combatants repeatedly manipulated and flouted is stalled with no prospects for success in the

future without a dramatic change in the situation inside the country. U.S. credibility is gone, leeched away by consistent failure to follow through on its many threats and entreaties.

The U.S. has few options left. Its best hope for protecting its interests is to re-orient to an accountability-based strategy and to punish the regime for its continuous malfeasance that included attacks on Americans. The accountability approach may also inspire any elements of the South Sudanese regime or society that are genuinely interested in peace. Continued pointless negotiations and the failure to substantively pressure the South Sudanese regime merely emboldens those responsible for the violence, and ensures the continued victimization of the people of South Sudan.

Thank you again for this opportunity to testify, and I look forward to any questions you may have.

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