

BACKGROUND

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South Sudan: Time for the U.S. to Hold the Combatants Accountable

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Abstract

Two years after South Sudan gained independence in 2011, the country plunged into a brutal civil war driven by long-standing economic, political, and ethnic grievances, with various leaders exploiting those grievances in their quest for power and access to state resources. The primary warring factions have committed extensive war crimes and repeatedly violated the cease-fires brokered by the international community with strong U.S. support. The U.S. has failed to substantively hold the combatants accountable for flouting the agreements they have signed or for their deliberate attacks on American citizens and diplomats. To protect its interests in South Sudan, the U.S. must change to a policy of holding the South Sudanese leadership accountable for its many crimes, which should include stopping all diplomatic engagement with the government of South Sudan and the opposition, building a painful sanctions regime targeting anyone facilitating violence, and bypassing the elites to engage directly with the South Sudanese public when possible.

The war that engulfed South Sudan in 2011 was driven primarily by elites within the government and within the opposition forces determined to achieve power. The international community's extensive, U.S.-backed negotiations to bring peace have failed and have no realistic prospect of succeeding without a dramatic shift in the environment in South Sudan.

The U.S. has a humanitarian interest in facilitating an end to the increasingly ethnic-based conflict that has prompted warnings from watchdog groups of an impending genocide, and which has brought famine to parts of the country. The U.S. does not want the

KEY POINTS

- South Sudan has descended into a massive ethnic civil war. The primary warring factions broke each of the numerous agreements brokered with strong U.S. support.
- More negotiations are doomed to fail in the current context and will enable the South Sudanese leadership, which is committed to violence.
- The U.S. should cut diplomatic ties with the government of South Sudan and anyone else responsible for the violence against civilians and Americans.

This paper, in its entirety, can be found at <http://report.heritage.org/bg3202>

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violence and refugee flows to destabilize neighboring allies, either. Elements of the South Sudanese armed forces also attacked American diplomats and citizens, a provocation to which the U.S. must respond to deter future attacks.

The U.S. should re-orient its policy to focus on holding those perpetuating the violence accountable for their forces' attacks on Americans, their flouting of the internationally sanctioned peace agreements they signed, and the crimes their forces have committed against South Sudanese citizens. Such a policy should include stopping all diplomatic engagement with the government of South Sudan and the opposition, building a painful sanctions regime targeting anyone fomenting violence, and bypassing the elites to engage directly with the South Sudanese public when possible.

Background to a Broken “Country”

Even before Sudan achieved independence in 1956 from Britain and Egypt, the part of the country that today is South Sudan was restive from decades of neglect, underdevelopment, and northern domination. The resentments of the primarily Christian and animist African south against the oppressive and primarily Muslim Arab north flared into revolt in 1955 when a garrison of southern soldiers mutinied. In a pattern that repeated itself for decades, and into the current conflict, the ensuing north-south civil war included brutal intra-southern violence.¹

The peace agreement that ended the first civil war in 1972 was short-lived. In 1983, widespread violence between the north and south returned after Sudanese President Jaafar Nimeiri imposed sharia law on the country and reneged on elements of the 1972 agreement.² A Sudanese Army colonel named John Garang, a Dinka—the largest people group in the south—formed what became the south's dominant rebel group, the Sudan People's Liberation

Army (SPLA)³ and its political wing, the Sudan People's Liberation Movement (SPLM).

Despite returning to war with an oppressive and brutal common enemy, the south remained badly fissured—in 2006, a year after the second civil war officially ended, an estimated 60 armed groups were operating in South Sudan. The SPLM/A's most serious schism came in 1991 when second-in-command Riek Machar, from the second-largest people group in South Sudan, the Nuer, and another SPLA leader, Lam Akol from the Shilluk people, split away to form the SPLM/A-United. The splinter group demanded southern self-determination, in contrast to Garang's vision of a unified Sudan that respected southern rights.⁴

The fighting in South Sudan illustrates the new country's intertwined ethnic, political, resource, and personal conflicts.

The ensuing fighting illustrates how intertwined ethnic, political, resource, and personal conflicts are in South Sudan. Shortly after the split, Machar's forces allied with a Nuer militia dubbed the “White Army” due to the white sashes its fighters wore and the white ash with which they smeared their bodies in the belief it would protect them from bullets. Smarting from a variety of injuries suffered over the years at the hands of the Dinka-dominated SPLM/A and seeking war booty, they were called forth by an illiterate, self-proclaimed prophet who claimed to be possessed by a divinity. They routed a Garang force (led by a high-ranking Nuer who had remained loyal to Garang) and sacked the Dinka town of Bor, massacring an estimated 2,000 Dinka.⁵ The orgy of looting, rape, mutilation, and murder, and the resultant

1. For a good historical account of the run-up to the first civil war and a description of some of the fractures within the rebel movement, see Douglas H. Johnson, *The Root Causes of Sudan's Civil Wars* (Bloomington, IN: Indiana University Press, 2003).

2. Mollie Zapata, “Sudan: Independence Through Civil Wars,” Enough Project, December 13, 2011, <http://www.enoughproject.org/blogs/sudan-brief-history-1956> (accessed March 3, 2017).

3. Deborah Scroggins, *Emma's War* (New York: Vintage Books, 2004), p. 38.

4. John Young, *The South Sudan Defence Forces in the Wake of the Juba Declaration* (Geneva, Switzerland: Small Arms Survey, Graduate Institute of International Studies, 2006), <http://www.smallarmssurveysudan.org/fileadmin/docs/working-papers/HSBA-WP-01-SSDF.pdf> (accessed March 3, 2017).

5. Scroggins, *Emma's War*, pp. 256–265.

famine,⁶ became one of the most infamous episodes of the war.

Despite the defeat at Bor, Garang eventually emerged victorious over Machar and Akol, who split apart themselves. Machar went on to lead several other rebel groups and join a Sudanese government-sponsored coalition of armed groups. In an example of the fluidity of the loyalties in South Sudan, Machar rejoined Garang in 2002.⁷

Under intense international pressure, in 2005, the Sudanese government and the SPLM/A signed the Comprehensive Peace Agreement (CPA). The agreement ended what had become Africa's longest war and provided for a referendum on South Sudanese independence, to be held in the south six years from the signing of the CPA.⁸ The interim period was designed to give the SPLM/A time to transition from a rebel movement to a governing party and state army.

While the CPA ended most of the north-south fighting, it set the stage for more disunity in the south by designating the SPLM as the leader of the future country and excluding a number of other armed groups that did not recognize SPLM authority.⁹ Many of these groups fought on,¹⁰ weakening South Sudan before it even achieved independence.

The SPLM/A never resolved its internal rivalries, either, and obtaining government power raised the

competitive stakes. Governance became a struggle among senior government officials for power and the opportunity to distribute looted state resources to their often tribal-based patronage networks.¹¹ It is estimated that officials stole \$4 billion in oil revenues between the signing of the CPA in 2005 and independence in 2011 alone, which would amount to one-third of all oil revenue the country brought in during that period.¹²

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 crash in 2005—in a landslide as the first president of what was then the semi-autonomous region of South Sudan.¹³ In January 2011, the south voted overwhelmingly to part from Sudan.

Independence and the Rapid March to Violence

Upon independence, Salva Kiir—with Riek Machar as vice president—took control of a country in name only. More than 2.5 million people had been killed, and 4.5 million displaced, during the wars.¹⁴ Many of the grievances that fueled the intra-southern violence remained unreconciled. South Sudan had virtually no infrastructure, and extreme rates of abject poverty, illiteracy, and child

6. "Riek Machar in Tears as He Admits to 1991 Bor Massacres," *The London Evening Post*, August 16, 2011, <http://www.thelondoneveningpost.com/riek-machar-breaks-down-in-tears-as-he-admits-to-1991-bor-massacres/> (accessed March 3, 2017).
7. Young, *The South Sudan Defence Forces in the Wake of the Juba Declaration*.
8. The Comprehensive Peace Agreement Between the Government of the Republic of The Sudan and The Sudan People's Liberation Movement/Sudan People's Liberation Army, <http://unmis.unmissions.org/Portals/UNMIS/Documents/General/cpa-en.pdf> (accessed March 3, 2017).
9. Alan Boswell, "The Genocidal Logic of Sudan's Gun Class," IRIN, November 25, 2016, <https://www.irinnews.org/opinion/2016/11/25/genocidal-logic-south-sudan%E2%80%99s-%E2%80%9Cgun-class%E2%80%9D> (accessed March 3, 2017), and Young, *The South Sudan Defence Forces in the Wake of the Juba Declaration*.
10. Small Arms Survey Human Security Baseline Assessment, "Pendulum Swings: The Rise and Fall of Insurgent Militias in South Sudan," *Sudan Issue Brief No. 22*, November 2013, <http://www.smallarmssurveysudan.org/fileadmin/docs/issue-briefs/HSBA-IB22-Pendulum-Swings.pdf> (accessed March 3, 2017).
11. Magali Mores, "Overview of Corruption and Anti-Corruption in South Sudan," Transparency International, March 4, 2013, https://www.transparency.org/files/content/corruptionqas/371_Overview_of_corruption_and_anti-corruption_in_South_Sudan.pdf (accessed March 3, 2017).
12. Hereward Hollande, "South Sudan Officials Have Stolen 4 Billion: President," Reuters, June 4, 2012, <http://www.reuters.com/article/us-southsudan-corruption-idUSBRE8530QI20120604> (accessed March 3, 2017). According to a Transparency International survey, 67 percent of South Sudanese believe that corruption increased in the three years before independence. See Mores, "Overview of Corruption and Anti-Corruption in South Sudan."
13. 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).
14. 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).

malnutrition.¹⁵ It had natural-resource wealth but only effectively exploited oil, on which it was heavily dependent for government revenues.¹⁶ There were still unpacified armed groups within South Sudan, and contested border regions with Sudan that at times precipitated armed clashes.

Since the beginning of the conflict, waves of negotiations resulted in at least 11 agreements committing the warring parties to peace. All were broken almost immediately.

South Sudan did have broad international support, and billions of dollars' worth of aid poured into the country. None of that could solve the dysfunction at the heart of South Sudan, however, and the strains quickly showed. A free-falling economy meant the government could not afford to pay its bills, including army salaries that accounted for over

50 percent of its budget.¹⁷ In response to increasing challenges from within the SPLM to his authority,¹⁸ Kiir fired Vice President Machar and the entire cabinet in 2013.¹⁹

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.²⁰ Other reports say that Kiir-aligned Dinka elements of the Presidential Guard tried to disarm the Machar-aligned Nuer elements.²¹

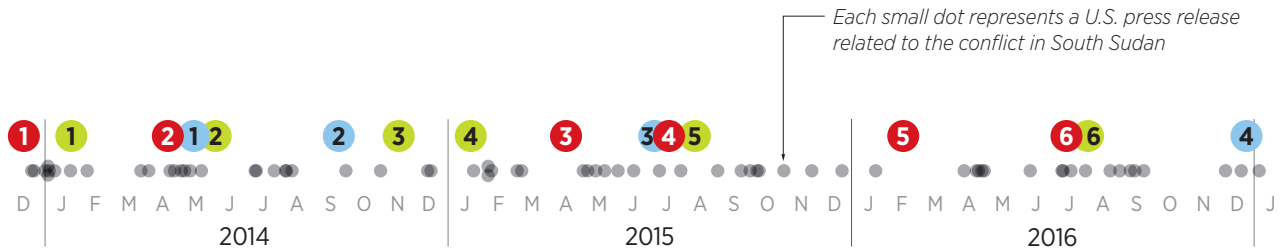
Machar escaped and formed the Sudan People's Liberation Movement/Army-In Opposition (SPLM/A-IO). The fighting rapidly spread throughout Juba—where Dinka fighters went door to door executing Nuer civilians²²—and eventually to seven of South Sudan's ten states,²³ though the heaviest fighting was in the opposition-stronghold northern states of Jonglei, Unity, and Upper Nile.²⁴ Neither side gained a decisive advantage, and both routinely committed atrocities, including ethnic-based killings, mass rape, kidnappings, and forced cannibalization.²⁵ As

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15. 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).
 16. 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).
 17. Alex DeWaal, "South Sudan's Corrupt Elite Have Driven a Debt Free and Oil Rich Country to Ruin," World Peace Foundation, July 15, 2016, <https://sites.tufts.edu/reinventingpeace/2016/07/15/conflict-south-sudans-corrupt-elite-have-driven-a-debt-free-and-oil-rich-country-to-ruin/> (accessed March 3, 2017).
 18. "Conflicts in South Sudan," Enough Project, October 1, 2014, <http://www.enoughproject.org/conflicts/sudans/conflicts-south-sudan> (accessed March 3, 2017).
 19. UNICEF, "South Sudan Sitrep," No. 116-20, December 2013, https://www.unicef.org/appeals/files/UNICEF_South_Sudan_Sitrep1_20Dec2013.pdf (accessed March 3, 2017).
 20. 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 Gauvette, "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).
 21. 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).
 22. Ibid.
 23. UNMISS, "United Nations Mission in South Sudan: Background," <http://unmiss.unmissions.org/background> (accessed February 22, 2017).
 24. "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).
 25. 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).
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FIGURE 1

The U.S.'s Tepid Response to South Sudan

Since 2013, the primary U.S. response to the fighting in South Sudan has been to issue statements—roughly 80, not including joint statements. The combatants officially committed to peace on at least 11 occasions, only to violate their commitments almost immediately.



SELECTED PEACE COMMITMENTS

- 1 January 23, 2014—Cessation of Hostilities signed
- 2 May 9, 2014—Agreement to Resolve the Crisis in South Sudan signed
- 3 November 9, 2014—Re-Dedication of, and Implementation Modalities for, the Cessation of Hostilities Agreement signed
- 4 January 21, 2015—Agreement on the Reunification of the SPLM signed
- 5 August 17-26, 2015—Agreement on the Resolution of the Conflict in the Republic of South Sudan signed
- 6 July 11, 2016—Ceasefire declared

MAJOR ATTACKS OR BATTLES

- 1 December 19, 2013—Nuer youth militia attacks U.N. base in Akobo
- 2 April 15-17, 2014—Opposition forces massacre non-Nuer civilians in Bentiu; mob attacks Nuer sheltering in U.N. POC* site in Bor
- 3 April 2015—Government and allied forces launch brutal Unity State offensive, forcing 100,000 civilians to flee
- 4 July 1, 2015—Opposition forces attack U.N. base in Malakal
- 5 February 17, 2016—SPLA participate in attack on U.N. POC site in Malakal
- 6 July 2016—Violence resumes in Juba; SPLA elements attack a U.S. diplomatic convoy and Westerners at the Terrain Hotel compound

CHIEF U.S. RESPONSES

- 1 May 6, 2014—U.S. sanctions Marial Chanuong and Peter Gadet
- 2 September 18, 2014—U.S. sanctions James Koang Chuol and Santino Deng Wol
- 3 July 2, 2015—U.S. sanctions Simon Gatwech Dual and Gabriel Jok Riak
- 4 December 23, 2016—U.S. backs resolution at the U.N. to impose an arms embargo and sanctions on South Sudanese leaders; the resolution fails

* Protection of Civilians

SOURCE: Heritage Foundation research.

many as 20,000 Nuer may have been killed in the first three days of violence alone.²⁶

The fighting was largely uninterrupted by the various cease-fires that the international com-

munity 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

26. Scroggins, *Emma's War*, p. 114.

MAP 1

Sudanese Region



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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 coun-

try,²⁷ yet it still had little deterrent effect and repeatedly failed to protect civilians as it had been charged to do.

In August 2015, again under intense international pressure, the two sides agreed to form a transitional government²⁸ 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

27. 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."

28. 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).

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.²⁹

During this round of violence, the Presidential Guard that answers directly to Kiir³⁰ attacked Westerners and Americans specifically. In July 2016, the Presidential Guard fired as many as 100 rounds at a convoy of armored vehicles sporting American flags and bearing, among others, the U.S.'s second-highest-ranking diplomat in South Sudan. The diplomats were eventually rescued by a U.S. Marine Corps rapid response team guarding the embassy.³¹

Four days later, 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,³² the soldiers sought out Americans, beating those they found. They gang-raped several Western women, and murdered a South Sudanese journalist.³³ After almost four hours, other elements of the South Sudanese security forces entered the compound and rescued some of the hostages.³⁴ Three foreign women who could not be immediately found were left for the remainder

of the night, and were rescued the next morning by a private security team sent by a nongovernmental organization.³⁵

The Presidential Guard that answers directly to President Kiir specifically attacked Westerners and Americans. In 2016, it aimed heavy fire at a convoy of armored vehicles sporting American flags and carrying America's second-highest-ranking diplomat in South Sudan.

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.³⁶ Some Nuer remain loyal to Kiir,³⁷ but many high-ranking Nuer soldiers and officers joined Machar.³⁸ 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.³⁹

29. 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).

30. 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).

31. 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).

32. 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).

33. 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).

34. 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).

35. 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).

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

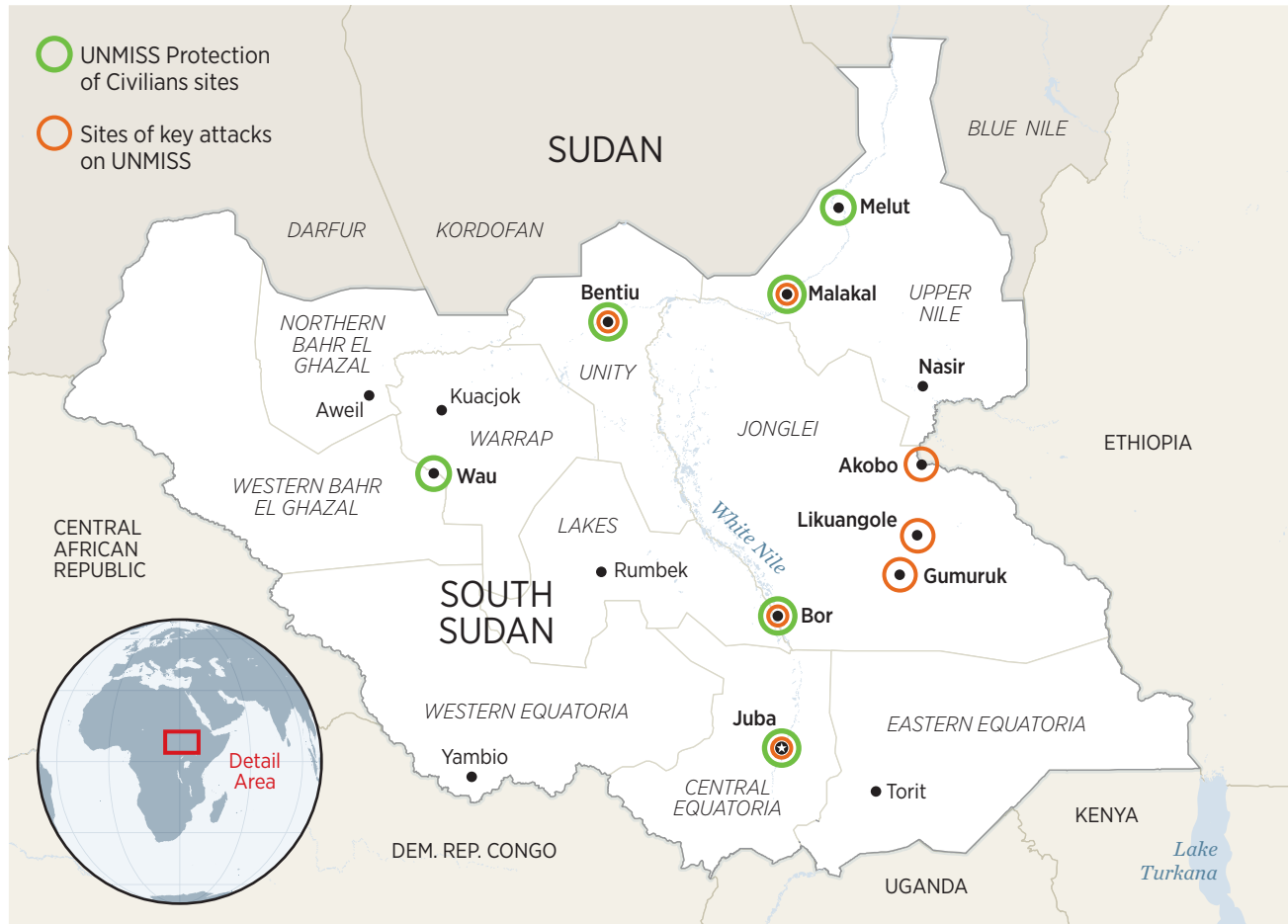
37. "Kiir Promises to Retain Loyal Nuer in Transitional Govt," Radio Tamazuj, October 28, 2014, <https://radiotamazuj.org/en/article/kiir-promises-retain-loyal-nuer-transitional-govt> (accessed March 6, 2017).

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

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

MAP 2

UNMISS in South Sudan



SOURCE: Heritage Foundation research.

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The chaos has driven the country into even deeper misery. The fighting has spread south into the equatorial region around Juba.⁴⁰ As of March 31, 2017, more than 1.7 million South Sudanese had fled to neighboring countries, while another 1.9 million were internally displaced.⁴¹ Oil production has

dropped to 130,000 barrels a day from 500,000 at its peak. Inflation is approaching 700 percent.⁴² Famine is affecting more than 100,000 South Sudanese, with another million in imminent danger of suffering famine conditions.⁴³

40. "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."

41. United Nations Refugee Agency, "South Sudan Situation Regional Emergency Update," March 15–31, 2017, <http://data.unhcr.org/SouthSudan/regional.php> (accessed April 21, 2017).

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

43. "Famine Declared for More than 100,000 in South Sudan; 1 Million on the Brink of Starvation," *Los Angeles Times*, February 21, 2017, <http://www.latimes.com/world/africa/la-fg-famine-declared-in-south-sudan-20170221-htmlstory.html> (accessed February 22, 2017).

The ethnic antagonism enmeshed in the political and ideological disputes has become an increasingly prominent driver of the fighting. 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 on the scale of the 1994 Rwandan slaughter that claimed 800,000 lives.⁴⁴ Ethnic hate speech is on the rise as well,⁴⁵ and refugees fleeing the violence tell stories of ethnically based killing by all sides of the conflict.⁴⁶

U.S. Interests in the Region

South Sudan is a destitute, landlocked country that has no major exports to the United States, nor does it present a security threat to the U.S. homeland. The U.S. does, however, have the following national interests in the country:

- The South Sudanese armed forces targeted Americans for physical abuse and tried to kill senior representatives of the U.S. government. There is an obvious risk to Americans abroad for whose security the U.S. government is responsible to have a country or armed group believe it can attack Americans with impunity.
- From fiscal year 2011 to fiscal year 2016, the U.S. gave South Sudan \$2.7 billion in aid money.⁴⁷ That scale of investment gives the United States a stake in the country's future, and a responsibility to do all it reasonably can to ensure the money is not wasted.
- The U.S. was an avid proponent of South Sudanese independence⁴⁸ and is the leading donor to

the new country.⁴⁹ The country's success or failure now reflects in some measure on the United States.

- The U.S. has been closely involved with the negotiations to bring peace to South Sudan. It has tried to pressure the warring parties in a variety of ways, yet has failed to make any significant difference. The U.S. looks increasingly impotent to any country watching the negotiations.
- The United States gains some of its moral authority from its reputation as a humane actor, and that authority is part of the influence tools it uses in foreign policy. Humanitarian catastrophes, particularly in countries like South Sudan where the United States has been heavily invested, can hurt the U.S.'s reputation in Africa and beyond. As the world's only superpower, the United States may receive disproportionate blame if South Sudan descends into outright catastrophe.
- The war is destabilizing a fragile region that includes American allies. Opposing South Sudanese forces have already clashed in the Democratic Republic of Congo,⁵⁰ and refugees are spilling out of South Sudan into neighboring countries that have limited capacity to deal with a large-scale humanitarian crisis.

A Failed U.S. Policy. U.S. policy in South Sudan has failed to protect those American interests. IGAD, the regional body involved in negotiating the 2005 CPA, has led the negotiations with the South Sudanese government and opposition. American policy

44. Dan Joseph, "UN: Ethnic Cleansing Under Way in South Sudan," Voice of America, December 1, 2016, <http://www.voanews.com/a/un-ethnic-cleansing-south-sudan/3618985.html> (accessed March 9, 2017).

45. 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).

46. 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).

47. U.S. Agency for International Development, "U.S. Foreign Aid by Country: South Sudan," https://explorer.usaid.gov/cd/SSD?measure=Disbursements&fiscal_year=2016 (accessed February 22, 2017).

48. Rebecca Hamilton, "U.S. Played Key Role in South Sudan's Long Journey to Independence," *The Atlantic*, July 9, 2011, <http://www.theatlantic.com/international/archive/2011/07/us-played-key-role-in-southern-sudans-long-journey-to-independence/241660/> (accessed March 7, 2017).

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

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

has been to diplomatically and financially support IGAD during the process. Yet the various agreements that IGAD and the rest of the international community have arm-twisted the sides into signing were all broken almost immediately.

The U.S. response to South Sudan's repeated scorning of America's (tepid) threats and warnings has been more tepidness.

Since the opening days of the conflict, some of the U.S.'s most senior officials—including Secretary of State John Kerry, National Security Advisor Susan Rice, and Assistant Secretary of State for African Affairs Linda Thomas-Greenfield⁵¹—have engaged with the South Sudanese in an attempt to bring peace. Part of the engagement has been 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 threats about the consequences of not doing so.⁵² Yet the U.S. response to the repeated scorning of its threats and warnings has been tepid and inconsistent, and likely reaffirmed the South Sudanese elites' belief that there is little to personally fear for their behavior. The U.S. did suspend direct military assistance to the SPLA after the war

broke out in December 2013,⁵³ and later sanctioned six military leaders from both sides of the conflict. But these paltry measures had little impact on the regime.

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. However, the motion that also included an arms embargo—which the U.S. had threatened for more than two years—failed, to the delight of the South Sudanese government.⁵⁴

Furthermore, in August 2014, the U.S. invited Salva Kiir to the U.S.-Africa Leaders Summit in Washington, DC, where he was received by President Barack Obama.⁵⁵ In the same press conference in August 2015, in which he warned the South Sudanese of consequences for further bad behavior, Secretary Kerry announced \$138 million in further American humanitarian aid.⁵⁶ 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.⁵⁷

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.⁵⁸ In February 2016, uniformed SPLA soldiers participated in the slaugh-

51. Linda Thomas-Greenfield, "South Sudan's Broken Promises," testimony before the Committee on Foreign Affairs, U.S. House of Representatives, January 15, 2014, <http://docs.house.gov/meetings/FA/FA00/20140115/101645/HHRG-113-FA00-Wstate-Thomas-GreenfieldL-20140115.pdf> (accessed March 7, 2017).

52. 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=obamawhitehouse&dc=3879&page=1&query=%22south+sudan%22> (accessed March 7, 2017).

53. 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).

54. 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).

55. 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).

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

57. Ibid.

58. "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).

Empty Warnings

Less than a week after South Sudan's violence began in December 2013, President Obama released a statement warning that “[a]ny effort to seize power through the use of military force will result in the end of longstanding support from the United States and the international community.”^{*} Ten days later, the White House issued a statement vowing that “[t]he United States will deny support and work to apply international pressure to any elements that use force to seize power. At the same time, we will hold leaders responsible for the conduct of their forces and work to ensure accountability for atrocities and war crimes.... It is vital that...there be accountability for those who fail to heed these calls.”[†] In the same statement, the White House began what has become a tradition of calling for unfettered humanitarian access and for the armed groups to stop impeding UNMISS. Between December 2013 and January 2017, the State Department and White House issued at least 35 such appeals.[‡]

In May 2014, Secretary of State John Kerry said during a visit to Juba that if the leadership did not implement steps toward peace, “the global community will then make moves in order to have accountability.... [T]here will be accountability in the days ahead where it is appropriate.” He also said the U.S. was prepared to impose sanctions “in short order...against those who target innocent people, who wage a campaign of ethnic violence, or who disrupt the delivery of humanitarian assistance.”[§]

In October 2014, the U.S. Special Envoy for Sudan and South Sudan testified before Congress to the need to increase pressure and “act decisively” if the most recent iteration of the IGAD-led talks did not bring a solution.^{||} In December 2014, Secretary Kerry and National Security Advisor Susan Rice wrote in a joint op-ed that the U.S. would ratchet up the pressure on South Sudan's leaders, and that those behind the violence would face “greater consequences.”[#] In a press conference in August 2015, Secretary of State Kerry warned the South Sudanese leadership that the U.S. might cut off assistance if atrocities continued.^{**} In September 2016, the Special Envoy for Sudan and South Sudan warned the government about obstructing the proposed Regional Protection Force and UNMISS operations.^{††}

* News release, “Readout of President Obama’s Updates on South Sudan,” The White House, December 21, 2013, <https://obamawhitehouse.archives.gov/the-press-office/2013/12/21/readout-president-obamas-updates-south-sudan> (accessed March 7, 2017).

† News release, “Statement by NSC Spokesperson Caitlin Hayden on South Sudan,” The White House, December 31, 2013, <https://obamawhitehouse.archives.gov/the-press-office/2013/12/31/statement-nsc-spokesperson-caitlin-hayden-south-sudan> (accessed March 8, 2017).

‡ 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,” The (Obama) White House, <https://search.archives.gov/search/docs?affiliate=obamawhitehouse&dc=3879&page=1&query=%22south+sudan%22> (accessed March 7, 2017).

§ “Press Availability by US Secretary Of State John Kerry in Juba, South Sudan,” remarks by John Kerry, Nyamilepedia, May 2, 2014, <http://nyamile.com/reports-and-analysis/press-availability-by-us-secretary-of-state-john-kerry-in-juba-south-sudan/> (accessed March 6, 2017).

|| 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).

John F. Kerry and Susan E. Rice, “John Kerry and Susan Rice: South Sudan’s Leaders Need to Set Aside Dispute,” *The Washington Post*, December 15, 2014, https://www.washingtonpost.com/opinions/john-kerry-and-susan-rice-south-sudans-leaders-need-to-set-aside-their-dispute/2014/12/15/0c85e056-847c-11e4-b9b7-b8632ae73d25_story.html (accessed March 6, 2017).

** 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).

†† Donald Booth, “The Growing Crisis in South Sudan,” testimony before the Subcommittee on Africa, Global Health, Global Human Rights, and International Organizations, Committee on Foreign Affairs, U.S. House of Representatives, September 7, 2016, <http://docs.house.gov/meetings/FA/FA16/20160907/105266/HHRG-114-FA16-Wstate-BoothD-20160907.pdf> (accessed March 6, 2017).

ter 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.⁵⁹ 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 punish such provocations to rally the international community for substantive action against the South Sudanese regime.

South Sudanese leaders' long history of breached agreements suggests they are determined to use violence to achieve their goals, and are cynically manipulating peace talks for their own ends.

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, including the shooting down of two U.N. helicopters.⁶⁰ The U.S.-backed U.N. motion

extending sanctions and imposing an arms embargo failed because nine countries abstained.⁶¹ The government frequently impedes UNMISS movements despite its U.N. authorization to move freely,⁶² and for months resisted a U.N.-authorized Regional Protection Force before acquiescing. It reneged after the arms embargo failed at the U.N.⁶³

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.⁶⁴ Their other behavior demonstrates their disinterest in peace as well: The forces under their control habitually commit war crimes, including torturing and killing civilians and forcibly recruiting child soldiers.⁶⁵ An African Union Commission report found that the breadth and systematic nature of the atrocities carried out by government forces suggested they were part of state policy.⁶⁶

The government is increasingly engaging in overtly ethnic policies as well. In December 2015, Kiir divided the country's 10 states into what the opposition claims are 28 ethnically based states, and which

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59. 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).
60. 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).
61. Lynch, "U.S. Push to Halt Genocide in South Sudan Unravels at United Nations."
62. 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).
63. "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).
64. 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).
65. 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."
66. African Union, "Final Report of the African Union Commission of Inquiry on South Sudan."
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the U.S. government characterized as privileging the Dinka.⁶⁷ In at least one of the new states, the government then fired all non-Dinka civil servants.⁶⁸ Kiir has also allegedly trained, on his personal ranch, a Dinka youth militia known as the Mathiang Anyoor, which was purportedly behind many of the Juba killings in December 2013.⁶⁹ Government and opposition forces frequently massacred civilians because of their ethnicity.

Both sides victimize civilians in other ways. Between December 2013 and October 2016, South Sudanese armed groups killed at least 67 aid workers, and on hundreds of occasions assaulted and intimidated others.⁷⁰ They frequently block humanitarian convoys and loot supplies from aid groups and civic organizations, such as hospitals and schools.⁷¹ 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.⁷²

The corruption among the elites is extreme. Kiir and various relatives—including his then-12-year-old son—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.⁷³ The family has a mansion in Kenya, and it is rumored that Kiir owns tens of thousands of cows worth millions of dollars.⁷⁴ He at times supposedly grazes them on a massive ranch outside Juba he built in the midst of the war that includes more than a dozen houses, an airstrip, and a helipad.⁷⁵

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.⁷⁶ Reliable data from the war-torn country is scant, but the living standards of most South Sudanese have not improved, and have likely deteriorated since independence. Meanwhile, the government paid lobbyists and PR firms more than \$2 million dollars in 2014 and 2015 alone to rehabilitate its image in Washington, DC.⁷⁷

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67. Donald Booth, "The Growing Crisis in South Sudan," testimony before the Subcommittee on Africa, Global Health, Global Human Rights, and International Organizations, Committee on Foreign Affairs, U.S. House of Representatives, September 7, 2016, <http://docs.house.gov/meetings/FA/FA16/20160907/105266/HHRG-114-FA16-Wstate-BoothD-20160907.pdf> (accessed March 6, 2017).
 68. "MPs Criticize 'Divisive Purges' in Upper Nile Civil Service," Radio Tamazuj, March 1, 2016, <https://radiotamazuj.org/en/article/mps-criticize-divisive-purges-upper-nile-civil-service> (accessed March 7, 2017).
 69. "Generals Say Juba Massacres Done by Private Militia, Not SPLA," Radio Tamazuj, March 9, 2015, <https://radiotamazuj.org/en/article/generals-say-juba-massacres-done-private-militia-not-spla> (accessed March 7, 2017), and "Timeline: Formation of the Mathiang Anyoor in South Sudan," Radio Tamazuj, March 9, 2016, <https://radiotamazuj.org/en/article/timeline-formation-%E2%80%99mathiang-anyoor%E2%80%99-south-sudan> (accessed March 7, 2017).
 70. 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/resources/1601020_OCHA_SouthSudan_humanitarian_bulletin16.pdf (accessed February 22, 2017).
 71. 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).
 72. 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."
 73. "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).
 74. 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-in-south-sudan-and-how-they-can-consolidate-the-peace#.WHZNS1MrJpg> (accessed March 7, 2017).
 75. "War Crimes Shouldn't Pay, Stopping the Looting and Destruction in South Sudan," *The Sentry*.
 76. "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/tabandenggai-says-current-government-is-a-hand-to-mouth-system-that-is-not-providing-any-services/> (accessed March 7, 2017).
 77. Erin Quinn, "Rape Murder, Famine, and \$2.1 Million for K Street PR," The Center for Public Integrity, July 14, 2016, <https://www.publicintegrity.org/2016/07/14/19930/rape-murder-famine-and-21-million-k-street-pr> (accessed March 7, 2017).

The government has also abandoned the rule of law and respect for individual rights. It jailed an unknown number of political prisoners in the notorious Blue House prison, where they suffer extreme deprivation and torture. The Committee to Protect Journalists ranks South Sudan as the fifth-worst country in the world for journalists being murdered with impunity.⁷⁸

Kiir and other senior government officials for years have whipped up anti-U.S. and anti-U.N. anger in the country with incendiary claims that the West favors Machar and wants to steal South Sudanese resources.⁷⁹ It is in this context that the South Sudanese armed forces attacked the American diplomatic convoy and the Terrain Hotel compound.

Finally, Machar and Kiir likely do not have full authority over their forces. Both appealed to their troops to stop fighting during the Juba violence in July, but were ignored for several days.⁸⁰ Opposition forces in particular have a range of motivations and loyalties.⁸¹ If Kiir and Machar cannot control their men, there is little reason to believe they can deliver peace to the country.

The Difficult Geopolitical Context

There are also other geopolitical realities that complicate efforts to bring peace to South Sudan. Many of the neighboring states 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.⁸²

A broader unified international response will be challenging as well. China has extensive investments in South Sudan that it wants to protect,⁸³ and is generally wary of American foreign policy goals, as is Russia. Both have veto power on the U.N. Security Council. 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, assembling and deploying the military force necessary to stop the violence would be onerous. South Sudan is nearly the size of Texas, and there is a collage of armed groups scattered throughout the country. An aggressive force would probably clash with the SPLA as the government is unlikely to green-light a robust intervention since the SPLA is one of the primary perpetrators of the violence. The government has already reneged on its agreement to allow additional peacekeepers into the country,⁸⁴ a promise it made only under heavy pressure.

It is also unclear where qualified troops would come from. 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. Troops from neighboring countries might undermine the mission by pursuing their own country's interests inside South Sudan. Uganda, Ethiopia, and Kenya are also already heavily engaged in Somalia, and in November 2015, Kenya temporarily withdrew its more than 1,000 troops in UNMISS in displeasure over the Kenyan UNMISS commander being fired for incompetence.⁸⁵

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78. 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).
 79. Lynch, "Dinner, Drinks, and a Near Fatal Ambush for U.S. Diplomats," and Tanza, "South Sudan President Kiir in Washington for US-Africa Leaders Summit."
 80. "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).
 81. United Nations, "Interim Report of the Panel of Experts on South Sudan Established Pursuant to Security Council Resolution 2206 (2015)."
 82. 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).
 83. "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).
 84. "South Sudan Rejects More UN Peacekeepers," South Sudan News Agency.
 85. In exchange for a Kenyan leading another peacekeeping mission in Darfur, Sudan, Kenya agreed to return its troops to UNMISS. Andrew Wasike, "Kenya to Return Peacekeeping Force to South Sudan," Anadolu Agency, January 29, 2017, <http://aa.com.tr/en/africa/kenya-to-return-peacekeeping-force-to-south-sudan/737316> (accessed March 7, 2017).
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An UNMISS Snapshot

The United Nations Mission in South Sudan (UNMISS) is the successor to the U.N. Mission in Sudan that supported the implementation of the CPA from its signing in 2005 to South Sudanese independence in 2011.^{*} UNMISS was originally mandated to help the South Sudanese government implement peacebuilding activities, such as conflict prevention, protecting civilians, and establishing the rule of law. As the war that began in December 2013 worsened, the Security Council refocused UNMISS's mandate from peacebuilding to protecting civilians and humanitarian aid delivery, investigating human rights violations, and supporting the implementation of the peace agreement.[†]

In tandem with refocusing the mandate, the Security Council voted twice to increase the number of police and troops in UNMISS. The ceiling is currently 17,000 troops, which includes an as-yet-undeployed 4,000-strong Regional Protection Force that would report to the UNMISS force commander, but be specifically tasked with securing Juba and facilitating the implementation of the peace agreement.[‡]

As of November 30, 2016, 60 countries were participating in UNMISS. India was providing the most personnel with 2,290, while Rwanda was second with 1,848 personnel. Forty-seven UNMISS peacekeepers have died while serving, with India suffering the greatest toll with 10 dead peacekeepers. Russia is second with seven fatalities.[§]

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

† UNMISS, "United Nations Mission in South Sudan: Mandate," <https://unmiss.unmissions.org/mandate> (accessed February 17, 2017).

‡ Ibid.

§ United Nations Peacekeeping, "Fatalities by Mission and Nationality," up to November 30, 2016, https://www.un.org/en/peacekeeping/fatalities/documents/stats_2nov.pdf (accessed February 22, 2017).

A larger UNMISS would not be able to subdue the armed groups in South Sudan—even with a new mandate covering such activities—given how badly flawed the mission is. In February 2016, the approximately 1,200 peacekeepers guarding a Protection of Civilians site in Malakal in Upper Nile state took more than 12 hours to react to violence that broke out on the compound.⁸⁶ More than a third of the housing for internally displaced people (IDPs) was burnt,

and as many as 65 IDPs were killed, and approximately 100 wounded.⁸⁷ Reports from Juba chronicled peacekeepers failing to protect dozens of Nuer IDPs who were raped near a U.N. base by SPLA soldiers,⁸⁸ and Chinese peacekeepers twice abandoned some of their posts around a civilian-protection site during the Juba fighting in July 2016.⁸⁹ On two occasions, UNMISS forces in Bentiu in Unity state even gave weapons surrendered by SPLA soldiers to an

86. 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).

87. 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).

88. 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).

89. United Nations, "Executive Summary of the Independent Special Investigation into the Violence Which Occurred in Juba in 2016 and UNMISS Response."

opposition general, James Koang.⁹⁰ Koang was later sanctioned by the U.S. and U.N. for the atrocities his troops committed.⁹¹

The inadequacies of U.S. policy have likely drained whatever influence and credibility the U.S. once had with the South Sudanese leadership. Even if conditions were right for a lasting peace, the U.S. now lacks the credibility to deliver it.

During the July 2016 attack on the Terrain Hotel compound, the hostages made repeated pleas for rescue to the U.N. headquarters next door to the hotel and to the U.S. and other embassies. UNMISS never sent a force, despite being only several minutes away.

UNMISS's failures are due primarily to its timidity and incompetence. U.N. investigations show that UNMISS made the same mistakes during attacks on civilians in Juba in July 2016 as it did during the Malakal massacre five months before. The U.N. also detailed a host of UNMISS failings during its non-response to the Terrain Hotel attack, including poor leadership at the highest levels and a lack of coordination within the civilian and military components of the mission.⁹²

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 ceasefire 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.⁹³ The increasingly prominent ethnic component to the fighting means it is increasingly existential as well, hardening combatants' determination to fight.

Because the IGAD process relies on good faith negotiations, it cannot succeed in the current environment. The only way to move the leadership now is through coercion, which requires a determined and unified international community, or a country or small group of countries willing to undertake that burden.

Furthermore, the inadequacies of American policy have likely drained away whatever influence and credibility the U.S. may have once had with the South Sudanese leadership. Even if the conditions were right for a lasting peace, the U.S. now lacks the credibility to deliver it.

Continuing with a failed policy doomed to further failure has costs for the United States and the people of South Sudan. It will weaken the efficacy of future negotiations when the atmosphere is conducive to meaningful talks, gives the chief purveyors of the violence the cover of meaningless dialogs, and frustrates American interests in the country.

90. Joshua Craze and Jerome Tubiana with Claudio Gramizzi, "A State of Disunity: Conflict Dynamics in Unity State, South Sudan, 2013-15," Small Arms Survey *HSBA Working Paper* No. 42, December 2016, <http://www.smallarmssurveysudan.org/fileadmin/docs/working-papers/HSBA-WP42-Unity-Dec-2016.pdf> (accessed March 7, 2017).

91. News release, "Treasury Targets Individuals Responsible for Attacks on Civilians and Ceasefire Violations in South Sudan," U.S. Department of the Treasury, September 18, 2014, <https://www.treasury.gov/press-center/press-releases/Pages/jl2639.aspx> (accessed March 7, 2017), and United Nations Security Council, "The List Established and Maintained Pursuant to Security Council Res. 2206," <https://scsanctions.un.org/fop/fop?xml=htdocs/resources/xml/en/consolidated.xml&xslt=htdocs/resources/xsl/en/southsudan.xsl> (accessed February 17, 2017).

92. 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), and United Nations, "Executive Summary of the Independent Special Investigation into the Violence Which Occurred in Juba in 2016 and UNMISS Response."

93. Senior U.S. government officials have explicitly identified the South Sudanese leadership's failures as the reason for the conflict. As just one example, in September 2016 remarks, the Special Envoy to Sudan and South Sudan said: "Well, this conflict that South Sudan has been enduring since December of 2013 is a manmade conflict. It's a manmade humanitarian disaster. And it has to do with the leadership struggle within the dominant political organization, the SPLM.... [W]e call on all of the leaders of South Sudan to put the interests of their people first and to focus on building their country, rather than trying to decide who gets a bigger piece of the pie. They really need to put aside personal differences, personal ambitions, and focus on the interests of the people." 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).

It is time for a new approach that has a better chance of ending the violence than continuing with, or marginally enhancing, a failed process. 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 pursuing a meaningful agreement, something 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 be the primary bearers of the burden of South Sudan if they do not participate. It could lend urgency and purpose to their efforts.

Demanding accountability by disengaging from those causing the violence is not abandoning South Sudan. Cutting off engagement with the violent leadership has the best chance of ending the conflict in the shortest amount of time.

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 (1) punish the South Sudanese regime for attacking Americans, and (2) 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 build a painful regime unilaterally if necessary, as virtually all international bank transfers pass through American banks to be converted into dollars, making those transactions subject to U.S. law.

- **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.⁹⁴ 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.⁹⁵
- **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 those countries that do not participate 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, and so 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.⁹⁶
- **Outline a path to re-engagement based on measurable benchmarks of progress.** Benchmarks should include concrete steps demonstrating 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 spontaneously re-engage with diplomacy. The new context could include the rise of new 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

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

95. 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/africa/teodoro-nguema-obiang-mangué-guinea-looting-trial.html?_r=1 (accessed March 7, 2017).

96. 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 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).

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 those perpetrating violence. 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.
- **Officially investigate South Sudanese corruption.** Private organizations have already exposed some of the South Sudanese leadership's 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.** 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.⁹⁷ 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.⁹⁸ 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.** More

97. Scroggins, *Emma's War*, 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).

98. 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-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).

than 1 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 unclassified version of the report should be publicly released.

None of these recommendations is a silver bullet. Many of them have flaws, loopholes, and workarounds. 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, leached 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.

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