

# IMMEDIATE RISK OF MASS ATROCITIES IN SOUTH SUDAN

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Cover: Civilians in Kajo Keji fleeing with their belongings toward Uganda. *Jason Patinkin for US Holocaust Memorial Museum.*

## Key Points

- South Sudanese civilians face a risk of mass atrocities from government forces, armed militia, and opposition groups as political instability at the national level increases
- Impunity has fostered a culture in which the commission of mass atrocity crimes is normalized
- In the leadup to the 2023 elections, President Salva Kiir could lead violent crackdowns on organized gatherings in an effort to silence opposition
- If government and opposition forces continue to unify into a single army, infighting could spill over into violence against and among civilian groups.

*The Simon-Skjoldt Center focuses on situations where there is a risk of, or ongoing, genocide and related crimes against humanity. The Center primarily works on large-scale, group-targeted, identity-based mass atrocities. Mass atrocities are large-scale, systematic attacks against civilian populations.*



## INTRODUCTION

South Sudan is the world's youngest country and home to roughly 11 million people from over 60 ethnic groups.<sup>1</sup> A civil war erupted in 2013, just two years after the country gained independence. Over 380,000 people have died,<sup>2</sup> and over four million people have been displaced in the conflict, which has created the largest refugee crisis in Africa.<sup>3</sup> Despite having brokered a peace deal in 2018, conflict continues, particularly at the sub-national level. Civilians across the country are at serious risk of future mass atrocities, and those in Upper Nile, Jonglei and Greater Pibor, the Equatorias, and Warrap and Lakes states are at a particularly acute risk. As the country prepares for its first elections in over ten years and as international attention is focused on other crises in the region, South Sudan is at a pivotal moment in which the situation could rapidly devolve. The time for the international community to act to prevent future atrocities is now.

## BACKGROUND TO THE CURRENT CONFLICT

In July 2011, South Sudan became independent from Sudan after decades of brutal civil war in which nearly two million people were killed.<sup>4</sup> Two years after independence, a political crisis erupted into a large-scale civil conflict that took on an ethnic tone, as supporters of President Kiir (the majority of whom belong to the Dinka ethnic group) battled forces loyal to Vice President Riek Machar (the majority of whom belong to the Nuer ethnic group). The conflict quickly spread throughout the country and civilians were targeted, often on the basis of their ethnicity or perceived political affiliation.

In August 2015, the regional Intergovernmental Authority on Development (IGAD) brokered a power-sharing agreement between the country's ruling party—the Sudan People's Liberation Movement (SPLM)—and other parties to the conflict, including the country's largest opposition group—the Sudan People's Liberation Movement In Opposition (SPLM-IO (RM)).<sup>5</sup> However, the agreement fell apart in 2016 and parties to the conflict began killing, raping, and committing violence against civilians on the basis of their ethnicity or perceived political affiliation. In November 2016, the United Nations (UN) Special Adviser on the Prevention of Genocide warned that the situation could evolve into a genocide.<sup>6</sup> Conflict spread again, particularly in Western Bahr-el-Ghazal, Western Equatoria state, and Central Equatoria state, and included many other ethnic groups.

In September 2018, parties to the conflict signed the Revitalized Agreement on the Resolution of the Conflict in South Sudan (R-ARCSS),<sup>7</sup> but conflict and deliberate attacks on civilians continued. Backed by the country's national army (the South Sudan People's Defense Force (SSPDF)) and the government's security force (the National Security Service (NSS)), President Kiir stoked conflict among and committed atrocities against civilians, particularly in periods where opposition leaders threatened his power. Opposition forces, including the Sudan People's Liberation Army In Opposition (SPLA-IO), and other rebel groups also committed atrocities against civilians.

In February 2020, the Revitalized Transitional Government of National Unity (R-TGoNU) formed under substantial external pressure,<sup>8</sup> but implementation of the peace agreement has since stalled, progress on establishing the new government has slowed, and local-level conflict has continued. Parties to the conflict have not reconciled despite the formation of the transitional government and local governance arrangements have replicated national-level political and security contests at the state and local levels. Meanwhile, in August 2021, the SPLM-IO split into two factions, the newest of which has now joined the SPLM.<sup>9</sup> Furthermore, in late 2021, the UN reported that “over the past two years, more than \$73 million USD was diverted” from government coffers and resources to fund “unaccountable patronage systems” and weapons, and observed that these corrupt practices continue to fund violence.<sup>10</sup>

## ONGOING MASS ATROCITIES

Since the 2018 peace agreement, conflict at the national level has subsided but parties to the conflict continue to target and kill civilians.<sup>11</sup> In December 2021, the UN Mission in South Sudan (UNMISS) reported that over 800 civilians had been killed, abducted, injured, or subjected to conflict-related sexual violence over the course of three months in 2021.<sup>12</sup>

There are a number of areas of concern throughout the country. Most notably, attacks between ethnically-aligned militia from Murle, Dinka, and Lou Nuer groups have displaced tens of thousands of civilians in Jonglei from those same communities and left approximately 1,000 people dead or wounded.<sup>13</sup> Between June and October 2021, 240 people were killed and over 80,000 people were displaced by fighting in Tambura, Western Equatoria state.<sup>14</sup> These attacks show no signs of abating: there are no effective local dispute resolution mechanisms to resolve core grievances and government

and opposition forces are supporting and fueling this conflict.

South Sudan was ranked the 16th highest risk country for experiencing a new mass killing in 2021 or 2022, according to the Early Warning Project, and has ranked at least that high every year since 2014 (the first year of the rankings).<sup>15</sup> This ranking almost certainly understates the risks to South Sudanese civilians since it reflects only the possibility of a *new* mass killing, not the likelihood that ongoing mass atrocities could continue or escalate.<sup>16</sup>

## FACTORS DRIVING ONGOING MASS ATROCITIES

Crimes against humanity and war crimes—including murder, rape, torture, abduction, arbitrary detention, displacement, and deliberate starvation, among many other crimes—have been committed against South Sudanese men, women, and children for over a century. Multiple factors drive these ongoing mass atrocities.<sup>17</sup>

### Armed conflict

The chief driver of mass atrocities against civilians in South Sudan is ongoing armed conflict, particularly at the local level. Since 2013, armed militia and opposition groups have proliferated, often along ethnic lines, as different groups vied for political and economic power. Meanwhile, natural disasters such as flooding have contributed to sub-national conflict over limited resources and land. Parties to the conflict routinely resort to violent attacks against civilians to drive them out of their land to gain access to resources and political power.

### Discrimination, ethnicity, and politics

Since independence, the South Sudanese government has discriminated against members of specific ethnic groups, often due to their perceived political affiliation. Many key security and economic positions in the government are held by members of the Dinka ethnic group. The government has diverted natural resources, blocked food aid, restricted humanitarian access, and taken other steps that have disadvantaged communities in areas controlled by opposition forces.<sup>18</sup>

The targeted groups often belong to specific clans, tribes, and ethnic groups, including the Shilluk, Nuer, Fertit, and Luo communities as well as groups in Yei and Lainya, which have in some cases formed armed rebel and opposition groups. For over a decade, Shilluk peoples in Upper Nile have been attacked, forcibly displaced, and deliberately starved.<sup>19</sup> These attacks—which at times may have constituted ethnic

cleansing<sup>20</sup>—continued at a more limited scale through July and August 2021. Government forces have also targeted Dinka groups, including in Warrap and Lakes states.<sup>21</sup>

### Impunity for mass atrocities

Impunity has fostered a culture in which the commission of mass atrocity crimes is normalized. No government officials or leaders of armed groups have been prosecuted, nor have there been any meaningful steps taken to advance transitional justice.<sup>22</sup> Not only does this leave grievances unresolved, but in the absence of effective punishment there is no deterrence to perpetrators continuing to commit crimes, which leaves potential victims at risk. Moreover, it reinforces the notion that violence works as a tactic to secure political power and silence civilian populations.

## FUTURE MASS ATROCITY RISKS

This section outlines four scenarios that could cause the situation in South Sudan to deteriorate. However, the ongoing occurrence of deliberate attacks on civilians means that a continuation of the status quo, even if none of these scenarios unfold, would represent a continuation of mass atrocities. This demands a concerted international response.

### 2023 Elections

Elections are slated to occur in 2023 for the first time since 2010.<sup>23</sup> If they proceed, mounting dissent within President Kiir’s party could increase his sense of insecurity.<sup>24</sup> The prospect of elections could also prompt civil society and social movements to become more organized and active around issues such as election credibility and freedom of political opposition. This could further influence the threat level (actual or perceived) to the status quo of the Kiir regime. The perceived threat might lead President Kiir and his supporters to attack civilians in the lead up to elections to suppress the vote.<sup>25</sup>

### Fallout from the SPLM-IO split

In August 2021, the SPLM-IO split into two factions: one led by Vice President Machar, the other led by former SPLM-IO Chief of Staff Simon Gatwech. The latter faction has now joined the SPLM.<sup>26</sup> The split has led to infighting between the two factions, which has already escalated to a serious and deadly level.<sup>27</sup> Fragmentation of the opposition could lead to further conflict in which civilians suffer and are targeted; when these alliances form and/or split, violence inevitably occurs against civilians.

### Protests and looting by military personnel

South Sudan is experiencing a catastrophic humanitarian crisis: over six million South Sudanese face food insecurity, more than two million of whom are in a state of emergency.<sup>28</sup> If the humanitarian situation continues to deteriorate, it could prompt military personnel—dozens of whom have reportedly starved to death in cantonment sites<sup>29</sup>—to protest and loot civilian property, leading to a rapid deterioration in the security and humanitarian situations.<sup>30</sup> Such events would likely increase tensions, degrade law and order, and lead to unpredictable violence. There is precedence for this: reports of government forces looting civilian property were a key trigger in the violence that erupted in July 2016 in Juba, which left 300 people dead in a matter of days.

### Unification of government and opposition forces

The R-ARCSS requires government and opposition forces to unify. This process, which international actors have prioritized throughout the peace process, has yet to occur. If forces do unify, longstanding and unresolved conflict between the government and opposition could boil over, leading to infighting within the army in Juba. Similar dynamics led to fighting in 2016 in which dozens of civilians were killed, raped, gang raped, beaten, and harassed, and civilian property was looted,<sup>31</sup> leaving 36,000 civilians displaced in a matter of days and leading to a full-scale resumption of civil war.

## RESPONSE

### United Nations (UN)

In 2011, the UN Security Council (UNSC) established UNMISS with a mandate that includes providing physical protection to civilians, which has since been extended multiple times.<sup>32</sup> The UNSC imposed a sanctions regime in 2015<sup>33</sup> and an arms embargo in 2018,<sup>34</sup> which have since been renewed. In 2016, the UN Human Rights Council established the Commission on Human Rights in South Sudan (CHRSS) to “determine and report the facts and circumstances of, collect and preserve evidence of, and clarify responsibility for alleged gross violations and abuses of human rights and related crimes.”<sup>35</sup> UNMISS and the CHRSS have both published reports confirming that multiple parties to the conflict may have committed crimes against humanity and war crimes since December 15, 2013.<sup>36</sup> Moreover, the CHRSS has a list of names of “persons of interests,” which it has compiled into a sealed dossier and handed over to the UN High Commissioner for Human Rights (OHCHR) for future potential justice processes.

The CHRSS plans to provide its evidence to the Hybrid Court for South Sudan (HCSS) if it is established and has procedures for providing evidence in other cases at the national, regional, or international level.<sup>37</sup>

### African Union (AU)

Shortly after the conflict erupted in 2013, the AU established a Commission of Inquiry in South Sudan (AUCISS) to report on human rights violations and other abuses committed during the conflict in South Sudan. In October 2014, AUCISS found that there was a reasonable basis to conclude that war crimes and crimes against humanity had occurred.<sup>38</sup> On the one hand, the report has made it difficult for the AU to disregard the situation in South Sudan, but on the other, it may have staved off more internationalized responses. Chapter V of the R-ARCSS mandates the AU establish transitional justice mechanisms, including the HCSS, but the AU has failed to take concrete action.<sup>39</sup>

### United States (US)

The United States played a leading role in supporting South Sudanese independence. With the United Kingdom and Norway, the United States coordinates much of its diplomatic efforts as part of ‘The Troika.’ Since 2013, the United States has provided \$4.9 billion in humanitarian assistance to the South Sudanese government and has played an important role in seeking to resolve the war. In 2014, the United States enacted the South Sudanese sanctions program against specific individuals and entities.<sup>40</sup> The following year, the United States pledged \$5 million to set up the HCSS, funding that it withdrew in 2021 due to the lack of progress. In 2020, the US Senate passed Resolution 371, which called on the South Sudanese government to take steps to implement the R-ARCSS,<sup>41</sup> but the situation has been overshadowed by other crises in the region, including in Ethiopia and Sudan. Since July 2020, the United States has had no ambassador in South Sudan and its diplomacy has primarily involved Troika statements of condemnation and encouragement towards parties to the conflict.

### Local-level responses

Despite the absence of national leadership to stem violence and conflict, local communities have convened peace processes such as the Pieri conference in Jonglei and Marial Bai agreements in Western Bahr-el-Ghazal.<sup>42</sup> Mobile and military courts have occasionally prosecuted lower-level perpetrators who lack political protection for conflict-related crimes.<sup>43</sup> For example, a court martial in Yei convicted 26 government soldiers of perpetrating murder, rape, and looting (among other crimes) during a

government-led counter-insurgency operation.<sup>44</sup>

However, despite the value of the justice process in Yei, it did not lead to compensation or acknowledgment of the victims’ pain and suffering and has reportedly left victims “without peace of mind.”<sup>45</sup> Moreover, the CHRSS noted that rape victims were required to publicly identify the perpetrators in court, which put them at risk of reprisal. In at least one instance, a husband of one of the victims was killed.

## POLICY RECOMMENDATIONS

South Sudanese leaders, regional actors, and international allies must take urgent action to prevent further mass atrocities. This section recommends policy options that specific actors can take to prevent mass atrocities and protect civilians.

### FOR ALL PARTIES TO THE CONFLICT

- Stop committing mass atrocities
- Stop funding and providing weapons to local armed militias
- Stop the pattern of arbitrary detention, disappearance, and surveillance of civil society members, including those who are working to document atrocity crimes and promote accountability

### FOR THE SOUTH SUDANESE GOVERNMENT

1. Address conflict-driving grievances
  - Develop a transparent, credible, and timely electoral process to reduce tensions and the risk of violence
  - Hold a credible and inclusive civil society consultation to seek new ways to sustainably address food insecurity and prevent politicians from profiting from the humanitarian assistance economy
2. Promote accountability and redress for past mass atrocities
  - Enact enabling legislation to establish the transitional justice mechanisms under Chapter V of the R-ARCSS to prosecute perpetrators of past mass atrocities and promote redress for victims
  - Hold those who perpetrate crimes against civilians, including aid workers, criminally responsible
  - Support efforts to search for missing persons, including women who were taken during the conflict and who remain in sexual slavery
  - Develop programs to support children born of rape

### FOR THE AU

1. Address conflict-driving grievances
  - Press for inclusive, safe, free, fair, and independent electoral processes and timing, which prioritizes safe participation for all civilians
2. Promote accountability for past mass atrocities
  - Gather and store evidence of crimes for the purpose of supporting future accountability mechanisms, such as the HCSS
  - Demand that the AU and R-TGoNU proceed with the establishment of the HCSS as provided for in the R-ARCSS
3. Improve information on the commission of mass atrocities and their consequences
  - Assess and condemn the increased crackdown on civilians' basic civil and political rights as part of a broader atrocity prevention strategy

### FOR IGAD

1. Address conflict-driving grievances
  - Mediate between the two factions of the SPLM-IO
  - Include both factions of the SPLM-IO in peace negotiations and other non-signatories to the peace agreement

### FOR UNMISS

1. Address conflict-driving grievances
  - Support civil society programming on social cohesion, depolarization, and local dialogue targeting youth to ensure another generation is not further divided
  - Invest in civil society to build civic capacity, democracy, and local governing and organizing capabilities
  - Support efforts to hold perpetrators of mass atrocities accountable
2. Improve information on the commission of mass atrocities and their consequences
  - Assess and condemn the increased crackdown on civilians' basic civil and political rights as part of a broader atrocity prevention strategy
  - Support updating the mortality survey and a new mechanism for tracking violence against civilians

## FOR THE US GOVERNMENT

1. Increase support to processes that address conflict-driving grievances
    - Fund and improve the sustainability of local peace processes and dispute resolution mechanisms, including through subsequent programming that is coordinated with local justice efforts
    - Press for inclusive, safe, free, fair, and independent electoral processes and timing, which prioritizes safe participation for all civilians
  2. Promote accountability for past mass atrocities
    - Support long-term efforts to hold perpetrators of past crimes accountable and to provide justice and redress for victims, including by funding transitional justice mechanisms under Chapter V of the R-ARCSS<sup>46</sup>
    - Impose additional sanctions for key state and non-state actors who participate in human rights violations, including intimidation and targeting of civilians who work to promote justice and accountability<sup>47</sup>
  3. Improve information on the commission of mass atrocities and their consequences
    - Support an update to the mortality statistical findings from 2018
    - Release and update the US Agency for International Development report that traces financial benefits and possible fueling of the war economy and bad actors with humanitarian assistance resources
  4. Increase support to processes that aim to promote security
    - Explore alternatives to the current security sector reform efforts to mitigate threats posed by the unification process called for in the R-ARCSS
    - Improve monitoring and enforcement of the arms embargo, and hold violators accountable
    - Track corruption at the state level that is funding and fueling violence to disrupt the resource flow to perpetrators
  5. Protect civilians from immediate violence
    - Support sub-national peace processes
    - Increase peacebuilding, development, and resilience programming in stable places (rather than exclusively focusing on humanitarian support)
- Increase support for national mechanisms that address conflict-related crimes such as mobile courts, military justice, the sexual and gender-based violence court, and civilian courts
  - Address corruption, which is maintaining the system that allows political elites to fund violence against civilians
  - Lead the UNSC in extending the mandate of UNMISS beyond March 2022, including the aspects of the mandate that relate to civilian protection



## REFERENCES

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<sup>1</sup> UN Human Rights Council, *Report of the Commission of Human Rights in South Sudan*, A/HRC/40/CRP.1, February 21, 2019, para. 579,

<https://digitallibrary.un.org/record/3792453?ln=en>.

<sup>2</sup> This figure has not been updated since 2018. See Francesco Checchi et al., “Estimates of crisis-attributable mortality in South Sudan, December 2013-April 2018: A statistical analysis,” *London School of Hygiene and Tropical Medicine*, September 2018, 2, <https://www.lshtm.ac.uk/south-sudan-full-report>.

<sup>3</sup> UN Refugee Agency, “South Sudan Refugee Crisis,” accessed December 9, 2021,

<https://www.unrefugees.org/emergencies/south-sudan/>.

<sup>4</sup> US Committee for Refugees and Immigrants, “1.9 Million Dead from Sudan’s Civil War; More Than 70,000 Deaths in 1998, Report Estimates,” *Relief Web*, December 10, 1998, <https://reliefweb.int/report/sudan/19-million-dead-sudans-civil-war-more-70000-deaths-1998-report-estimates>.

<sup>5</sup> IGAD, *Agreement on the Resolution of the Conflict in South Sudan*, August 17, 2015,

<https://peacemaker.un.org/node/2676>.

<sup>6</sup> Dieng explained, “Inflammatory rhetoric, stereotyping and name calling have been accompanied by targeted killings and rape of members of particular ethnic groups, and by violent attacks against individuals or communities on the basis of their perceived political affiliation.” See UNMISS, *Media Briefing by Mr. Adama Dieng, United Nations Special Adviser on the Prevention of Genocide on his visit to South Sudan*, November 11, 2016, <https://unmiss.unmissions.org/media-briefing-mr-adama-dieng-united-nations-special-adviser-prevention-genocide-his-visit-south>.

<sup>7</sup> IGAD, *Revitalized Agreement on the Resolution of the Conflict in South Sudan (R-ARCSS)*, September 12, 2018, <https://docs.pca-cpa.org/2016/02/South-Sudan-Peace-Agreement-September-2018.pdf>.

<sup>8</sup> UN News, “UN chief welcomes South Sudan’s Unity government, lauds parties for ‘significant achievement,’” February 22, 2020,

<https://news.un.org/en/story/2020/02/1057941>.

<sup>9</sup> Mapping Actors and Alliances Project in South Sudan, “MAAPSS Update,” no. 7, *Small Arms Survey*, September 13, 2021,

<https://smallarmssurvey.org/sites/default/files/2021-10/HSBA-MAAPSS-Update7-September2021-SPLA-IO-Split.pdf>;

“South Sudan government signs peace deal with Gatwech, Olony,” *Sudan Post*, January 17, 2022,

<https://www.sudanspost.com/south-sudan-government-signs-peace-deal-with-gatwech-olony/>.

<sup>10</sup> UN Human Rights Council, *Human rights violations and related economic crimes in the Republic of South Sudan*, A/HRC/48/CRP.3, September 23, 2021, para. 171, <https://www.ohchr.org/Documents/HRBodies/HRCouncil/Co>

<HRSouthSudan/A-HRC-48-CRP.3.pdf>; UN Human Rights Council, “South Sudanese political elites illicitly diverting millions of US dollars, undermining core human rights and stability – UN experts note,” September 23, 2021, <https://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=27519&LangID=E>. (Note: Since before independence, political and financial corruption have fueled local and national-level conflicts in South Sudan and mass atrocities.)

<sup>11</sup> In February 2021, the UN Commission on Human Rights in South Sudan (CHRSS) reported that violence and attacks against civilians had escalated, predominantly through local conflicts, which government and opposition forces are fueling. See UN Human Rights Council, “Despite renewed political commitment, staggering levels of violence continued across South Sudan for the second successive year, UN experts note,” February 19, 2021,

<https://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=26761&LangID=E>.

<sup>12</sup> UNMISS, “Quarterly Human Rights Report Documents Overall Decline in Violence but Concerning Surge in Harm Caused to Civilians in Western Equatoria,” December 21, 2021, <https://unmiss.unmissions.org/quarterly-human-rights-report-documents-overall-decline-violence-concerning-surge-harm-caused>. (Note: This figure represents a 37 percent decrease in overall violence against civilians compared to the same period in 2020.)

<sup>13</sup> UNMISS and OHCHR, “Armed Violence Involving Community-Based Militias in Greater Jonglei,” March 2021, paras. 1, 2, and 79,

[https://unmiss.unmissions.org/sites/default/files/21-03-11\\_jonglei\\_report\\_final\\_for\\_publication-compressed.pdf](https://unmiss.unmissions.org/sites/default/files/21-03-11_jonglei_report_final_for_publication-compressed.pdf).

<sup>14</sup> UNMISS, “Quarterly Human Rights Report”; Amnesty International, “South Sudan: Survivors describe killings, mass displacement and terror amid fighting in Western Equatoria,” December 9, 2021,

<https://www.amnesty.org/en/latest/news/2021/12/south-sudan-survivors-describe-killings-mass-displacement-and-terror-amid-fighting-in-western-equatoria/>.

<sup>15</sup> Early Warning Project, “South Sudan,” accessed December 13, 2021,

<https://earlywarningproject.ushmm.org/countries/south-sudan>.

EWP assessed that state-led and non-state-led mass killing episodes began in South Sudan in 2013 and continued as of the end of 2020.

<sup>16</sup> According to the Early Warning Project, to qualify as a “new” mass killing the perpetrator group and/or the civilian target group would need to be distinct from those involved in the ongoing mass killing episode(s).

<sup>17</sup> See Scott Straus, *Fundamentals of Genocide and Mass Atrocity Prevention* (Washington, DC: US Holocaust Memorial Museum, 2016), chapter 2,

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<https://www.ushmm.org/m/pdfs/Fundamentals-of-Genocide-and-Mass-Atrocity-Prevention.pdf>.

<sup>18</sup> For example, President Kiir has repeatedly redrawn state boundaries to the apparent economic and political benefit of certain Dinka populations, which has had the effect of diminishing the economic and political interests and influence of other communities. See UN Human Rights Council, *Report of the Commission on Human Rights in South Sudan*, A/HRC/40/69, March 12, 2019, 9, <https://undocs.org/A/HRC/40/69>.

<sup>19</sup> The Agwelek Forces are a Shilluk Militia led by Johnson Olonyi and are currently aligned with opposition forces. The Agwelek Forces have also targeted and attacked Padang Dinka and Nuer civilians in Upper Nile.

<sup>20</sup> The CHRSS chair stated, "The Commission has reported on a pattern of ethnic cleansing and population engineering." See UN Human Rights Council, *Speech of the Chair of the Commission on Human Rights in South Sudan to the Human Rights Council*, undated, accessed January 2022, <https://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=21374&LangID=E>.

<sup>21</sup> In 2021, state governors ordered executions by firing squad, purportedly in response to intercommunal fighting. See UNMISS, "UNMISS deeply concerned at spate of extrajudicial executions," July 26, 2021, <https://unmiss.unmissions.org/unmiss-deeply-concerned-spate-extra-judicial-executions>.

<sup>22</sup> A handful of lower-level perpetrators have been tried for conflict-related crimes. See David K. Deng, "South Sudan: Justice Landscape Assessment," Transitional Justice Working Group: South Sudan, January 2021, <https://files.constantcontact.com/d028c3f4801/033b76c6-27ee-4583-8741-60dc9392e3cf.pdf>.

<sup>23</sup> The conflict postponed elections that were slated for 2015. President Kiir's mandate has since been extended twice. See Freedom House, "South Sudan," *Freedom in the World 2021*, accessed January 2022, <https://freedomhouse.org/country/south-sudan/freedom-world/2021>.

<sup>24</sup> Competition within the SPLM was a source of political conflict and violence in the 2010 gubernatorial elections.

<sup>25</sup> The South Sudanese government has historically used and threatened to use violence to squash protesters and civil society mobilization, providing a strong indicator of future tactics.

<sup>26</sup> "South Sudan government signs peace deal with Gatwech, Olonyi," *Sudan Post*, January 17, 2022, <https://www.sudanpost.com/south-sudan-government-signs-peace-deal-with-gatwech-olonyi/>.

<sup>27</sup> In August 2021, a clash between Gatwech's faction and Machar's faction in Magenis near the Sudanese border reportedly killed 32 people. See Denis Dumo, "Rival South Sudanese factions clash, two sides report dozens of soldiers killed," *Reuters*, August 7,

2021, <https://www.reuters.com/world/africa/clashes-kill-least-30-south-sudanese-soldiers-says-vp-spokesman-2021-08-07/>.

<sup>28</sup> IPC, "South Sudan: Consolidated Findings from the IPC Technical Working Group and External Reviews," Integrated Food Security Phase Classification, October-November 2020, [https://www.ipcinfo.org/fileadmin/user\\_upload/ipcinfo/docs/South\\_Sudan\\_Combined\\_IPC\\_Results\\_2020Oct\\_2021July.pdf](https://www.ipcinfo.org/fileadmin/user_upload/ipcinfo/docs/South_Sudan_Combined_IPC_Results_2020Oct_2021July.pdf). (Note: While environmental factors have contributed, government and opposition forces have also deliberately starved civilians from specific communities, such as the Fertit and Luo. See UN Human Rights Council, "There is nothing left for us": starvation as a method of warfare in South Sudan," conference room paper, A/HRC/45/CRP.3, October 5, 2020, paras. 144-45, [https://reliefweb.int/sites/reliefweb.int/files/resources/A\\_HRC\\_45\\_CRP\\_0.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/A_HRC_45_CRP_0.pdf).)

<sup>29</sup> Sam Mednick, "Old grudges and empty coffers: South Sudan's precarious peace process," *The New Humanitarian*, January 21, 2021, <https://www.thenewhumanitarian.org/news-feature/2021/01/21/south-sudan-peace-deal-violence-famine>.

<sup>30</sup> This could also prompt protests that President Kiir and other elites could seek to violently suppress.

<sup>31</sup> Human Rights Watch, "South Sudan: Killings, Rapes, Looting in Juba," August 15, 2016, <https://www.hrw.org/news/2016/08/15/south-sudan-killings-rapes-looting-juba>.

<sup>32</sup> UNSC, *Resolution 1996 (2011)*, July 8, 2011, <https://digitallibrary.un.org/record/706698?ln=en>. (Note: In 2021, its mandate was extended until March 2022 for the purposes of preventing conflict, building peace, and supporting free and fair elections. See UNMISS, "Mandate," accessed January 2022, <https://unmiss.unmissions.org/mandate>.)

<sup>33</sup> UNSC, *Resolution 2206 (2015)*, March 3, 2015, [https://www.undocs.org/S/RES/2206\(2015\)](https://www.undocs.org/S/RES/2206(2015)).

<sup>34</sup> UNSC, *Resolution 2428 (2018)*, July 13, 2018, [https://undocs.org/S/RES/2428\(2018\)](https://undocs.org/S/RES/2428(2018)).

<sup>35</sup> UN Human Rights Council, "Commission on Human Rights in South Sudan," accessed January 2022, <https://www.ohchr.org/en/hrbodies/hrc/cohsouthsudan/pages/index.aspx>.

<sup>36</sup> UNMISS, *Conflict in South Sudan: A Human Rights Report*, May 8, 2014, <https://unmiss.unmissions.org/conflict-south-sudan-human-rights-report-8-may-2014>; UNMISS and UN Human Rights Council, *The State of Human Rights in the Protracted Conflict in South Sudan*, December 4, 2015, [https://www.ohchr.org/Documents/Countries/SS/UNMISS\\_HRD4December2015.pdf](https://www.ohchr.org/Documents/Countries/SS/UNMISS_HRD4December2015.pdf); UN Human Rights Council, *Report of the Commission on Human Rights in South Sudan*, A/HRC/34/63, March 6, 2017, para. 82, <https://undocs.org/A/HRC/34/63>; UNMISS and OHCHR, *Human Rights Violations and Abuses in Yei, July 2016-January 2017*, May 2017, para.73, [https://www.ohchr.org/Documents/Countries/SS/UNMISSReportJuly2016\\_January2017.pdf](https://www.ohchr.org/Documents/Countries/SS/UNMISSReportJuly2016_January2017.pdf); UN Human Rights Council, *Report of the Commission on Human Rights in South Sudan*, A/HRC/37/CRP.2, February 23, 2018, <https://digitallibrary.un.org/record/1476591?ln=en>; UN Human Rights Council, *Report of the Commission on Human*

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particular process will be, and violence has continued since it was signed.

<sup>43</sup> Civilian courts do not typically prosecute perpetrators of conflict-related crimes due to political interference and perceived procedural issues. See Deng, “South Sudan: Justice Landscape,” 7.

<sup>44</sup> See *ibid.*, 17 (note: two perpetrators were also arrested in Bentiu and brought before a mobile court, see *ibid.*, 11).

<sup>45</sup> UN Human Rights Council, *Detailed findings of the Commission for Human Rights in South Sudan*, A/HRC/46/CRP.2, February 18, 2021, para. 150, [https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session46/Documents/A\\_HRC\\_46\\_CRP\\_2.pdf](https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session46/Documents/A_HRC_46_CRP_2.pdf).

<sup>46</sup> Two tranches of funds for the establishment of the HCSS have been deobligated, one of which has been returned to the Treasury, the other of which remains available for justice-related programming in South Sudan. For commentary on the withdrawal of funding, see Robbie Gramer and Colum Lynch, “U.S. Quietly Gives Up on South Sudan War Crimes Court,” *Foreign Policy*, July 20, 2021,

<https://foreignpolicy.com/2021/07/20/south-sudan-war-crimes-court-state-department-africa-biden-human-rights/>.

<sup>47</sup> These actions are effectively destabilizing South Sudan, violating individuals’ rights, and inhibiting the implementation of the peace; and as such, they fit under the current sanctioning authority for South Sudan.

*Rights in South Sudan*, A/HRC/40/69, March 12, 2019, <https://undocs.org/en/A/HRC/40/69>.

<sup>37</sup> The Government of South Sudan has agreed to the establishment of the HCSS but has not yet taken any meaningful steps towards its creation.

<sup>38</sup> AU, *Final Report of the Commission of Inquiry on South Sudan Report*, October 15, 2014, [https://reliefweb.int/sites/reliefweb.int/files/resources/auaiss.final\\_report.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/auaiss.final_report.pdf).

<sup>39</sup> Human Rights Watch, “Letter to AU Commission Chairperson on South Sudan from Civil Society Organizations,” June 9, 2021, <https://www.hrw.org/news/2021/08/05/letter-au-commission-chairperson-south-sudan-civil-society-organizations>.

<sup>40</sup> US Treasury Department, “South Sudan Sanctions Program,” Office of Foreign Assets Control, updated January 6, 2015, <https://home.treasury.gov/system/files/126/overview-of-sanctions-southsudan.pdf>.

<sup>41</sup> *A resolution reaffirming the support of the United States for the people of the Republic of South Sudan and calling on all parties to uphold their commitments to peace and dialogue as outlined in the 2018 revitalized peace agreement*, S.Res.371, 116th Congress, 2d session (2019), <https://www.congress.gov/bill/116th-congress/senate-resolution/371/text>.

<sup>42</sup> For example, the 2021 Pieri conference led to the return of approximately 30 abducted children and provided a framework for beginning to address drivers of conflict at the local level. However, it is too early to tell how effective this

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