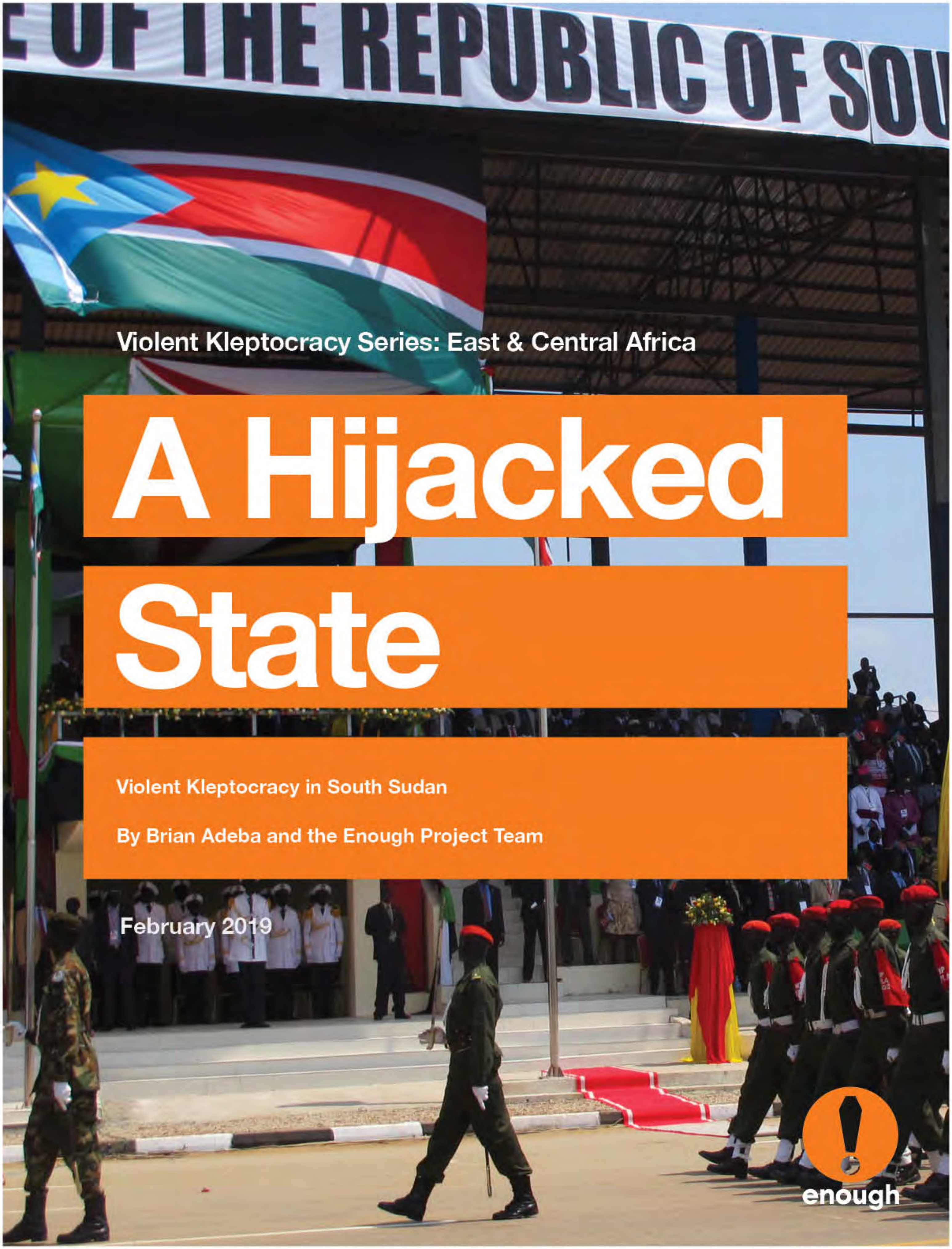

Violent Kleptocracy Series: East & Central Africa

A Hijacked State

Violent Kleptocracy in South Sudan

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enough

Executive Summary

On September 12, 2018, the South Sudanese government and the armed opposition signed a peace deal that could potentially end the 5-year-old conflict, if elites exercise the political will required to implement the agreement. The South Sudanese conflict is rooted in the violent kleptocratic system of governance that the ruling Sudan People's Liberation Movement (SPLM) began building in 2005, after the end of the Second Sudanese Civil War (1983–2005). When President Salva Kiir became the chair of the SPLM and the leader of the autonomous Government of Southern Sudan from 2005 to 2011, a network of allies formed and positioned itself to make decisions about the distribution of influence and oil wealth.

In 2011, Kiir became president of newly independent South Sudan, and these key allies drafted the Transitional Constitution, which vested immense powers in Kiir's hands that allowed him, for instance, to prorogue (discontinue without dissolving) the national legislature, fire elected governors, and dissolve legislative assemblies in the country's states. The destructive competition over power and access to opportunities for corruption resulted in a slow expulsion of some elites from the center of power and a consequential rise in power of others, dividing the ruling party into two factions, for and against Kiir. Those opposed to President Kiir largely coalesced behind Vice President Riek Machar.

South Sudan's oil production was at its height in 2011 when the global prices of crude oil averaged over 100 U.S. dollars per barrel, which allowed the country to pocket a monthly average of 500 million U.S. dollars from its share. When South Sudanese authorities shut down oil production because of conflict with Sudan that had turned violent along the border, production remained suspended for 15 months—between January 2012 and March 2013—quickly creating a significant deficit in a young economy so heavily reliant on oil for its revenues and gross domestic product (GDP). The government's sudden loss of over 90 percent of cash from oil revenues disrupted entrenched patterns of corruption and tested the limits of the violent kleptocratic system, culminating in a bloody conflict in December 2013. This crisis in turn plunged South Sudan into a series of interrelated economic, fiscal, security, political, and humanitarian crises.

In South Sudan's system of violent kleptocracy, leaders have hijacked institutions and stoked violent conflict, committed mass atrocities, and created a man-made famine. Amid the chaos of war, the ruling elites ransacked various sectors of the economy. South Sudan's violent kleptocracy has distorted the country's institutions, heaping catastrophic consequences on the national monetary reserve and creating an atmosphere in which too many hands are left to freely and repetitively reach into the public treasury with impunity. Services remain undelivered, business practices undermine the rule of law, and corruption abounds.

While poor regulatory mechanisms made it easy to loot the public treasury with little consequence, the ruling elites could have chosen to improve institutions of accountability rather than deliberately disempower them. South Sudan's leaders have incorporated corrupt practices inherited from the north-south war into the current government.

Without strong and effective institutions in place, military leaders dominate the decision-making processes on public spending to wield both power and money opportunistically. These leaders have abused their positions of power to steal from public coffers, wage war, and enlarge patronage networks. Violent conflict in South Sudan today stems from competitive corruption that has characterized governance since 2005. Leaders use violence as a means of capturing the national economy and budget and to prolong their stay in power for the purpose of self-enrichment. Oil has represented the key prize in South Sudan since independence. The political elites enrich themselves with oil revenues at the public's expense and to the detriment of the economy and ordinary citizens.

Nevertheless, the status quo could be different. U.S. policymakers and international partners can now use the power of the U.S. dollar and the international financial system—on which South Sudanese leaders rely almost exclusively—to target these leaders' finances and the networks that enable the violent kleptocracy to continue to harm the South Sudanese people. In September 2017, the U.S. Department of the Treasury initiated a process of holding South Sudan's leaders accountable for the egregious corruption that feeds war in their country. In the wake of the recently concluded peace agreement, the financial pressures enacted by the Treasury Department must continue because the deal itself lacks meaningful stipulations to end the endemic corruption, heightening the potential for a return to conflict.

Violent conflict in South Sudan today stems from competitive corruption that has characterized governance since 2005.

To be fully effective in thwarting the interests of leaders who may choose to violate the latest peace deal, network sanctions, anti-money laundering measures, prosecutions, and enhanced travel bans must be applied in a genuinely concerted and comprehensive manner. It is also crucial to focus on grievances, inequalities, and violence at the ground level. Primarily, the international community and the region should make it clear they stand with the people of South Sudan: implement and aggressively enforce these enhanced measures of financial pressure that can begin to build leverage over the competing elites, and deliver justice and accountability for the many victims of the war to foster long-term stability.

There needs to be a greater focus on removing the rewards of competitive corruption by focusing on both South Sudan's decision-makers and the international firms that enable them. The priority should be to monitor these entities and implement the necessary pressures needed to stop them and thereby dismantle the entrenched violent kleptocratic system, which is a prerequisite for lasting peace, good governance, and human rights in South Sudan. Instead of trying to forge comfortable power-sharing agreements, the focus from the region and broader international community must be on creating consequences for bad actors, as this is the only path to a transformed and reformed functional state in South Sudan. These pressures can help deny the leaders material resources used to perpetuate large-scale violence in South Sudan.

This pressure also needs to extend in the region. In June 2018, the U.S. Treasury Under Secretary for Terrorism and Financial Intelligence, Sigal Mandelker, traveled to Uganda and Kenya to deliver a strong message on the need for action against the proceeds of South Sudanese corruption that are laundered into neighboring banking systems. This message must continue to be developed with specific pressures delivered not only by the United States, but also by the United Nations (U.N.) Security Council, European Union, African Union, and regional bodies.

Policy Recommendations

To counter corrupt actors' continued atrocities—waging war, violating peace agreements, and comprehensively hijacking, abusing, and stealing from South Sudan and its people—the Enough Project recommends the following:

1. **Disrupt illicit financial activity: network sanctions.** The international community, with U.S. leadership, should continue to develop and implement a coordinated strategy to counter conflict financing in South Sudan—making it prohibitively difficult for bad actors and their enablers to move illicit funds and criminal proceeds through the international banking system—by implementing a series of consistent pressures, such as those outlined below. This process has been underway since September 2017 and has included actions by the United States, Canada, the European Union, Australia, and the U.N. Security Council. This process should continue to develop with the following:

    a. **Implement network-focused sanctions.** South Sudan's neighbors and partners in the international community should escalate financial pressures by implementing network sanctions against top South Sudanese leaders and their international commercial networks, including their business partners and companies they own or control. For example, when the U.S. government implemented sanctions against Malek Reuben Riak and Benjamin Bol Mel, it took the important step of sanctioning multiple companies that each actor owns. In addition, in December 2018, the U.S. government imposed network sanctions on two South Sudanese nationals, a retired Israeli general, and six companies because of the individuals' roles in fueling the conflict in South Sudan. To have meaningful impact, future sanctions designations should build on these examples.

    b. **Broaden existing sanctions.** The U.S. government should amend the 2014 executive order on South Sudan by adding additional sanctions criteria, specifically new authority to designate: (1) the children and spouses of those known to be benefiting from kleptocracy in South Sudan, (2) anyone selling real estate to a South Sudanese official in another country, and (3) those importing luxury goods into South Sudan. According to the International Monetary Fund (IMF), South Sudan had an estimated per capita GDP of $1,525.30, making it one of the poorest countries in the world. Despite this, government elites and their cronies continue to travel overseas to spend lavishly, import expensive goods, and buy expensive properties in neighboring Uganda and Kenya. Curtailing the ability of South Sudan's elites to spend or otherwise launder the illicit proceeds of their corruption will serve as a powerful deterrent to incentivize a change in behavior. Similarly, the U.S. government should impose sectoral sanctions on the petroleum and natural resources sectors, which not only enables additional asset freezes but also reinforces financial transparency and accountability mechanisms. Finally, the U.N. Security Council, the European Union, and other governments should take necessary steps to ensure that corruption-related activities can also be grounds for being sanctioned.

2. **Disrupt illicit financial activity: anti-money laundering measures.** In addition to sanctions, the international community—in particular the U.S. government because of the primacy of the U.S. dollar—must deploy anti-money laundering measures to combat the laundering of the proceeds of corruption by South Sudanese kleptocrats and their networks. When elites move funds obtained through corruption into the formal financial system, they are engaging in money laundering. Financial intelligence units (FIUs) in Europe and East Africa should build from the Advisory issued by the Treasury Department's Financial Crimes Enforcement Network (FinCEN) in September 2017, an Advisory issued in June 2018 focused on the nexus between corruption and human rights abuse, and the message delivered by Under Secretary Mandelker to Uganda and Kenya, and should issue similar warnings to banks. FinCEN and other FIUs should act against specific accounts and institutions being used to launder illicit funds from South Sudan, and should work closely with banks more generally to ensure they are taking appropriate steps to undertake enhanced due diligence and undertaking a risk-based approach when providing financial services in the region.

3. **Bolster the South Sudanese judicial system.** International partners should support South Sudanese judicial institutions and jurists to ensure the Hybrid Court for South Sudan is established and given the capacity and independence that will be required for it to be effective. This includes providing protections for victims and witnesses of crimes and countering a climate of impunity for atrocity crimes and financial misdeeds by ensuring the court maintains a robust docket.

4. **Promote transparency and good governance.** South Sudan should prioritize building the capacity and safeguarding the integrity of judicial and governance oversight institutions, as well as ensuring these agencies are fully funded and staffed. Priority institutions for technical capacity include the National Auditing Chamber, the Anti-Corruption Commission, and the Public Accounts Committee in the National Legislative

Assembly. In particular, these agencies should ensure full implementation of beneficial ownership and public disclosure provisions set forth in the country's 2012 Petroleum Revenue Management Act and the 2011 Public Financial Management and Accountability Act.

5. **Support civil society and journalists.** Leaders and donors should not only hold South Sudanese leaders to their treaty-bound public commitments to promote an empowered civil society, but also directly increase their own support of South Sudanese civil society actors' efforts to hold their leaders accountable. The international community must also ensure that an independent media is able to function in a safe environment.

As efforts to address the interrelated humanitarian, political, and economic crises intensify, and the crises themselves deepen (in spite of the peace deal), there is an urgent need to correctly identify and fully understand the root causes of those crises. Otherwise, the responses will only treat symptoms and lay the groundwork for further cycles of looting and war and repression. This report serves as a means of expanding upon important arguments the Enough Project has previously put forward, and to provide an overarching framework that unifies previous arguments into a comprehensive analysis for understanding the ongoing conflict in South Sudan. This report is the culmination of existing research on corruption and findings from field research in South Sudan. Section I presents the argument for why South Sudan should be considered a system of violent kleptocracy, and how designating it as such can drive more effective policies to support peace and leverage financial pressure against spoilers of peace. Section II provides an overview of South Sudan's economic structure. Section III discusses the specific economic sectors that leaders hijack the most to accumulate wealth and empower themselves in the system of violent kleptocracy. Section IV presents policy tools and recommendations to confront the kleptocracy.

Section 1

Violent Kleptocracy Series:
East & Central Africa

Violent Kleptocracy in South Sudan: Introduction and theory of the case

Violent kleptocracy in East and Central Africa

The existing literature on corruption contends that the structure of a country's government institutions and the nature of its political process determine the level of corruption.[1] In particular, weak governments that do not control their agencies are said to experience very high corruption levels:[2] the absence of deterrence lowers the risk of getting caught. Conversely, mass corruption leads to structural institutional distortions by affecting the government's fiscal decisions.[3] This report emphasizes the importance of considering both the contextual factors of the system and the role of the system's masters—the ruling elites. It also tackles the question of linkage between mass corruption and violence through a theoretical innovation: the concept of the violent kleptocracy, which the Enough Project defines as a

> *system of state capture in which ruling networks and commercial partners hijack governing institutions for the purpose of resource extraction and for the security of the regime. Ruling networks utilize varying levels of violence to maintain power and repress dissenting voices. Terrorist organizations, militias, and rebel groups can also control territory in a similar manner.*[4]

These states and the systems within them have completely failed populations that face acute needs and live in terrible conditions. They have, however, succeeded in serving the interests of a small number of powerful people who have hijacked them effectively. Anti-corruption expert Sarah Chayes notes that within a kleptocracy, corruption "is not some malfunction, or system failure—It is the system."[5] This endogenous character of corruption means conflicts may arise more from changes in the pattern of corruption than from corruption itself.[6] Domestic or external shocks affecting the pattern of corruption may therefore contribute to conflict, particularly when corruption is pervasive.[7] The Enough Project's areas of focus are places where pervasive corruption has had disastrous outcomes.

The countries of focus for the Enough Project and its investigative initiative, The Sentry—Sudan, South Sudan, the Democratic Republic of Congo, the Central African Republic, and Somalia—each have systems of violent kleptocracy.[8] These systems are perpetuated or orchestrated by powerful political, military, and business leaders within these countries. Networks of international facilitators who enable kleptocratic activities extend from the conflict zones in East and Central Africa into the world's legitimate international finance, trade, and transportation systems. These systems, in turn, fund and equip warring parties and launder the spoils of war.

There are significant points of convergence in these systems, where illicit schemes—ones that fund war and warring parties or enable diversion of public funds to private purposes for profit—use legitimate global financial and transportation infrastructure. These points of convergence are some of the most profitable and sensitive positions in the conflict value chain. They are also among the most vulnerable to disruption and policy response by U.S. officials and leaders from the United Kingdom, the European Union, and EU member states, along with numerous other stakeholder countries and organizations.

South Sudan's system of violent kleptocracy

In South Sudan's system of violent kleptocracy, leaders have hijacked institutions and stoked violent conflict, committed mass atrocities, and created a man-made famine. Dominant variables encouraging a vicious, bloody wrangling over state power include allocation of developmental projects, access to lucrative contracts, denial of opportunities to nonstate actors, uneven armament of youth, collective benefits of corruption available to those controlling or associated with state power, and the absence of legal recourse. South Sudanese groups that define themselves by ethnic and historical allegiance compete violently for power and the opportunity to enrich themselves by looting national budgets, diverting natural resource revenues, and manipulating state contracts. The system of violent kleptocracy in South Sudan has particularly targeted and hijacked the country's oil and hard currency sectors, and South Sudanese leaders rely on the international financial system and the U.S. dollar to store their spoils.

Origins of a violent kleptocratic system in pre-independent South Sudan

Violent conflict in South Sudan today stems from the same type of systemic, exploitive, extractive practices that were used to enrich and empower those orchestrating the extraction.[9] The predatory behavior of the South Sudanese political and military elite who currently hold or compete violently for power originated in the Second Sudanese Civil War between 1983 and 2005. Many armed groups in the area that is now the Sudan-South Sudan border and in independent South Sudan had

SPLA soldiers dance during the Sudanese Civil War. During the war, which lasted from 1983 to 2005, predatory practices began to emerge in the SPLA.
Photo: Reuters/Corinne Dufka.

varying alliances with one another. They were both predatory and protective toward local populations,[10] fighting against one another at certain times[11] and forming alliances at others.[12] The Sudan People's Liberation Army (SPLA)[13] is the dominant group that emerged from this struggle and currently holds power; its political wing is the SPLM.

Resource capture and control by warring parties was a defining feature of the Second Civil War. Backed by the government in Khartoum, warring actors from the north mainly focused on capturing oil,[14] labor, and cattle.[15] Southern combatants—including the SPLA—looted, captured humanitarian relief, and imposed systems of trade and taxation in the areas they controlled.[16] The in-kind taxation system relied on extracting livestock, grain, and food from the civilian population.[17]

As the southern armed groups, particularly the SPLA, consolidated military and territorial gains in the struggle against the north, the SPLA was able to pin down northern Sudanese government troops in a few heavily fortified garrison towns, while retaining control over many rural areas in the south. To control these rural areas, the SPLA made local commanders semi-autonomous. These commanders could enact laws, recruit soldiers, and collect taxes; they could build their own economic bases and enrich themselves.[18] Local commanders across Southern Sudan established links with informal economies in neighboring countries and traded cattle, timber, tobacco, and coffee.

Individual commanders, not the SPLA as a whole, controlled the income and spending from this trade. With tactics that included competition, violence, and coercion, commanders created powerful patronage networks to strengthen and expand their resources.[19]

The formalization of violent kleptocracy and the collapse of the strategy to "buy peace"

Semi-autonomous, powerful armed leaders continued to accumulate, control, and selectively distribute locally extracted resources and trade goods between 1983 and 2005 as Southern Sudan's increasing military and administrative autonomy followed a trajectory that led to independent statehood.[20]

Following the signing in January 2005 of the Comprehensive Peace Agreement, which formally ended the Second Civil War, the SPLM was installed as the dominant political actor for the south. During this time, alliances and loyalties that had been forged on southern battlefields shaped the leadership dynamics and political appointments—including those to positions of control over public finances.[21]

One strain of literature on corruption argues that political corruption can accommodate opposition and placate restive groups by offering private privilege in exchange for political loyalty.[22] Oil-rich governments can use political corruption to buy support from key segments of society, effectively outspending other entrepreneurs of violence.[23] Instead of aggravating the scramble for the spoils from oil, political corruption might function as a default option for soliciting support where state institutions are weak.[24] Corruption facilitates the creation of a political order in which rulers can co-opt opposition groups, thereby providing a measure of political stability and avoiding conflict.[25] The president of South Sudan followed this recipe precisely, but the consequences were disastrous; buying peace requires enormous cash inflows to keep up with the demand.[26]

Between 2005 and 2011, the SPLM/A and its leaders tried to unify the population and its different armed groups. Some of the armed groups had maintained ties with the Sudanese government in Khartoum and strongly opposed the SPLA's predominance in the movement for southern independence.[27] To entice armed groups to support the rising government, the SPLM leadership bought armed groups' support.[28] However, the reintegration process failed in South Sudan because the state was unable to shoulder the financial burdens needed to continue buying peace amid a persistent zero-sum mentality.

Alliances and loyalties that had been forged on southern battlefields shaped the leadership dynamics and political appointments—including those to positions of control over public finances.

The SPLM/A's dominance was further cemented with the critical mass of military and popular support as expressed in the 2010 elections. Most South Sudanese people saw the SPLM as the only viable means to become independent, and the party won 98 percent of the vote in 2010, an outcome that ensured there could be virtually no opposition to SPLM policies in the legislature. SPLM members dominated all significant government

In Bentiu, Southern Sudan, ballots are sorted for counting for the 2010 general election. Photo: UN Photo/Tim McKulka

positions, and the line between the party and the military was blurred or nonexistent.

In this way, the SPLM/A elite shifted from a class of rugged guerrilla fighters—with semi-autonomous commanders who could capture, collect, control, and distribute resources in the rural areas they controlled—into a new political class that replicated the predatory wartime practices of resource accumulation in the government. These practices centered on the country's sole revenue earner—oil and the foreign currency that came with it—along with other lucrative revenue-generating sectors.

The extent and reach of violent kleptocracy in South Sudan

South Sudan's leaders have extended the Second Civil War practices of corruption into the government. This institutional context is in some ways kept deliberately weak by powerful leaders[29] who benefit from the current situation. In a report released in 2015, the African Union Commission of Inquiry on South Sudan found that "the crisis in South Sudan has roots in, and is indeed a crisis of weak governance, weak leadership and weak institutions, conflation of personal, ethnic and national interests and the problematic nature of the transition instituted by the [2005 Comprehensive Peace Agreement ending the Second Civil War]."[30]

South Sudan's system of violent kleptocracy also includes the incentives, calculations, and practices of powerful nonstate actors who extract value and exert control by force over revenue-generating activities in areas the state does not control. The most lucrative economic sectors that have been targeted, battled over, and exploited by the country's violent kleptocratic leaders and enablers in and outside the state include, in particular, the oil and hard currency sectors (discussed in further detail in Section III).

The ruling elites' tactics of exploitation include capturing (with or without violence) strategic and valuable land and large-scale government contracts, positioning loyal clients in financially lucrative sectors, denying opportunities to perceived rivals, financing in-hand and future anticipated resources, and holding large stakes in businesses, some of which have disguised beneficial ownership structures and enable money laundering and offshoring of lucrative assets. Some participants in the system of violent kleptocracy in South Sudan engage in extensive abuse and profiteering through the under delivery or non-delivery of promised goods and services in military and security force sector procurements and contracts. Regulatory and sanctions evasion measures are other prevalent tactics.[31]

The cost of violent kleptocracy in South Sudan

The financial impact of South Sudan's violent kleptocracy is both intense and widespread: the system distorts the very structure of the country's financial institutions with catastrophic consequences on the national monetary reserve, ultimately leading to the collapse of the money market. Rampant exploitation fosters an environment in which too many hands are left to freely and repetitively reach into the public treasury with impunity; services promised stand undelivered, actors undermine the rule of law and borrow from foreign entities at exorbitant interests, and corruption proliferates unchecked.

The vast toll of economic fallout and lost public revenue from the violent kleptocracy in South Sudan is difficult to measure.[32] Public record-keeping has been either nonexistent or opaque and rife with unanswered questions and serious irregularities from the beginning.

South Sudan's violent kleptocracy distorts the very structure of the country's financial institutions with catastrophic consequences on the national monetary reserve.

The first audit—carried out by the national auditor of the pre-independent Government of Southern Sudan in 2005—exposed symptoms of deeper structural problems, for example referencing "'creative' accounting" in oil revenues[33] and noting that "it was impossible to verify the existence or legitimacy of many persons being paid from public funds."[34] The auditor concluded, "In my opinion, the financial statements of the Government of Southern Sudan for the year ended 31st December 2005, and the income and expenditure of the Government of Southern Sudan taken as a whole, do not present a true and fair financial position for the year then ended."[35] Despite these problems, the official budget grew exponentially in the years that followed.[36] More money coming in and going out increased the potential for funds to be wasted or diverted to private interests.

Less than a year after independence, President Kiir wrote a letter to 75 current and former government officials and businessmen noting that "[a]n estimated $4 billion are unaccounted for or, simply put, stolen by former and current officials, as well as corrupt individuals with close ties to government officials."[37] The letter continued, "Most of these funds have been taken out of the country and deposited in foreign accounts. Some have purchased properties, often paid in cash."[38] President Kiir offered amnesty for officials and individuals with government ties who returned the money, although it is not clear how many had responded positively to his amnesty. Since 2011, many South Sudanese people and others have criticized the disappearance of funds from South Sudan's coffers and called for accountability. These calls for accountability have themselves been politicized—both lauded and criticized and viewed as more and less credible according to the perceived interests of the source. The fact that no action was taken shows that President Kiir intended to use anti-corruption measures as parts of political strategies aimed at sidelining rivals.

The financial cost of armed conflict in South Sudan is no easier to estimate than the cost of corruption and the amount of public revenue that has been diverted away from public coffers and public spending. A January 2015 report prepared by microeconomics consultancy Frontier Economics in collaboration with the Center for Conflict Resolution and the Centre for Peace and Development Studies found that if the conflict in South Sudan that erupted in December 2013 continued for another one to five years, it would cost South Sudan more than $20 billion.[39] A dearth of data marks a serious challenge to efforts to quantify the cost of war in economic terms. And the conflict is not just costly to South Sudan—other external entities shoulder some financial burden in terms of trade due to interruption of trade inflows into South Sudan from neighboring countries. The current armed conflict triggered macroeconomic instability characterized by high fiscal deficits, exchange rate volatility, and high inflation. Violence in oil-producing areas led to the closure of oil fields in Unity State, which reduced overall production levels, denied the country access to quality oil, and ultimately decreased government revenues. The increase in violence also triggered an uptick in security spending—a fitting example of how insecurity is manufactured for fiscal reasons.

Confirming a trend observed in similar scenarios of economic and social unrest,[40] in South Sudan's violent kleptocracy, education and basic health care are neglected in favor of defense and large infrastructure projects because the latter come with opportunities for corrupt gains. Secrecy and limited competition in the defense sector have led to a relatively high level of informal contracts and rent-seeking activities, providing fertile ground for the growth of corrupt practices.[41] Like leaders in Sudan, leaders in South Sudan have an official budget that reflects heavy spending on the military and security services sector.[42] "At least half, 'and likely substantially more'" of South Sudan's budget spending goes toward the security sector and arms purchases, according to a confidential U.N. Panel of Experts report seen by Agence France-Presse and Reuters news agencies.[43] There is little reliable information from either Sudan or South Sudan about the scale and magnitude of off-budget military spending, which is believed to be extensive and also subject to waste and diversion.[44]

Section 2

Violent Kleptocracy Series:
East & Central Africa

Violent Kleptocracy in South Sudan's macro economy: An overview

South Sudan, its economy, and its budget are in crisis.[45] South Sudan's economy and national budget have the same qualities that define other aspects of the system of violent kleptocracy: powerful leaders have hijacked and used these resources and institutions to extract wealth and shore up their own security at the expense of their adversaries and the public. These leaders use violence as both the means and the purpose of capturing the national economy and budget. The apparent "malfunction, or system failure" of both is not an aberration; it is part of the system itself.[46] South Sudan's particular tendencies reflect those of a group of people who have been both the perpetrators and the victims of violent conflict and predation.

South Sudan's 2011 constitution sets forth laudable overarching economic objectives to promote development and prosperity and ensure responsible management of resources.[47] Despite these provisions and others,[48] however, in general the mindsets about prosperity for all and the views on management and entitlements for public resources are competing, constrained, and otherwise problematic. These perspectives are separated from the constitutional provisions and diverge among people at the grassroots level and with traditional, local, state, and national leaders. The differing views create competition and conflict—and at times, violence—over how to best allocate and manage the country's actual and anticipated resources. There are also significant structural issues in South Sudan's economy, and there are institutional deficiencies that intensify the country's economic challenges and exacerbate the overall system of violent kleptocracy.[49]

South Sudan overall is one of the world's least-developed countries, with some of the worst human development indicators.[50] Although the country is rich in natural resources—including oil, arable farmland, water, timber, precious metals (gold and silver), and other high-value minerals[51]—with the exception of the oil-producing areas, most of these resources are undeveloped.[52]

The Sudd waterways illustrate the richness of South Sudan's natural resources, which include oil, arable farmland, water, timber, and precious minerals. Photo: UN Photo/Martine Perret.

South Sudan imports almost all consumer goods and has a cash-based subsistence economy. Beyond the oil sector, most livelihoods are in unpaid subsistence agriculture and pastoralism, which account for 15 percent of the GDP.[53] Most of the population—approximately 85 percent—performs non-wage work, and approximately 78 percent of the population is involved in farming.[54] Having declared a famine in February 2017,[55] the U.N. estimates almost five million people in South Sudan face severe food insecurity and urgently need international assistance.[56]

South Sudan's financial system is closely tied to oil revenue, which brings in hard currency that is mismanaged to the point of catastrophic consequence: in 2015, exploitative practices in handling oil revenues led to the collapse of the money market,[57] triggering a fiscal crisis. Laws and institutions that should effectively prevent financial crime[58] are ineffective, worsening the situation of people who are already impoverished and struggle to afford basic food, water, medicine, and fuel.

There is little formal private sector enterprise outside the state[59] to offset or counterbalance the government's resource management policies. Almost all of the businesses in South Sudan's capital city have a single client: the government. The government's largest contracts involve military spending and infrastructure construction, and these contracts are subject to large-scale diversion and other forms of mismanagement, waste, and corruption.

In these ways collectively, South Sudan's oil and its money market have been targeted and hijacked by opportunistic actors and enablers of violent kleptocracy. The following sections explore the ways in which these economic sectors have been overtaken and exploited.

Section 3

Violent Kleptocracy Series:
East & Central Africa

Violent Kleptocracy in South Sudan's oil and hard currency sectors

Oil

Oil has become a means and a purpose of violent competition in South Sudan. This section assesses what oil and its promise are worth, analyzes how violence has erupted around the oil sector, and evaluates how the sector itself has been captured and used to empower and enrich elites in South Sudan's violent kleptocratic system.[60]

Oil as an instrument of power and violence in Sudan and South Sudan

The Enough Project noted in an earlier report on Sudan that "no resource has proven more instrumental to the current Sudanese regime's grip on power—and the state violence and mass atrocities necessary to maintain this grip—than oil."[61] The impulses of powerful elites are similar in South Sudan. South Sudanese competition for control of oil has defined its post-independence period. The resulting internal competition and divisions have complicated the South Sudanese government's control of its military, oil, and revenues. Elites in both Sudan and South Sudan have sought to consolidate their private power with oil revenue. Sudan's rulers, however, have managed to consolidate power in a more centralized, collusive, and effective manner than the South Sudanese rulers, whose efforts to consolidate control at key times appears decentralized, competitive, and less effective.

In a setting characterized by fierce competition among elites to control revenues and the privileges to allocate them,[62] the struggle to control the oil—and the oil revenues, oil concessions, oil infrastructure, and rights to explore future anticipated oil reserves—has been more intense than for any other market in South Sudan. Competition for oil has exacerbated preexisting rivalries between different groups, strife and grievances over the land, demographic distribution of ethnic groups in oil-rich areas, political representation in these areas, and the provision of public services at the local level with revenues from the oil.

Oil represents the key prize in South Sudan today.[63] The parties who control this resource have important leverage or collateral in business arrangements or political negotiations. Oil revenues give the military an advantage over an adversary. For all its potential benefits, oil—now specifically the Paloch oil field in South Sudan's Upper Nile State—also represents the main chokepoint for the South Sudanese economy.[64]

Oil has attracted and funded deadly competition in South Sudan's system of violent kleptocracy.[65] South Sudanese elites incite violence, redraw territorial boundaries in incendiary ways for local populations, and orchestrate ethnically motivated atrocity crimes targeting civilians, hitting oil-producing regions particularly hard. Government and opposition forces have faced increasingly intense internal divisions and competition over dwindling resources, including oil itself and the hard currency from oil revenues; this self-defeating squabbling has prevented either from gaining the upper hand militarily.

Benefit and cost: South Sudan gains independence and oil—with strings attached

Experts believe the oil previously controlled by Khartoum—oil that is now mostly controlled by the south—passed peak production before South Sudan's independence.[66] But the value of the oil still raised the controversial question of how to divide the oil wealth, revenues, and resource control following southern independence.

The 2005 Comprehensive Peace Agreement gave the south control over half of the revenues from oil pumped in southern territory,[67] but Khartoum's management of the oil industry was opaque, raising concerns about whether the south was receiving its half of the revenues.[68] Significant issues about oil revenues and border areas—including those with oil, like Abyei— remained unresolved and contentious to the point of violence even after South Sudan's independence. Nevertheless, in 2011, the new SPLM/A-led South Sudanese government gained control of 70 to 75 percent of the oil fields.[69] (Approximately 80 percent of

Oil represents a key prize for South Sudanese politicians. Whoever controls this resource has key leverage over political rivals. Photo: Unity oil fields. May 2012. Enough Project/Nenad Marinkovic.

the oil under South Sudan's control comes from northeast Upper Nile State, particularly the Paloch oil field; the remaining 20 percent of South Sudan's oil comes from north-central Unity State, particularly the Unity and Thar Jath oil fields.[70])

Following independence, South Sudan had the oil, but Sudan retained control of key oil production infrastructure—including the pipeline for the only export route to get the oil out of landlocked South Sudan.[71] In late September 2012, the governments of Sudan and South Sudan signed an agreement that was meant to address the main unresolved issues on revenue sharing at that point. Part of this agreement involved Juba paying Khartoum a fixed fee (which remains static despite fluctuating global oil prices) of around $24 to $26 per barrel of oil produced in the south.[72] But conflict within and among the countries, shifting oil production levels, and fluctuating global oil prices have affected this arrangement.

Value and volatility: South Sudan's oil output and income, past and present

South Sudan's oil production was at its height immediately after independence, in the last half of 2011.[73] Prior to voluntarily shutting down oil production on January 20, 2012, just six months after independence, the Government of the Republic of South Sudan (GRSS) was receiving a monthly average of $500 million from its share in "profit oil,"[74] which amounts to receiving a staggering average of $17 million per day. When South Sudanese authorities shut down oil production because of conflict with Sudan that had turned violent along the border,[75] production remained suspended for 15 months—between January 2012 and March 2013—quickly creating a significant deficit in a young economy so heavily reliant on oil for its revenues and GDP.[76] After reaching an agreement with Sudan, oil production resumed in March 2013 and the GRSS was receiving a daily average of $10 million, a lower revenue than prior to the shutdown.[77] Oil production fell again with the onset of conflict in December 2013.[78] The conflict and the drop in oil prices have been slashing government revenues to the point that the daily average accrued to the government is now less than $1 million.[79]

As of the end of 2015, by one report, South Sudan had an estimated 3.5 million barrels of proven reserves of oil (Sudan had 1.5 million barrels).[80] Prior to the conflict outbreak in 2013, oil production stood at 245,000 barrels per day (bpd).[81] By mid-2017, South Sudan was pumping approximately 130,000 bpd,[82] most of it from the Paloch oil field.[83] At the time, a barrel of oil from South Sudan was worth $44 on the world market.[84] A share of that sum covers oil production fees,[85] and approximately $24 to $26 per barrel goes toward transit and processing fees paid to Sudan.[86]

South Sudan's government has been and still is the most oil-dependent government in the world,[87] with oil providing a financial and military lifeline to the government.

Oil bankrolling the military in an independent South Sudan at war within

Oil provided the government with the resources to fund war and bolster personal finances for the elite. It delivers the main source of revenue for the national budget,[88] and the largest expenditures go to the military.[89] This is the case currently, but it was also the system with the autonomous Government of Southern Sudan before independence. Researcher Luke Patey notes, *From the time the former [SPLM/A] rebels began to receive oil revenue transfers from Khartoum in 2005 until South Sudan's independence in 2011, they earned over $13 billion. But the SPLM, acting like the Sudanese government, allocated the majority of oil revenue to the [Government of Southern Sudan's] and SPLA's salaries and security expenditure rather than to development.*

Oil production in South Sudan has contributed to violence in several other important ways beyond funding a national budget that spends heavily on the military and engages in opaque off-budget military spending with the help of oil funds.[90]

The physical oil-producing areas and infrastructure have repeatedly been objects of violent contest among competing armed actors, their proxies, and their sponsors. These areas and assets have been captured and held or destroyed with the use of violence—whether by government forces (from Khartoum, Juba, or both) or non-government armed actors on either side of the border and around the disputed and claimed areas.[91] Violent conflict has continued between those who seized control and those who lost control of the oil-producing areas and want it back. Each side commits horrific atrocity crimes, targeting and violently attacking the civilians it associates rightly or wrongly with its adversaries.

Violence has erupted, become deadlier, spread to involve more people, and become more commercialized as a result of the way oil revenues have been spent. Misappropriation of

In January 2019, oil production resumed at wells in the Unity oil fields that were shut down by fighting between government and rebel troops in 2014. Photo: Reuters/Samir Bol oil revenues has stoked internal opposition since South Sudan's independence. Lasting resentment stews and often turns violent, fueled by the collective anger of those who have a claim or connection to the oil-producing areas but have not benefited from the oil revenues managed (and monopolized) by elites. Anger over displacement and environmental damage has also turned violent.

Oil and conflict dynamics in the Second Civil War

After violence erupted in Juba in December 2013,[92] fighting quickly spread to north-central Unity State and northeast Upper Nile State, South Sudan's two main oil-producing states.[93] Political and armed opponents of the government from the oil-rich region—particularly those loyal to former Vice President Riek Machar—quickly armed themselves and moved toward the oil fields and their traditional strongholds. These groups lacked the government's advantages of access to state coffers and cash, state defense resources, and state economic and financial institutions.[94] Commanders knew that capturing the national oil sector altogether could be too ambitious. These leaders and groups nonetheless asserted control over oil fields in violent attacks,[95] damaged oil infrastructure, and worked to prevent the government from accessing the oil and revenues it would need to fight the opposition. There are numerous accounts of clashes in Unity and Upper Nile states that involved atrocity crimes against civilians.[96]

Since then, divisions among different groups in Unity and Upper Nile states have deepened. Ethnically targeted attacks in these areas and other parts of South Sudan have also accelerated, including with the use of hate speech and incitement to violence disseminated through the media.

Hard currency

As foreign currency becomes increasingly valuable in South Sudan, the country's elites have engaged in cutthroat competition to capture the spoils by any means necessary—including fraud, exchange rate manipulation, and trade interference—to the detriment of the economy and the consumer market as a whole. This section evaluates the design of monetary policies, institutions, and practices in South Sudan and assesses how elites have exploited the foreign currency system to enrich private actors at the public's expense, amplifying the pressure on and cost to the South Sudanese public.

The introduction of a new currency and its value

Following independence in July 2011, the South Sudanese pound (SSP) entered the market with a fixed exchange rate[97] that was pegged to the price of oil and the value of other regional currencies.[98] To ease the transition for a South Sudanese population that had been using the Sudanese pound (the SDG, still used in the Republic of Sudan to the north), the SSP initially had the same value as the SDG,[99] which had an official exchange rate of 2.67 SSP to the U.S. dollar.[100] The exchange rate on the parallel (black) market was slightly higher: there, the rate was about 3.3 SSP to the U.S. dollar.[101]

From the beginning, however, the SSP had been fixed at an overvalued rate.[102] This bloated rate and the policy to keep the rate fixed did not shift even as a series of internal and external shocks—at least one due directly to the South Sudanese government's policy of suspending oil production for 15 months—rocked South Sudan's oil market, directly compromising most inflows of foreign currency.

Enlarged new banknotes on display during South Sudan's independence celebrations. July 2011. Photo: Leovdvxxx.

The problematic system and practices for managing foreign and local currency

The fixed exchange rate and vulnerability to a sudden loss of oil dollars were not the only issues with South Sudan's currency management system—the system design itself was a large part of the problem. The IMF, in a December 2014 report following the body's first Article IV consultation[103] with South Sudan since the new country joined the Fund in April 2012, noted,

> *The parallel market emerged in September 2011 as the Bank of South Sudan (the central bank) decided to peg the currency at an overvalued level and ration foreign exchange. The rationing entails a hidden transfer of resources from the government to those with privileged access to foreign exchange at the official rate. The number of foreign exchange houses grew rapidly as they became beneficiaries of foreign exchange allocations. Since 2011, the parallel market rate has responded closely to monetary stimuli and expectations about oil flows; the widening of the parallel market premium in recent months reflects the challenges regarding oil production and the expansion in monetary aggregates.*[104]

As the IMF noted in its evaluation, the South Sudanese elite with access to the rationed hard currency at the official rate had an advantage over those South Sudanese who did business on the open market, where the exchange rate soared. This system created a lucrative advantage for foreign exchange houses—owned mostly by connected South

Sudanese elites—to receive hard currency from the government resources and then exchange the currency on the black market. This contributed to inflation, even as elites' profits continued.

Problematic monetary policies

Problematic policies for money supply management went hand-in-hand with the flawed design of the system itself. One feature of money management policy involved the central bank auctioning off foreign currency in what was called the "letter of credit" system. The policy of distributing foreign currency by the auctioning system has been described as a response to inflation raising the price of goods, increased illicit taxation by unauthorized agents, and the growing disparity between black-market and official exchange rates. The auctions were meant to separate legitimate from illegitimate market actors and privilege the former to discourage the latter.[105]

What seemed reasonable and beneficial in principle looked otherwise in practice. Less than two months after South Sudan's independence, Dhieu Mathok Diing Wol, a senior South Sudanese political leader, penned a public op-ed in the Sudan Tribune warning of the dangers of the central bank's new monetary policies. He described how South Sudan's dependence on imports created a high demand for foreign currency across the economy, and pointed out that the main source of this currency—oil sales—created a great vulnerability.[106]

As foreign currency was distributed into the market, instead of bringing down consumer prices, containing inflation, supporting legitimate traders, and isolating illegitimate traders, it instead selectively empowered people of privilege with connections to people in a position to distribute wealth according to narrow, not broad, interests.

The collective impact on money supply

The collective effect of shocks to the oil market, the preexisting economic distortions and vulnerabilities in South Sudan, and a series of poorly designed and poorly managed monetary and revenue policies all contributed to a gap that began to grow between the official market and black-market exchange rates in South Sudan and exacerbated inflation for consumers.

While a weak institutional environment makes it easier to loot the public treasury, actors in positions of power could also choose to improve the environment rather than perpetuate an unsustainable predatory system. In South Sudan's system of violent kleptocracy, where institutions are hijacked to enrich and empower elites, these actors instead overtook financial institutions like the central bank, finance ministry, commercial banking networks, currency exchange facilities, and others that had not yet become established as independent entities. Unable to check and counter corruption, the vulnerable institutions were effectively captured—to the benefit of the country's elites and the detriment of the public.

Trying to contain inflation from currency speculation by elites

The South Sudanese government attempted without success to unify the official and parallel exchange rates several times.[107] Then, on December 15, 2015, South Sudan's finance minister announced that the fixed rate would float.[108] The urgent need to pay public servants motivated the decision to enact the devaluation policy. The Ministry of Finance instantly increased the value of its monthly oil revenues (which averaged $21–$25 million) by converting U.S. dollars into SSP at a black-market rate. This decision immediately closed the gap that had been quickly widening between the official and parallel exchange rates. The SSP lost 84 percent of its value overnight as the official exchange rate rose from 3 SSP to match the black-market rate of 17 or 18 SSP to the dollar.[109]

The effects on the population were swift and acute. Food prices soared at a time of year when they typically drop. Many already impoverished people suddenly found themselves unable to afford even the most basic household necessities—food, water, fuel, medicine. The policy failed in its ultimate objective to unify the official and black-market rates and check currency speculation and inflation. Instead, the gap between official and black-market rates began to widen again, and a small number of actors with access to both exchange rates profited as inflation worsened.[110]

The U.N.-declared famine in early 2017 and increasingly urgent humanitarian needs of more than half the population were not caused by this policy shift alone. The man-made crisis that has grown to current proportions stems from the system of violent kleptocracy characterized by poor policy choices and profiteering elites who deliberately exploit and abuse the exchange rate and currency management systems in South Sudan.

The conspiratorial dealings of state actors and institutions

The Bank of South Sudan (the country's central bank) is intended to function as an independent institution, but it does not—nor does it play the traditional role of a central bank in managing the country's exchange rate regime.[111] The supply chain of hard currency (also called foreign currency or foreign exchange, mostly U.S. dollars) that flows through South Sudan's financial system begins with the South Sudanese Ministry of Finance. The ministry receives U.S. dollars from oil revenues and non-oil revenues and sells these U.S. dollars to the central bank, which in turn sells U.S. dollars to South Sudanese commercial banks. South Sudanese commercial banks are supposed to make this cash available to qualified importers and others who need U.S. dollars.[112]

State authorities tightly control this flow of hard currency, officially limiting it to financing imports of food, medicine, fuel, and building materials.[113] These materials are imported through letters of credit that are issued to select individuals and entities.[114]

The Bank of South Sudan is intended to function as an independent institution, but it does not—nor does it play the traditional role of a central bank in managing the country's exchange rate regime.

The concepts, practices, and institutions surrounding the government-controlled system of imports and foreign currency credit were overtaken and severely compromised in South Sudan at several key points in time, including between May 2012 and December 2015 when currency was distributed in response to a sudden, overwhelming loss of oil dollars that accompanied the suspension of oil production soon after the attack on Heglig in the spring of 2012. Select individuals with special access to both the official and black-market exchange rates for foreign currency could engage in arbitrage and profiteering. A privileged individual with special access through the government could pay 3 SSP and buy a U.S. dollar at the official exchange rate, then take the dollar to the black market and sell it for 18 SSP, and exchange the 18 SSP for $6 at the official rate. Those engaging in these practices contributed directly to the inflation that was swiftly impoverishing the already poor population.

The Government of South Sudan continues to implicate itself in similar cases of wheeling and dealing—essentially gaming the currency system with ploys such as the "letters of credit" scheme. A letter of credit, in the technical sense, is a document issued by an importer's commercial bank to an exporter's commercial bank. The letter protects the transaction between both parties and ensures the exporter's bank account will be credited when the goods are delivered to the importer. This term has been widely used, however, to describe practices that do not involve what are letters of credit in the strict sense. Between May 2012 and April 2015, for example, in what has come to be known as the "letters of credit" scheme, individuals in the South Sudanese government made arrangements with commercial banks in South Sudan to authorize allocations of foreign currency to specific actors in the country. Despite being called "letters of credit," these particular transactions did not involve actual letters of credit.

While the prime objective of the letters of credit was to mitigate the rising prices of commodities in the local market, the traders who were awarded allocations instead manipulated the process and ultimately looted the public treasury, while authorities did little in the absence of enforceable restrictions on the letters of credit.[115]

Nonstate actors and trade manipulation

For those watching from outside the South Sudanese government, the profiteering that has been made possible by privileged access to the official and parallel exchange rates has increased the value of the "ultimate prize:" access to—and control of—state resources. Blocking the government's access to that prize and its benefits has become an attractive goal for opposition actors—including those who wield control in periphery areas along South Sudan's international borders.

Because South Sudan imports almost all its goods from outside the country (with the exception of subsistence agriculture), government opponents try to increase pressure on Juba and assert their dominance in periphery areas to limit or discourage traders from outside. Crime and insecurity in the border areas, a lack of hard currency such as dollars or euros, and the local use of a different regional currency all drive importers away or undercut their incentives to bring imports as far into the country as Juba. Undermining or altogether cutting off supply lines from outside the country drives up the demand and black-market prices of what goods are available in country, increasing social discontent and pressure on the government in Juba.

Section 4

Violent Kleptocracy Series:
East & Central Africa

Policy and financial tools to counter the violent kleptocracy and facilitate peace in South Sudan

Conventional tools of diplomacy and peacemaking by themselves have failed to bring lasting peace, security, and economic prosperity to the South Sudanese people because these tools do not target spoilers where they are most vulnerable. Corrupt actors continue to wage war and violate peace agreements—hijacking, abusing, and taking what the country and South Sudanese people have. For these reasons, the Enough Project recommends that U.S. policymakers and international partners use the power of the U.S. dollar and the international financial system—on which South Sudanese leaders rely almost exclusively—to target these actors' finances and the networks that enable the system of violent kleptocracy to continue to harm the South Sudanese people.

More effective international pressures, particularly financial pressures, can build leverage and alter the incentive structures that undergird South Sudan's system of competitive, violent kleptocracy. These pressures can also support a renewed peace initiative—one that brings stability and peace to South Sudan and the broader region—as well as target South Sudan's hijacked oil and hard currency sectors. Until now, these sectors have financially sustained and exacerbated violent conflict, and have been abused by South Sudanese leaders in ways that have further crippled the national economy. A more effective peace strategy for South Sudan deploys a range of financial tools to build leverage[116] for peace, and involves a revised peacemaking architecture and approach.[117] This strategy should also involve support for the implementation of South Sudan's legal frameworks and mechanisms of financial transparency and accountability, and for an empowered civil society role in these areas and others.

Financial tools to build leverage with South Sudanese leaders

In September 2017, the U.S. Department of the Treasury's Office of Foreign Assets Control

(OFAC) designated three South Sudanese individuals and three companies as having ties to South Sudan's instability.[118] Building on the Global Magnitsky Human Rights Accountability Act, in December 2017, President Donald Trump imposed sanctions on 13 serious human rights abusers and corrupt actors, among whom was South Sudanese businessman Benjamin Bol Mel— president of ABMC Thai-South Sudan Construction Company Limited (ABMC) and chairman of the South Sudan Chamber of Commerce, Industry, and Agriculture—who was perceived within the government as being close to President Kiir and the local business community. The Treasury Department's Financial Crimes Enforcement Network (FinCEN) also advised financial institutions about the risk that South Sudanese Politically Exposed Persons (PEPs) could potentially move assets illicitly from one bank to another using government connections as "authority" to do so.[119] In March 2018, the Commerce Department added a number of South Sudanese government and private sector entities to its "Entities List," requiring additional procedures by any person seeking to export or re-export goods or technology to them. In December 2018, OFAC sanctioned three additional individuals, including President Kiir's brother-in-law Gregory Vasili and a retired Israeli general, for their role in the conflict and six companies owned or controlled by several of the individuals.

Progressive, expanded follow-up steps, especially if more strongly reinforced by legal action and combined with global anti-money laundering measures, can help thwart conflict financing.

These measures are a positive series of initial steps that should form a foundation for a robust strategy to counter financial corruption in South Sudan. Progressive, expanded follow-up steps, especially if more strongly reinforced by legal action and combined with global anti-money laundering measures, can help thwart conflict financing. These pressures—based on financial intelligence that the Enough Project's financial forensic investigative initiative, The Sentry, helps provide—can work to isolate those who profit from war and state capture and who are responsible for the large-scale diversion of public assets toward military activities and private gain, and their enablers. The international community, with U.S. leadership, can begin to counter conflict financing in South Sudan in a more effective and sustainable way by making it more difficult for bad actors and their enablers to move illicit funds and criminal proceeds through the international banking system.

South Sudan's neighbors and partners in the international community can escalate financial pressures in several ways, including by implementing network sanctions for top South Sudanese leaders and their international commercial networks and enablers. By targeting a cluster of multiple related actors, network sanctions can be more effective as a tool by making it more difficult for actors in an entire network to evade sanctions. To this end, the Trump administration should amend a 2014 executive order[120] pertaining to South Sudan that would allow for the sanctions designation of children and spouses of those known to be benefiting from kleptocracy in South Sudan, anyone selling real estate to a South Sudanese official in another country, and those importing luxury goods.

The international community can also tighten financial pressures with sectoral sanctions targeting the oil and financial sectors in South Sudan. Corrupt actors have captured these vital sectors, using them to stoke and finance conflict and to facilitate the overall system of violent kleptocracy. Sectoral sanctions focused on South Sudan's oil and financial sectors not only can strategically limit or constrain investment to prevent further capture and abuse for a specified time frame, but also include responsible investment reporting obligations. Similar sanctions applied to South Sudan's emerging gold sector would ensure this still-developing industry is pushed in the right direction from the start. Such measures require investors to carry out due diligence and verify they are not enabling illicit and illegal activity. Increasing these kinds of requirements can ensure that responsible companies and actors participate in the development of the sectors and promote transparency and responsibility in the sector's operations. Furthermore, sectoral sanctions enforced by the United States prohibit any U.S. person from doing business with a foreign person in certain sections in South Sudan; these sanctions also set forth that any foreign company doing business in these sections risks losing access to U.S. banks, which are key for entities conducting transactions in U.S. dollars or in the United States.

Countries neighboring South Sudan and countries with strong financial intelligence units (FIUs) should, as FinCEN did in September 2017,[121] work together and increase their use of Advisories and related tools to collect more information and monitor transactions in South Sudan that may be at risk for corruption and money laundering. The information produced from these FIU-issued Advisories can focus attention and resources and lead to follow-up investigation and action by law enforcement actors—for instance, targeting certain large transactions, such as military procurement and real estate purchases. South Sudan's oil and financial sectors are particularly opaque and vulnerable to abusive practices and weak oversight. Such measures can increase the effectiveness of existing sanctions while also generating further critical information on suspicious activity that can lead to additional sanctions and law enforcement steps.[122]

Regional support, coordination, and enforcement of these financial pressure measures are critical to their success. South Sudanese leaders depend on financial networks in neighboring countries, particularly Kenya and Uganda. Bilateral and multilateral diplomacy should underscore the risks the Kenyan and Ugandan governments and private sectors may incur in enabling illicit financial activities. Greater pressure for scrutiny and due diligence by international financial institutions can compromise correspondent banking relationships for regional financial institutions, including in Kenya and Uganda, which do not take a sufficient risk-based approach in evaluating clients and accounts. International engagement through the Financial Action Task Force (FATF), the intergovernmental organization that sets and monitors the implementation of anti-money laundering standards, can also increase pressure and participation to counter money laundering or the risk of enabling money laundering in the areas surrounding South Sudan.

Strengthening the peace approach in South Sudan

A prudent approach to peace in South Sudan should accompany the financial pressures described above. Meanwhile, there is need to strengthen the Revitalized Agreement on the

The new peace agreement, while responsible for scaling down violence, reinstates the status quo and does not transform the war economy in a significant manner. The same players behind the war are back in leadership positions. Photo: The leader of opposition armed forces, Riek Machar, and South Sudan's President Salva Kiir at a signing ceremony of the revitilised peace agreement. September 12, 2018. UNMISS.

Resolution of Conflict in South Sudan (R-ARCSS) to ensure that peace and stability reigns in South Sudan. While many facets of the (R-ARCSS) are well conceived and sound in theory, there are still some problematic issues with the pact that could hinder its effectiveness and ability to prevent a return to hostilities. The agreement largely installs the same leaders who were responsible for the war in December 2013, in positions of responsibility in which they will oversee political and financial matters. It also lacks meaningful checks and balances and grants undue powers to the executive, including final oversight on revenue allocation.[123] To expect these leaders to implement the tenets of the agreement that call for a profound reform of institutions to strengthen accountability processes and justice, is going to be a challenge in the long-run in the absence of stringent measures to hold them accountable.

However, as the implementation of the agreement kicks off, it is prudent for both local actors and the international community to exert effort on strengthening accountability measures that ensure revenues from the country's natural resources are used for the benefit of the people of South Sudan. Equally important, is the need to strengthen mechanisms of accountability for criminal acts and other wrongdoing, ensuring holdout groups are included in the agreement and their grievances addressed, and expanding international engagement beyond the top political leadership in Juba. These measures could collectively begin to energize the peace agreement in a much more meaningful manner.

This approach should include:

- Enforcing strict deadlines as a part of the implementation matrix so that failure to perform certain agreed tasks at the appointed time will elicit corresponding consequences.
- Reporting to the Ceasefire and Transitional Security Arrangements Monitoring Mechanism/Joint Monitoring and Evaluation Commission (CTSAMM/JMEC) violations of any item agreed upon and signed, with the help of civil society.
- Using financial/diplomatic pressure tools to punish such violations.
- Creating consequences for bad actors—such as those violating cessation of hostilities or ceasefire agreements—at each step of the peace process to send a strong message to spoilers who may choose to abrogate the final peace accord.

Ensuring inclusivity of groups and issues

While the R-ARCSS addresses a broad range of issues and represents many stakeholders—both unarmed and armed, its shortcomings have prevented some actors from signing the agreement. There are many stakeholders in the peace process, including women, civil society, traditional leaders, religious leaders, and multiple political parties. This broad range of representatives can help ensure the inclusion of an equally broad range of interests and issues for discussion and resolution. The proposed government of national unity should ensure that the voices of this diverse group of stakeholders are heard.

Mediators and backers of South Sudan's peace process should support meetings and discussions among a variety of unarmed actors in South Sudan who represent diverse and common social interests that span communities. There should be special efforts to reach, include, and represent the interests of the most vulnerable, conflict-affected, and displaced communities. Mediators and supporters should encourage unarmed parties across society to discuss and negotiate the issues and to reach broadly supported positions that represent cross-cutting public interests. In this respect, it is important to reach out to groups opposed to the peace agreement and genuinely solicit their grievances with the aim of including them in the peace process.

Concerted preparatory work can help ensure that unarmed peace process representatives more effectively promote broad substantive social interests during the transitional period. This input is vital and should help define the issues defined in the peace agreement, which should emphasize more heavily the basic daily challenges that affect the largest number of South Sudanese people, regardless of region or circumstance. These issues include basic security and service provisions and accountability for crimes and other misdeeds.

A more comprehensive leadership structure, as stipulated in the peace agreement, should strongly and explicitly support the inclusion of a broader set of representatives, interests, and issues. The range and scope of groups and issues should not be narrowed for the sake of ease and expediency. Doing so risks privileging the interests of the powerful armed actors at the expense of others while compromising the credibility and integrity of the peace agreement as a whole.

All armed opposition groups should have opportunities to participate in the peace process. Isolating and alienating armed opposition groups (or key individuals and constituencies within groups) can sow the seeds of a failed process. Powerful armed factions and their interests cannot be ignored, as these groups can become radicalized and reorganize as spoilers.

To address some of the challenges associated with including internally divided armed opposition groups in the agreement, mediators and friends of South Sudan should define some parameters for the ways armed opposition groups can participate in the peace process and demonstrate their commitment to public service. For example, holdout armed opposition groups could present defined political platforms, plans, and committees to provide security, basic services, governance, and mechanisms of accountability. If an armed opposition group presents clear and viable plans and mechanisms, the group's participation in the peace process should be carefully considered and potentially recommended. Such an approach can incentivize policymaking and a solutions-focused discussion that compares various ideas, rather than a discussion that predominantly emphasizes military activities. Groups should be recognized and supported when they demonstrate that they can overcome internal divisions and narrow interests, especially when they offer articulate positions, plans for providing public goods, responsiveness and accountability to the public, and the ability to privilege common shared social interests over self-seeking interests.

Demanding accountability for crimes and wrongdoing

Those leading the revitalization of South Sudan's peace process, including especially the AU, should support the creation of the Hybrid Court for South Sudan (HCSS), as provided in the peace agreement. The South Sudanese public supports trials for perpetrators of violence and public recognition for those who have been killed or who have gone missing.[124] Channeling many local views of South Sudanese people, the AU Commission of Inquiry report on South Sudan recommended an AU-led legal mechanism supported by the U.N., and also recognized the need for a role for customary courts and traditional justice mechanisms in South Sudan.[125]

The HCSS, if fully equipped with the technical and legal support it needs to investigate and prosecute crimes that include pillage[126] and grand corruption, can also raise the cost for those who commit these crimes—creating accountability and potentially deterring future crimes. The status of efforts to support the court, however, remain unclear. The Government of South Sudan must take this seriously or be held to account. International partners should support South Sudanese judicial institutions and jurists, provide protections for victims and witnesses of crimes, and counter a climate of impunity for atrocity crimes and financial misdeeds by providing the HCSS with the technical expertise to develop its capacity.

To this end, the U.N. Human Rights Council's decision to continue expanding the mandate of the Commission on Human Rights in South Sudan in March 2017 and March 2018 is a welcome move.[127] In February 2018, the Commission released a report that identified more than 40 senior military officials as bearing responsibility for war crimes and crimes against humanity.[128] The HCSS and the Commission can each play a role in strengthening accountability for crimes and wrongdoing in South Sudan, but the Commission should have the full measure of financial and staffing resources it needs, and the U.N should consider its continued engagement in South Sudan.

Expanding engagement beyond Juba

The overall peace approach for South Sudan, should broaden its focus beyond Juba and increase engagement in communities throughout the country to support peace initiatives at the local level. Community-based peace agreements, dialogues, and other initiatives have helped ease tensions, mitigate conflicts, and stem feuds and reprisal attacks. The international community should recognize, support, and further encourage these efforts and those leading them—particularly traditional leaders and religious leaders, whose difficult work fostering social cohesion should not go unacknowledged. If these leaders and their efforts can create stable, peaceful areas that can grow over time, they may help create and strengthen the foundations of peace across South Sudan's different regions.

The international community should support a South Sudanese-led project to build national unity and promote political reform more broadly.

South Sudanese people may additionally wish to convene and lead a broader and credible society-wide discussion and develop plans for countering and restructuring the destructive aspects of the social and political system that developed in South Sudan's struggle for independence. The international community should support a South Sudanese-led project to build national unity and promote political reform more broadly. It may seem inconceivable to initiate such discussions in a context of widespread urgent needs, but promoting ongoing thought leadership and discussion about the issues can help ensure that a range of ideas can be brought forward to address root and systemic causes of grievance and conflict—when the moment is optimal.

Reinforcing South Sudan's financial transparency and accountability mechanisms

On paper, South Sudan has a robust overall regime of laws and government institutions in place to promote financial transparency, accountability, and management of natural resources—oil in particular—in ways that reflect the constitutionally enshrined understanding that South Sudan's citizens are the rightful owners of the country's oil and other resources.[129] In practice, however, few of these laws are respected, and many of South Sudan's governance institutions are either hijacked and totally compromised or otherwise undermined in their ability to function and fulfill their mandates.[130]

Elements of the overall legal framework for financial transparency and accountability in South Sudan are set forth in several agreements and laws. An important source is chapter 4 in the R-ARCSS, which discusses "Resource, Economic, and Financial Management Arrangements."[131] Other legal sources, some enacted into law and others not, that lay out framework provisions for financial transparency and oil revenue management in particular include (1) the 2012 Petroleum Act;[132] (2) the 2012 Petroleum Revenue Management Bill,[133] which has passed the National Legislative Assembly but has not yet been signed into law;[134] (3) the 2012 Anti-Money Laundering and Counter-Terrorist Act;[135] (4) the 2012 Companies Act;[136] (5) the 2011 Public Financial Management and Accountability Act;[137] (6) the 2011 Public Procurement and Disposal Bill;[138] (7) the 2011 constitution;[139] and (8) the 2009 Anti-Corruption Commission Act,[140] among other laws or proposed laws relating to South Sudan's financial transparency and accountability and oil revenue management.[141]

In additional to having these domestic laws, South Sudan has also acceded to the U.N. Convention against Corruption (UNCAC)[142] and signed the AU Convention on Preventing and Combating Corruption.[143] South Sudan and its neighbors' participation in these treaties provides an entry point for international engagement. UNCAC obliges states parties to criminalize corruption within their countries and support other members with legal assistance requests to advance corruption investigations.[144] While less robust and explicit in some of these provisions, the AU convention also encourages criminalization of certain offenses and strengthening of anti-corruption authorities and mechanisms in addition to cooperating in corruption cases that cross borders.[145]

South Sudan has several government institutions with mandates to implement these domestic and international legal provisions, and commitments to uphold financial transparency and accountability and ensure diligent management of oil revenues.[146] The problem, however, appears to be the lack of will to implement rather than the legal means to do so.

South Sudan's overall regime of laws and government institutions for financial transparency and accountability and for the responsible management of oil—and perhaps eventually mining revenues—is considered to be especially strong and reflective of international best practices,[147] although significant legislative gaps remain.[148] Some of South Sudan's laws arguably even exceed international guidelines[149] in their comprehensiveness, in the specificity of certain key provisions,[150] and in the way they have drawn on the relevant experiences of other countries in considering the provisions that best serve South Sudan's unique context.[151]

Despite the strength of its laws and institutions for managing revenue, South Sudan generally does not implement its laws, and the appropriate authorities are not empowered or equipped to fully carry out their mandates.[152] For example, South Sudan's Anti-Corruption Commission would benefit significantly from robust external support. South Sudan's Audit Chamber—that plays a critically important role in its reporting on the government's financial activities with regard to revenue and expenditure in particular[153]— is significantly understaffed and several years behind in its financial reporting. This reporting has served a number of important purposes, not least of all equipping South Sudan's legislature with the information it needs to hold the executive branch accountable for its financial activities.

Of particular importance is the practice of auditing and providing external oversight per the September 2018 R-ARCSS peace agreement, including closing all nonofficial oil accounts.[154] The international community must support the creation or reconstitution of institutions designed to counter corruption in South Sudan—including the Anti-Corruption Commission; the Fiscal, Financial Allocation and Monitoring Commission; and the National Audit Chamber—so they can fulfill their mandates.

Strengthening the multitude of South Sudanese institutions that can counter corruption and providing them with sustained international support over time is critically important. So long as kleptocratic systems remain in place, the laws and institutions designed to counter these systems and sustain South Sudan's peace process will remain compromised and imperiled.

Supporting civil society

A strong, empowered, well-supported South Sudanese civil society that serves the public interest is not only an inherently worthy end unto itself, but also a sustainable and effective bottom-up mechanism to counter kleptocracy. UNCAC, to which South Sudan acceded in 2015,[155] and the AU Convention on Preventing and Combating Corruption, which South Sudan signed in 2015,[156] both explicitly recognize the crucial role—documented over many years by nongovernmental organizations[157]—civil society groups play in anti-corruption work.[158] Supporting the South Sudanese public's demands for peace, transparency, accountability, and human rights protections is a cornerstone of a holistic approach to cultivate sustainable and systemic change.

Leaders and donors should therefore not only hold South Sudanese leaders to their public commitments in these treaties to promote an empowered civil society, but also increase their own support of South Sudanese civil society actors to hold their leaders accountable. Donors should particularly support efforts by civil society to demand implementation of South Sudan's strong beneficial ownership and public disclosure provisions set forth in the country's 2012 Petroleum Revenue Management Act and the 2011 Public Financial Management and Accountability Act.

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Fully supporting sustainable peace and systemic change away from kleptocracy and violence will require a holistic effort. Accountability and anti-corruption initiatives must be integrated throughout investment initiatives, assistance programs, and institution-strengthening efforts. Donors should scrutinize the anticorruption initiatives within South Sudan to ensure that these initiatives do not themselves increase and mask the problem. Assistance programs should demand clear reporting and auditing of the use of funds for all programs, including anti-corruption programs.

Section 5

Violent Kleptocracy Series:
East & Central Africa

Conclusion

Since its independence in 2011, South Sudan has settled into all-too-familiar patterns of corruption, exploitation, and extraction at the hands of a self-serving cadre of warmongering elites who will stop at nothing to claim the country's resources for their own. This culture of mass corruption and violence continues to wreak havoc on South Sudan's regulatory structures. While commendable for its role in halting violence to some degree, the R-ARCSS does not overhaul the status quo; rather it reinstalls the same actors that were complicit in the looting of state resources and leading the country to war, in positions of power and influence. In this manner, the roiling tensions from South Sudan's violent kleptocracy hold the potential to ignite a conflict as they did in 2013 if not handled well. Competition to capture oil revenues and deter others from benefiting will not stop. Some actors who will find themselves at the peripheries of the state power apparatus once again may resort to violence. It is time U.S. policymakers and international partners use the full power of the U.S. dollar and the international financial system to target these leaders' finances and the networks that enable the system of violent kleptocracy to continue to harm the South Sudanese people. This pressure has begun, but more is needed to alter the incentives for the holders of power in South Sudan and create leverage for international leaders to use in support of a renewed peace initiative to bring stability and peace to South Sudan and the broader region.

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achieving a decent standard of life for the people of South Sudan." The constitution continues, "All levels of government shall:
a. develop and regulate the economy in order to achieve prosperity through policies aimed at increasing production, creating an efficient and self-reliant economy and encouraging free market and prohibition of monopoly;
b. protect and ensure the sustainable management and utilization of natural resources including land, water, petroleum, minerals, fauna and flora for the benefit of the people;
c. facilitate the development of the private sector, particularly indigenous entrepreneurs to establish and develop a viable private sector capable of participating effectively in reconstruction and development;
d. promote private initiative and self-reliance and take all necessary steps to involve the people in the formulation and implementation of development plans and programmes that affect them and to enhance as well their right to equal opportunities in development;
e. promote agricultural, industrial and technological development by adopting appropriate policies and legislation for the encouragement and attraction of local and foreign investment; and
f. take necessary measures to bring about balanced, integrated and equitable development of different areas and to encourage and expedite rural development as a strategy for averting urban-biased development and policies that have been responsible for the neglect of rural communities.
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Revenue Management Act, 2012 [181] sets out a structure for the distribution of petroleum revenues with 2% of revenues allocated to oil producing states and 3% to local communities affected by oil production. The reality is different. South Sudan is a mono-economy with oil its main source of revenue.[182] Despite a legal and institutional framework that speaks to equitable management of strategic resources, access to the resources of the country is determined by patronage and allegiance to the ruling party. Whoever controls the political power has advantage over the control of the resources." African Union Commission of Inquiry on South Sudan, "Final Report of the African Union Commission of Inquiry on South Sudan" (October 15, 2014, released publicly October 27, 2015), pp. 74–76, paras. 235–237), available at http://www.peaceau.org/uploads/auciss.final.report.pdf.

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[60] For more on how oil has empowered and enriched the Sudanese regime and the system of violent kleptocracy in Sudan, see The Enough Project, "Sudan's Deep State: How Insiders Violently Privatized Sudan's Wealth, and How to Respond" (April 2017), pp. 22–35, available at http://www.enoughproject.org/files/SudansDeepState_Final_Enough.pdf.

[61] The Enough Project, "Sudan's Deep State: How Insiders Violently Privatized Sudan's Wealth, and How to Respond" (April 2017), p. 22, available at http://www.enoughproject.org/files/SudansDeepState_Final_Enough.pdf.

[62] John Prendergast, "How the World's Newest Country Went Awry: South Sudan's War, Famine, and Potential Genocide" (Washington: The Enough Project, March 2017), pp. 2–5, available at http://www.enoughproject.org/files/SouthSudanAwry_March2017_EnoughProject.pdf; Daniel Akech Thiong, "Lone Eaters: Corruption and Rent Seeking in South Sudan" (2015), unpublished.

[63] Luke Patey, "South Sudan: Fighting Could Cripple Oil Industry for Decades," *African Arguments*, January 10, 2014, available at http://africanarguments.org/2014/01/10/south-sudan-fighting-could-cripple-oil-industry-for-decades-by-luke-patey/.

[64] Luke Patey, "Requiem for a Dream?" *Petroleum Economist*, July/August 2014, p. 11, available at http://lukepatey.com/wp-content/uploads/2014/11/SOUTH-SUDAN3.pdf.

[65] The Sentry, "Fueling Atrocities: Oil and War in South Sudan" (March 2018), available at https://thesentry.org/reports/fueling-atrocities/.

[66] Laura M. James, "Fields of Control: Oil and (In)security in Sudan and South Sudan" (Geneva: Small Arms Survey, November 2015), pp. 25–26, available at http://www.smallarmssurveysudan.org/fileadmin/docs/working-papers/HSBA-WP40-Oil.pdf; Luke Patey, *The New Kings of Crude: China, India, and the Global Struggle for Oil in Sudan and South Sudan* (London: Hurst & Co., 2014), pp. 209, 213–215.

[67] U.N. Mission in Sudan, "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" (January 2015), art. 5.6, p. 54, available at http://peacemaker.un.org/sites/peacemaker.un.org/files/SD_060000_The%20Comprehensive%20Peace%20Agreement.pdf. ("After the payment to the Oil Revenue Stabilization Account and to the oil producing states/regions, fifty percent (50%) of net oil revenue derived from oil producing wells in Southern Sudan shall be allocated to the Government of Southern Sudan (GOSS) as of the beginning of the Pre-Interim Period and the remaining fifty percent (50%) to the National Government and States in Northern Sudan.")

[68] Luke Patey, *The New Kings of Crude: China, India, and the Global Struggle for Oil in Sudan and South Sudan* (London: Hurst & Co., 2014), pp. 210–213; Global Witness, "Fuelling Mistrust: The Need for Transparency in Sudan's Oil Industry" (September 2009), available at https://www.globalwitness.org/en/reports/fuelling-mistrust/. Global Witness noted, "If it were found that the oil figures published by the Government of National Unity had been under-reported by, for example, 10%, the southern government would be owed more than $600 million (on the basis that the Government of Southern Sudan has received more than $6 billion in oil revenues since the signing of the peace agreement). This is more than three times the south's combined annual budgets for health and education."

[69] BP, "BP Statistical Review of World Energy" (June 2016), p. 6, available at https://www.bp.com/content/dam/bp/pdf/energy-economics/statistical-review-2016/bp-statistical-review-of-world-energy-2016-full-report.pdf; International Monetary Fund, "South

Sudan: 2016 Article IV Consultation-Press Release; Staff Report; and Statement by the Executive Director for South Sudan" (March 23, 2017), p. 6, available at https://www.imf.org/en/Publications/CR/Issues/2017/03/23/South-Sudan-2016-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-44757.

[70] For a map of the oil fields and other natural resources in the Sudan and South Sudan border area, see Steven Spittaels and Yannick Weyns, "Mapping Conflict Motives: The Sudan-South Sudan Border," interactive map (Antwerp: International Peace Information Service, January 2014), available at http://www.ipisresearch.be/mapping/webmapping/bordersudans/. For maps of the oil, infrastructure, and locations of violent clashes in Unity State specifically, see Joshua Craze and Jérôme Tubiana with Claudio Gramizzi, "A State of Disunity: Conflict Dynamics in Unity State, South Sudan, 2013–15" (Geneva: Small Arms Survey, December 2016), pp. 9, 53, 82, 105, 153, available at http://www.smallarmssurveysudan.org/fileadmin/docs/working-papers/HSBA-WP42-Unity-Dec-2016.pdf. For a map showing oil infrastructure and clashes in Upper Nile State, see Small Arms Survey Human Security Baseline for Sudan and South Sudan, "The Conflict in Upper Nile State
Describing Events Through 8 March 2016" (Geneva: Small Arms Survey, March 2016), p. 2, available at http://www.smallarmssurveysudan.org/fileadmin/docs/facts-figures/HSBA-Conflict-Upper-Nile-March-2016.pdf. For other maps of oil concessions, fields, and infrastructure, see Laura M. James, "Fields of Control: Oil and (In)security in Sudan and South Sudan" (Geneva: Small Arms Survey, November 2015), pp. 14–16, 39, available at http://www.smallarmssurveysudan.org/fileadmin/docs/working-papers/HSBA-WP40-Oil.pdf; Luke Patey, "Requiem for a Dream?" *Petroleum Economist*, July/August 2014, p. 11, available at http://lukepatey.com/wp-content/uploads/2014/11/SOUTH-SUDAN3.pdf.

[71] Luke Patey, "Requiem for a Dream?" *Petroleum Economist*, July/August 2014, available at http://lukepatey.com/wp-content/uploads/2014/11/SOUTH-SUDAN3.pdf.

[72] There are two slightly different assigned fees depending on where and by whom the oil was pumped. U.N. Mission in Sudan, "Agreement Between the Government of the Republic of South Sudan and the Government of the Republic of Sudan on Oil and Related Economic Matters" (Addis Ababa, Ethiopia: September 27, 2012), arts. 4.1, 4.1, 4.4.1, available at http://peacemaker.un.org/sites/peacemaker.un.org/files/SD%20SS_120927_Agreement%20on%20oil%20and%20related%20economic%20matters.pdf.

[73] International Monetary Fund, "Republic of South Sudan 2014 Article IV Consultation—Staff Report; Staff Statement; and Press Release," Figure 1. Republic of South Sudan: Oil Production and Real GDP Growth: Oil Production (In thousands of barrels per day), (December 2014), p. 6, available at https://www.imf.org/external/pubs/ft/scr/2014/cr14345.pdf.

[74] Lual Deng, "Enhancing Transparency and Accountability in the Utilization of Oil Revenues in South Sudan" (a presentation by the former minister of oil, Dr. Lual Deng, Ebony Centre, Juba, 2015).

[75] Luke Patey succinctly explains: "In January 2012, South Sudan elected to shut in all its oil production to force the resolution of a dispute with Sudan over pipeline transit fees and in retaliation for Khartoum's confiscation of crude worth hundreds of millions of dollars. With its oil industry at a standstill, South Sudan then engaged in a short border war with Sudan. The skirmishes caused hundreds of millions of dollars in damage to key infrastructure in Unity state, including to electrical systems, pumps, and pipelines. When, in April 2013, the two sides signed an agreement allowing South Sudanese oil to travel north via the export link, some oil wells were

deemed noneconomical to reopen." Luke Patey, "Requiem for a Dream?" *Petroleum Economist*, July/August 2014, p. 12, available at http://lukepatey.com/wp-content/uploads/2014/11/SOUTH-SUDAN3.pdf.

[76] International Monetary Fund, "Republic of South Sudan 2014 Article IV Consultation—Staff Report; Staff Statement; and Press Release" (December 2014), pp. 4–5, paras. 3–4, available at https://www.imf.org/external/pubs/ft/scr/2014/cr14345.pdf.

[77] *Sudan Tribune*, "South Sudan Warns of Reduction in Oil Production if Fighting Continues," July 1, 2015, available at http://www.sudantribune.com/spip.php?article55541; Kim Lewis, "Conflict Stifles South Sudan's Oil Industry," Voice of America, July 13, 2015, available at http://www.voanews.com/content/oil-conflict-revenue-investment-production-instability-sudan-globaldata/2859593.html; *Bloomberg Business News*, "South Sudan Oil Field Becomes Battleground as Economy Reels," May 25, 2015, available at http://www.bloomberg.com/news/articles/2015-05-25/south-sudan-oil-field-becomes-key-battleground-as-economy-reels.

[78] *Sudan Tribune*, "South Sudan Warns of Reduction in Oil Production if Fighting Continues," July 1, 2015, available at http://www.sudantribune.com/spip.php?article55541; Kim Lewis, "Conflict Stifles South Sudan's Oil Industry," Voice of America, July 13, 2015, available at http://www.voanews.com/content/oil-conflict-revenue-investment-production-instability-sudan-globaldata/2859593.html; *Bloomberg Business News*, "South Sudan Oil Field Becomes Battleground as Economy Reels," May 25, 2015, available at http://www.bloomberg.com/news/articles/2015-05-25/south-sudan-oil-field-becomes-key-battleground-as-economy-reels.

[79] Denis Dumo, "South Sudan Owes Sudan $1.3 Billion From 2012 Oil Deal: Official," Reuters, December 5, 2017, available at https://www.reuters.com/article/us-southsudan-oil/south-sudan-owes-sudan-1-3-billion-from-2012-oil-deal-official-idUSKBN1DZ2XK.

[80] BP, "BP Statistical Review of World Energy" (June 2016), p. 6, available at https://www.bp.com/content/dam/bp/pdf/energy-economics/statistical-review-2016/bp-statistical-review-of-world-energy-2016-full-report.pdf.

[81] Katherine Houreld, "South Sudan Aims to More Than Double Oil Output in 2017/18," Reuters, January 27, 2017, available at https://www.reuters.com/article/us-southsudan-oil/south-sudan-aims-to-more-than-double-oil-output-in-2017-18-idUSKBN15B1CD.

[82] Government of South Sudan Office of the Minister of Petroleum, "Blocks B1 and B2 Open for Direct Negotiation Following Collapse of Talks With Companies (Total E & P, Tullow Oil Plc and KUFPEC)," Nasdaq GlobeNewswire, April 24, 2017, available at https://globenewswire.com/news-release/2017/04/24/970314/0/en/Blocks-B1-and-B2-Open-for-Direct-Negotiation-following-Collapse-of-Talks-with-Companies-Total-E-P-Tullow-Oil-Plc-and-KUFPEC.html; Zainab Calcuttawala, "Oil Workers Become a Priority Target in South Sudan Conflict," OilPrice.com, April 3, 2017, available at http://oilprice.com/Energy/Energy-General/Oil-Workers-Become-A-Priority-Target-In-South-Sudan-Conflict.html; Okech Francis and Nizar Manek, "Oil Workers Seen as Target in New Phase of South Sudan's War," *Bloomberg News*, March 29, 2017, available at https://www.bloomberg.com/politics/articles/2017-03-29/oil-workers-seen-as-target-in-latest-phase-of-south-sudan-s-war.

[83] Zainab Calcuttawala, "Oil Workers Become a Priority Target in South Sudan Conflict," OilPrice.com, April 3, 2017, available at http://oilprice.com/Energy/Energy-General/Oil-Workers-Become-A-Priority-Target-In-South-Sudan-Conflict.html. For a map of the oil fields and other

natural resource endowments in the Sudan and South Sudan border area, see Steven Spittaels and Yannick Weyns, "Mapping Conflict Motives: The Sudan-South Sudan Border," interactive map (Antwerp: International Peace Information Service, January 2014), available at http://www.ipisresearch.be/mapping/webmapping/bordersudans/.

[84] The estimated average price in 2017 per barrel of Brent crude was $54.23 as of April 2017, according to the U.S. Energy Information Administration. The Dar blend oil that is pumped from South Sudan sells for about $10 less than a barrel of Brent crude, according to South Sudanese economic analysts. U.S. Energy Information Administration, "Short-Term Energy and Summer Fuels Outlook," April 11, 2017, available at https://www.eia.gov/outlooks/steo/marketreview/crude.cfm.

[85] Global Witness, "Turning the Tide: Building a Clean Oil Sector Through South Sudan's Peace Agreement," Figure 2: How Does Oil in the Ground Become Cash in the Bank? (November 2015), p. 9, available at https://www.globalwitness.org/en/reports/turningtide/.

[86] There are slightly different assigned fees depending on which of the two different transportation facilities (Petrodar versus GNPOC - Greater Nile Petroleum Operating Company) is used for the barrel of oil. U.N. Mission in Sudan, "Agreement Between the Government of the Republic of South Sudan and the Government of the Republic of Sudan on Oil and Related Economic Matters" (Addis Ababa, Ethiopia, September 27, 2012), arts. 4.1, 4.1, 4.4.1, available at http://peacemaker.un.org/sites/peacemaker.un.org/files/SD%20SS_120927_Agreement%20on%20oil%20and%20related%20economic%20matters.pdf.

[87] Global Witness, "Fuelling Mistrust: The Need for Transparency in Sudan's Oil Industry" (September 2009), p. 5, available at https://www.globalwitness.org/en/reports/fuelling-mistrust/; World Bank, "South Sudan Overview," available at http://www.worldbank.org/en/country/southsudan/overview (last accessed April 2017).

[88] International Monetary Fund, "South Sudan: 2016 Article IV Consultation-Press Release; Staff Report; and Statement by the Executive Director for South Sudan" (March 23, 2017), p. 6, available at https://www.imf.org/en/Publications/CR/Issues/2017/03/23/South-Sudan-2016-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-44757; Republic of South Sudan Ministry of Finance and Economic Planning, "2015/16 Full Year Macro-Fiscal Report" (October 2016), p. 3, available at http://grss-mof.org/wp-content/uploads/2016/12/2014-15-Q4-budget-execution-report-161205-1.pdf.

[89] It is not possible to determine the exact amount spent on military purposes in South Sudan, as much activity with revenue and expenditure occurs outside official channels. The Enough Project, ed. Jacinth Planer, "Weapons of Mass Corruption: How Corruption in South Sudan's Military Undermines the World's Newest Country" (January 2017), p. 21, available at http://www.enoughproject.org/files/WeaponsOfMassCorruption_012417.pdf. Endnote 33: "The government of South Sudan has spent heavily on its military for years, devoting a large share of its official budget to military spending. An October 2016 speech by the finance minister indicated this trend would continue for the 2016/2017 fiscal year, with 11 billion SSP of the anticipated 22.3 billion SSP designated for the security sector, with the majority of this money to be used for salaries. The official 2015-2016 itemized budget for South Sudan, shows that South Sudan allocates 43 percent of the budget to the military, 58 percent to both military and rule of law combined, and two-thirds of its total budget (67 percent) on military, rule of law, and public administration together. This budget indicates about 6 percent of spending goes to education

and about 3 percent of spending goes to health care. The African Union Commission of Inquiry report on South Sudan that was completed in October 2014 but only publicly released in October 2015, says, "Security and salaries appear to consume a large portion of revenues, with national estimates of budgetary allocation to defence alone ranging between 40% and 60%" (p. 56, para. 171). In May 2015, The *Indian Ocean Newsletter* noted, "According to figures obtained by the IMF from the finance ministry, with the continuing war, the State is still devoting 70% of its expenditure on security ($210 million a month)." The Stockholm International Peace Research Institute (SIPRI) military expenditure database analyzes military spending in several different ways and compares it among different countries. For South Sudan, military spending as percentage of gross domestic product (GDP) was 13.8 percent for 2015; 11.8 percent for 2014; 8.3 percent for 2013; 9.5 percent for 2012; and 5.9 percent for 2011. The SIPRI military spending data has been cited by other news articles, including those by the *East African* and *Mail & Guardian Africa*, that emphasize how high South Sudan's military spending is relative to that of others in the region. The 2016 African Economic Outlook on South Sudan notes, "Most of the spending on health ... comes directly from outside sources" (p. 5); "To date, about 75% of health services are provided by NGOs" (p. 10). A 2015 UNESCO study on education in South Sudan notes that in 2013, "only 5.4% of the national budget was allocated to the Education Sector, despite the requirement for 10% in the Education Act." Government of South Sudan, "Budget Speech FY 2016/2017 Presented to Transitional National Legislature by Hon. Stephen Dhieu Dau, Minister of Finance & Planning" (October 2016), p. 13, para. 57; p. 19, para. 79; Government of South Sudan Ministry of Finance and Economic Planning, "2015/2016 Approved Budget," p. 25, 30, 60, 69, 82, available at http://www.grss-mof.org/wp-content/uploads/2015/11/2015-16-Itemized-Budget1.pdf; African Union Commission of Inquiry on South Sudan, "Final Report of the African Union Commission of Inquiry on South Sudan," p. 56, para. 171; *Indian Ocean Newsletter*, "In IMF View, a Kleptocratic State Bordering on Bankruptcy," May 1, 2015; Stockholm International Peace Research Institute, "SIPRI Military Expenditure Database," available at https://www.sipri.org/databases/milex (last accessed January 2017); Allan Olingo, "Nairobi, Juba Lead Region in Military Expenditure," *The East African*, May 7, 2016, available at http://www.theeastafrican.co.ke/news/Nairobi--Juba-lead-region-in-military-expenditure/2558-3193816-85hrduz/index.html; Ilya Gridneff, "South Sudan Budgeted $850m -- or up to 15% of its GDP -- to Crush Rebellion, UN Says," *Mail & Guardian Africa*, August 24, 2015, available at http://mgafrica.com/article/2015-08-24-south-sudan-budgeted-850m-to-crush-rebellion-un-says; Frederick Mugisha and Guy Blaise Nkamleu, "South Sudan 2016" (African Development Bank, Organisation for Economic Cooperation and Development, U.N. Development Programme, 2016), pp. 5, 10, available at http://www.africaneconomicoutlook.org/en/country-notes/south-sudan; U.N. Educational, Scientific and Cultural Organization (UNESCO), "Review of Education for All in South Sudan Supported by UNESCO," February 23, 2015, available at http://en.unesco.org/news/review-education-all-south-sudan-supported-unesco.

[90] *Indian Ocean Newsletter*, "Nilepet: State Secret Fund Has Run Out of Money," July 1, 2016, available by subscription at https://www.africaintelligence.com/ION/business-circles/2016/07/01/nilepet-state-secret-fund-has-run-out-of-money,108172992-ART.

[91] For a map of the disputed and claimed areas, see Joshua Craze, "Contested Borders: Continuing Tensions Over the Sudan–South Sudan Border" (Geneva: Small Arms Survey, November 2014), p. 12, available at

http://www.smallarmssurveysudan.org/fileadmin/docs/working-papers/HSBA-WP34-Contested-Borders.pdf. For clarity on the distinctions between "disputed" and "claimed," see Craze, "Contested Borders," pp. 13–14.

[92] For a closer look at the African Union Commission of Inquiry's findings on the context and main developments that preceded the outbreak of conflict, see African Union Commission of Inquiry on South Sudan, "Final Report of the African Union Commission of Inquiry on South Sudan" (October 15, 2014, released publicly October 27, 2015), pp. 24–30, paras. 61–80, available at http://www.peaceau.org/uploads/auciss.final.report.pdf.

[93] For a map of the oil fields and other natural resource endowments in the Sudan and South Sudan border area, see Steven Spittaels and Yannick Weyns, "Mapping Conflict Motives: The Sudan-South Sudan Border," interactive map (Antwerp: International Peace Information Service, January 2014), available at http://www.ipisresearch.be/mapping/webmapping/bordersudans/.

[94] Justine Fleischner, "Deadly Enterprise: Dismantling South Sudan's War Economy and Countering Potential Spoilers" (Washington: The Enough Project, December 2015), pp. 10–11,12–13, 14–16, available at http://www.enoughproject.org/files/DeadlyEnterprise_121515.pdf.

[95] *Sudan Tribune*, "16 Killed in Tribal Clashes in Unity Oil Fields," December 19, 2013, available at http://www.sudantribune.com/spip.php?article49247; Agence France-Presse, "Five Oil Workers Killed in South Sudan Attack: Company Official," December 19, 2013; U.N. Security Council, "Security Council Press Statement on Situation in South Sudan," Press release, December 20, 2013, available at http://www.un.org/press/en/2013/sc11227.doc.htm; John Ficenec, "South Sudan Crisis Pushes Oil Prices Higher," *Telegraph*, December 23, 2013, available at http://www.telegraph.co.uk/finance/oilprices/10534902/South-Sudan-crisis-pushes-oil-prices-higher.html.

[96] African Union Commission of Inquiry on South Sudan, "Final Report of the African Union Commission of Inquiry on South Sudan" (October 15, 2014, released publicly October 27, 2015), available at http://www.peaceau.org/uploads/auciss.final.report.pdf. Paragraphs 577–579, 582–585, 601, 605, 607, 806, and 610–612 describe atrocity crimes and conflict dynamics in Unity State. Paragraphs 613–647 describe crimes, conflict dynamics, and repeated calls for accountability for acts committed in Upper Nile State. For allegations of attacks at oil infrastructure targeting people of Dinka ethnicity specifically, see *Sudan Tribune*, "16 Killed in Tribal Clashes in Unity Oil Fields," December 19, 2013, available at http://www.sudantribune.com/spip.php?article49247; Small Arms Survey Human Security Baseline Assessment (HSBA) for Sudan and South Sudan, "The Conflict in Unity State (11 January 2014 update)," available at http://www.smallarmssurveysudan.org/fileadmin/docs/facts-figures/south-sudan/HSBA-Conflict-in-Unity-January-2014.pdf.

[97] In a May 2012 paper, two researchers argued, "The exchange rate regime currently sits uncomfortably between two regimes. The first is a fixed exchange rate anchored by a set of 'currency board' rules. Though broadly effective in a macroeconomic sense, this regime has been plagued by quite serious problems of rent-seeking and corruption more or less since its inception in July 2011. As pressures on the balance of payments increase, this arrangement appears to be giving way to a less robust 'conventional' fixed exchange rate regime that relies for its stability on a level of fiscal control that is becoming increasingly hard for the authorities to deliver and as such the parallel market premium is beginning to increase." Christopher Adam and Lee Crawfurd, "Exchange Rate Options for South Sudan" (Oxford: University of Oxford and Oxford Policy Management Ltd., May 2012), available at

http://users.ox.ac.uk/~cadam/pdfs/Adam_Crawfurd_Exchange%20Rate%20Options%20for%20South%20Sudan_Version2_1_May_2012.pdf.

[98] Matthew Arnold and Matthew LeRiche, *South Sudan: From Revolution to Independence* (New York: Columbia University Press, 2012), p. 176.

[99] Matthew Arnold and Matthew LeRiche, *South Sudan: From Revolution to Independence* (New York: Columbia University Press, 2012), p. 176.

[100] Matt Richmond, "South Sudan Plans 'Managed Float' of New Currency, Bank Says," *Bloomberg News*, July 12, 2011, available at http://www.bloomberg.com/news/articles/2011-07-12/south-sudan-plans-managed-float-of-new-currency-correct-.

[101] Mabior Mach, "S. Sudan Stops Circulation of North's Currency in New Economy," *Africa Review*, August 24, 2011, available at http://www.africareview.com/News/South-Sudan-stops-circulation-of-north-currency/-/979180/1224386/-/m1w4c7/-/index.html.

[102] International Monetary Fund, "Republic of South Sudan 2014 Article IV Consultation—Staff Report; Staff Statement; and Press Release" (December 2014), p. 7, para. 9, available at https://www.imf.org/external/pubs/ft/scr/2014/cr14345.pdf.

[103] In describing the origin, purpose, and intended impact of the article IV consultations, the IMF notes: "Country surveillance is an ongoing process that culminates in regular (usually annual) comprehensive consultations with individual member countries, with discussions in between as needed. The consultations are known as 'Article IV consultations' because they are required by Article IV of the IMF's Articles of Agreement. During an Article IV consultation, an IMF team of economists visits a country to assess economic and financial developments and discuss the country's economic and financial policies with government and central bank officials. IMF staff missions also often meet with parliamentarians and representatives of business, labor unions, and civil society. The team reports its findings to IMF management and then presents them for discussion to the Executive Board, which represents all of the IMF's member countries. A summary of the Board's views is subsequently transmitted to the country's government. In this way, the views of the global community and the lessons of international experience are brought to bear on national policies. Summaries of most discussions are released in Press Releases and are posted on the IMF's web site, as are most of the country reports prepared by the staff." International Monetary Fund, "Surveillance," available at https://www.imf.org/external/about/econsurv.htm (last accessed September 2017).

[104] International Monetary Fund, "Republic of South Sudan: 2014 Article IV Consultation—Staff Report; Staff Statement; and Press Release," December 17, 2014, available at https://www.imf.org/en/Publications/CR/Issues/2016/12/31/Republic-of-South-Sudan-2014-Article-IV-Consultation-Staff-Report-Staff-Statement-and-Press-42528.

[105] Agence France-Presse, "South Sudan Seeks to Tackle Food Shortages," October 27, 2011.

[106] Dhieu Mathok Diing Wol, "Monetary Policies Could Put National Economy at Risk [opinion]," *Sudan Tribune*, August 28, 2011.

[107] The government devalued the SSP in November 2013 and again in September 2014 following a drop in monetary reserves. These measures, however, were unsuccessful, and by early December 2015 the official exchange rate stood at 2.9 SSP to the U.S. dollar, while the black-market exchange rate had risen to 17 to 18 SSP to the dollar. The situation enabled a small number of people with privileged access to both rates to engage in arbitrage and to profit by 400 to 620 percent simply by exchanging SSP for U.S. dollars. Food and Agriculture Organization of the U.N. and World Food Programme, "Special Report: FAO/WFP Crop and Food Security

Assessment Mission to South Sudan" (Rome: February 2014), available at http://documents.wfp.org/stellent/groups/public/documents/ena/wfp263188.pdf; Mading Ngor, "South Sudan Mulls Exchange-Rate Unity Once Security Improves," *Bloomberg News*, September 15, 2014, available at http://www.bloomberg.com/news/articles/2014-09-14/south-sudan-mulls-unifying-exchange-rates-once-security-improves; South Sudan TV, "South Sudan Parliament Eliminates the Central Bank's Decision to Reduce the Pound Against the Dollar," November 15, 2013, available at https://www.youtube.com/watch?v=vEDKD0Zgw5E; Rate provided by the Bank of South Sudan home page, available at https://bosshq.net/ (last accessed December 7, 2015). Under the previous fixed-rate regime, given the gap between the official and parallel exchange rate market, if a trader took one dollar and exchanged it on the parallel market rate for 15 to 18 SSP, and then changed the SSP back into dollars at the official 2.9 rate, he or she would receive 5 to 6.20 U.S. dollars, or a 400 to 620 percent profit. Justine Fleischner, "Deadly Enterprise: Dismantling South Sudan's War Economy and Countering Potential Spoilers" (Washington: The Enough Project, December 2015), p. 3, available at http://www.enoughproject.org/files/DeadlyEnterprise_121515.pdf; The Sentry, "The Nexus of Corruption and Conflict in South Sudan" (July 2015), p. 10, available at https://cdn.thesentry.org/wp-content/uploads/2015/08/06131651/NexusCorruptionConflict_SouthSudan.pdf. For additional references to "round-tripping" and arbitrage, see Keith Jefferis, "Exchange Rate Reform in South Sudan" (London: International Growth Centre, December 2015), p. 6, available at http://www.theigc.org/project/exchange-rate-options-for-south-sudan/.

[108] Reuters, "South Sudan Shifts to Floating Exchange Rate – Minister," December 15, 2015, available at http://af.reuters.com/article/southSudanNews/idAFL8N1440S420151215; *Sudan Tribune*, "South Sudan Allows Free Floating Foreign Exchange Rate," December 16, 2015, available at http://www.sudantribune.com/spip.php?article57382. Some analysts had pointed to the economic advantages associated with floating South Sudan's currency. Amadou Sy, "The Implications of South Sudan's Decision to Float its Currency," Brookings Institution, December 18, 2015, available at http://www.brookings.edu/blogs/africa-in-focus/posts/2015/12/18-south-sudan-pound-float-peg-currency-oil-sy; Keith Jefferis, "Exchange Rate Reform in South Sudan" (London: International Growth Centre, December 2015), p. 17, available at http://www.theigc.org/project/exchange-rate-options-for-south-sudan/.

[109] This was as of January 2016, with the exchange rate provided by the Bank of South Sudan home page, available at https://bosshq.net/ (last accessed January 12 and 14, 2016); see also Africa Confidential, "An Implausible Government," January 8, 2016, available at http://www.africa-confidential.com/article-preview/id/11416/An_implausible_government.

[110] The Enough Project, "Addressing South Sudan's Economic and Fiscal Crisis" (February 2016), available at http://www.enoughproject.org/files/SouthSudan_EconFiscalCrisis_022016.pdf.

[111] Radio Tamazuj, "South Sudan MPs Slam Central Bank Over 'Do Nothing' Approach," November 25, 2015, available at https://radiotamazuj.org/en/article/south-sudan-mps-slam-central-bank-over-%E2%80%9Cdo-nothing%E2%80%9D-approach; *Sudan Tribune*, "S. Sudan Finance Ministry Halts Hard Currency Allocation to Central Bank," October 15, 2015, available at http://www.sudantribune.com/spip.php?article56720; Radio Tamazuj, "Crisis at South Sudan's Central Bank," September 1, 2015, available at https://radiotamazuj.org/en/article/crisis-south-sudans-central-bank.

[112] Under the fixed-rate regime in place until December 15, 2015, the South Sudanese Ministry of Finance was supposed to be selling U.S. dollars from oil revenues and non-oil revenues to the central bank at the fixed exchange rate of 2.96 SSP to the U.S. dollar, and the central bank in turn was supposed to be selling U.S. dollars to South Sudanese commercial banks at a rate of 3.16 SSP to the U.S. dollar.
[113] U.S. Department of State, "2014 South Sudan Investment Climate Statement", p. 2, available at http://www.state.gov/documents/organization/234181.pdf.
[114] U.S. Department of State, "2015 South Sudan Investment Climate Statement," p. 6, available at http://www.state.gov/documents/organization/241956.pdf; U.S. Department of State, "2014 South Sudan Investment Climate Statement," available at http://www.state.gov/documents/organization/234181.pdf.
[115] Simona Foltyn, "How South Sudan's Elite Looted Its Foreign Reserves," *Mail & Guardian*, November 3, 2017, available at https://mg.co.za/article/2017-11-03-00-exclusive-how-south-sudans-elite-looted-its-foreign-reserves/.

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[117] Brian Adeba, Brad Brooks-Rubin, John Prendergast, and Jon Temin, "Breaking Out of the Spiral in South Sudan
Anti-Money Laundering, Network Sanctions, and a New Peacemaking Architecture" (Washington: The Enough Project, September 2017), available at https://enoughproject.org/reports/breaking-out-spiral-in-south-sudan.
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[122] Brian Adeba, Brad Brooks-Rubin, John Prendergast, and Jon Temin, "Breaking Out of the Spiral in South Sudan

Anti-Money Laundering, Network Sanctions, and a New Peacemaking Architecture" (Washington: The Enough Project, September 2017), available at https://enoughproject.org/reports/breaking-out-spiral-in-south-sudan.

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convention-preventing-and-combating-corruption and the status list with the date of South Sudan's signature is available at http://www.au.int/en/sites/default/files/treaties/7786-sl-corruption_0.pdf (both documents last accessed January 2016).
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[157] In an excellent 2012 report on South Sudan's oil regulatory and financial management framework and challenges, Global Witness notes, "In countries where civil society is able to engage in monitoring the management of natural resource revenues, like Ghana and Liberia, this has been widely credited as strengthening efforts to combat corruption and mismanagement" (p. 29). Endnote 136, associated with this passage, further adds, "The lack of transparency and active civil society participation in resource-rich countries like Angola and Equatorial Guinea has facilitated the potential for corruption and mismanagement. For more information, see Global Witness reports 'Rigged: The Scramble for Africa's Oil, Gas and Minerals' and 'Undue Diligence: How Banks Do Business With Corrupt Regimes.'"

[158] Article 13 of the U.N. Convention Against Corruption notes, "1. Each State Party shall take appropriate measures, within its means and in accordance with fundamental principles of its domestic law, to promote the active participation of individuals and groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations, in the prevention of and the fight against corruption and to raise public awareness regarding the existence, causes and gravity of and the threat posed by corruption. This participation should be strengthened by such measures as: (a) Enhancing the transparency of and promoting the contribution of the public to decision-making processes; (b) Ensuring that the public has effective access to information; (c) Undertaking public information activities that contribute to no tolerance of corruption, as well as public education programmes, including school and university curricula; (d) Respecting, promoting and protecting the freedom to seek, receive, publish and disseminate information concerning corruption. That freedom may be subject to certain restrictions, but these shall only be such as are provided for by law and are necessary: (i) For respect of the rights or reputations of others; (ii) For the protection of national security or ordre public or of public health or morals. 2. Each State Party shall take appropriate measures to ensure that the relevant anti-corruption bodies referred to in this Convention are known to the public and shall provide access to such bodies, where appropriate, for the reporting, including anonymously, of any incidents that may be considered to constitute an offence established in accordance with this Convention." U.N. Office of Drugs and Crime, "United Nations Convention Against Corruption," October 31, 2003, available at https://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf. Article 12 of the African Union Convention on Preventing and Combating Corruption notes, "State Parties undertake to: 1. Be fully engaged in the fight against corruption and related offences and the popularisation of this Convention with the full participation of the Media and Civil Society at large; 2. Create an enabling environment that will enable civil society and the media to hold governments to the highest levels of transparency and accountability in the management of public affairs; 3. Ensure and provide for the participation of Civil Society in the monitoring process and consult Civil Society in the implementation of this Convention; 4. Ensure

that the Media is given access to information in cases of corruption and related offences on condition that the dissemination of such information does not adversely affect the investigation process and the right to a fair trial." African Union Convention on Preventing and Combating Corruption, art. 12, available at http://www.au.int/en/treaties/african-union-convention-preventing-and-combating-corruption.