

East Africa Report

Beyond ARCISS: New fault lines in South Sudan

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Summary

South Sudan is engulfed in a mutually-reinforcing war system that involves more than the two principal players – the government, led by the Sudan People’s Liberation Movement, and the opposition. Several drivers of conflict, some new and others accentuated by the conflict, have emerged – badly managed decentralisation, corruption, marginalisation, ethnic rivalries and exclusionary politics, and unaddressed local grievances that have fed militias and insurgencies countrywide. These are likely to become entrenched if conflict mitigation and prevention mechanisms are not established and integrated into the Agreement for the Resolution of the Conflict in South Sudan. This report looks beyond the agreement to issues that will need to be tackled to conduct peacemaking in a broader and more sustainable manner.

AN IMPERFECT PEACE established under the Agreement for the Resolution of the Conflict in South Sudan (ARCISS),¹ signed in August 2015, is unravelling as new dynamics harden existing divisions in South Sudan. Renewed fighting in the capital, Juba, has led to the dismantling of the transitional government and the splintering of the Sudan People’s Liberation Movement in Opposition (SPLM-IO), and the country is on the brink of a new conflict that is likely to take more localised forms and produce more divisive politico-military alignments.

The changing dynamics of the war have broadened the conflict, and options are rapidly diminishing for generating consensus and inter-dependence and aligning the interests of elites and communities. Miscalculations by the government and the SPLM-IO leadership have resulted in a fluid and volatile environment in which crafting effective responses will be difficult. Polarised and zero-sum identities are more

pronounced, accumulated grievances have found expression in widespread grassroots violence, and different versions of history, are cementing notions of victimhood in need of justice. All these trends increase the costs of a failed political settlement.

Without peace, all communities and elites will lose. The country faces economic collapse, saturation from regional and international partners, and loss of legitimacy.

While the international community is likely to increase pressure to implement ARCISS, other peacebuilding mechanisms also need to be considered, including opening an urgent political process. These can build on the transitional structures and reform processes set out in ARCISS, but they also need to address the challenges that have emerged during its implementation, the fault lines that exist outside of the ARCISS process, and other unresolved issues. All elements of ARCISS are vitally important. Yet failure to address these other issues will increase South Sudan's vulnerability to the emergence of localised crises after the transitional period. Peace cannot be secured without complementary processes of transitional justice, deep reforms in the security apparatus and the state, and economic rehabilitation, yet the changing dynamics of the war have broadened the conflict.

While the international community is likely to increase pressure to implement ARCISS, other peacebuilding mechanisms also need to be considered

South Sudan is engulfed in a mutually-reinforcing war system that involves more than the two principal players (the government, led by the Sudan People's Liberation Movement [SPLM], and the opposition, primarily the SPLM-IO). Several drivers of conflict, some new and others accentuated by the conflict, have emerged – badly managed decentralisation (notably the creation of 28 states), corruption, marginalisation, ethnic rivalries and exclusionary politics, and unaddressed local grievances that have fed militias and insurgencies countrywide. These are likely to become entrenched if conflict mitigation and prevention mechanisms are not established and integrated into ARCISS. But they need to be inclusive of other actors, in particular those of Equatoria and other aggrieved communities in Upper Nile and Bahr El Ghazal.

New political processes are required to address the many structural, relational and evolving factors feeding instability. Informal systems of governance, power brokerage, personalised economic dealings, and the influence of elite councils that exist outside the formal system of government threaten the customary and traditional norms and governance systems they deem to represent and are silencing important community-level voices. Because of their informal nature, they have been allowed to develop outside ARCISS's monitoring system.



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South Sudan's conflict could be seen as concentric circles of instability and power – with elites at the core, competing for power and access to resources, surrounded by over 40 militia groups that act on their own account in local military, economic and political realms but also serve as a power base for national elites. There is no common and strong centre in these concentric circles of violence; interactions are driven by a multitude of individual interests and alliances and local dynamics. Feeding this complex conflict are multiple new drivers.

This report looks beyond ARCISS to issues that will need to be tackled to conduct peacemaking in a broader and more sustainable manner.

The July crisis

The crisis began, arguably, on 2 July 2016 with the killing by the SPLA army of two SPLM-IO military officers, Colonel George Gismala and Lieutenant Domach Koat Pinyien. Three days later, a confrontation between SPLM-IO and SPLA soldiers at a checkpoint resulted in the killing of five SPLA soldiers. The conflict quickly escalated. On 6 June, while the president and the two vice-presidents were meeting at State House, heavy gunfire erupted outside the building and quickly spread to other areas of Juba. Fighting resumed on the 8th and continued on the 9th throughout Juba, with the SPLA attacking SPLM-IO cantonment areas in Jebel and the residence of the first vice president, Riek Machar. The result was over 300 deaths, the displacement of 40 000 people, attacks on civilians and on United Nations (UN) Protection of Civilians sites, the killing of two peacekeepers and mass looting.

Versions of events and trigger points differ; each party accuses the other of political and military wrongdoing.² The most likely explanation is a combination of intentional efforts to derail ARCISS and those efforts' many unintended or unforeseen consequences. A local media outlet quoted military sources as stating that the SPLA attacked the SPLM-IO presidential guards as revenge for the killing of the five soldiers the day before. A UN memo stated that 'a huge force came out of nowhere and joined up with the president's Tiger Force and opened fire on Machar's bodyguards deployed outside the palace for protection.'³

The government considers the fighting a coup attempt initiated by SPLM-IO Lieutenant Colonel David Rieu.

It blames SPLM IO spokesman James Gatdet Dak for instigating the conflict with a post on social media claiming that Machar was being detained in the Presidency just after the initial shots were fired on 6 July.

Machar claimed it was an assassination attempt. He fled Juba on 9 July and said that his return would require the presence of a neutral third force to act as a buffer. His supporters claim that this was a planned crisis involving collusion between SPLM-IO Mining Minister General Taban Deng Gai; General Paul Malong, SPLA chief of general staff; and President Salva Kiir.⁴ The deployment of MI-24 attack helicopters and ground forces⁵ from 10 July is in line with opposition claims that there was a massive manhunt for Machar, pointing to the highest responsibility of command and control with the president and the chief of staff.

On 11 July, fighting erupted in other areas of the country, including Torit, Wau and Upper Nile.⁶ SPLA units spent weeks in hot pursuit of Machar and his entourage in Central and Western Equatoria. Senior Equatorian leaders stated that Equatorian militias and rebel groups helped defend Machar,⁷ understanding that they too would not be spared by government forces, as he entered the Democratic Republic of Congo and was extracted to safety by the UN Mission several weeks later.

South Sudan's conflict could be seen as concentric circles of instability and power

A few days after Machar's departure from Juba, Kiir appointed Taban Deng to replace him as first vice president. Machar's faction of the SPLM-IO called the appointment illegal and a violation of ARCISS, as Taban Deng had been relieved of his ministerial portfolio and his party membership. But Taban Deng's faction said the appointment was necessary after Machar's departure from Juba in order for the Transitional Government of National Unity (TGNU) to continue implementing the peace accord.

A ceasefire was declared on 11 July. In response, the Intergovernmental Authority on Development (IGAD) and the African Union (AU) called for the deployment of a regional force with a more robust mandate than the 12 000-strong UN Mission in South Sudan (UNMISS).

The IGAD heads of state further called for the UN Security Council to extend the UNMISS mission with a revised mandate to serve as an intervention force to separate the parties, a protection force for major installations including the airport and for civilians, and a force for the pacification of Juba.

At the 27th AU summit, from 10 to 18 July, it was discussed that troops would be sent from Kenya, Rwanda and Ethiopia, in a force modelled on the UN's Force Intervention Brigade in the Democratic Republic of the Congo. Initially, Juba rejected the entrance of any additional foreign forces into the country, instead suggesting that the existing UNMISS mission could serve the above purposes. However, UNMISS has a mandate to keep a peace that may no longer exist. Increasing or changing its mandate will not address its inadequate response and failure to protect civilians and aid workers;⁸ rather, efforts are needed to enable the mission to effectively implement its mandate. As of December 2016, the regional force had not been deployed. In any case, the deployment of such a force would be insufficient to stabilise the TGNU and Juba and end the conflict. The recent sacking of the Kenyan UNMISS force commander, Lt General Johnson Ondiieki, by the UN Secretary General led to Kenya pulling its troops from the mission, weakening further the peacekeeping mission.⁹

The dynamics within the Security Council revealed geopolitical divisions that may affect how long-term peace and stability in South Sudan is secured

In response to the call by IGAD and the AU, the UN Security Council passed a resolution that further strengthened the mandate of UNMISS, including the deployment of a regional protection force and its authorisation to use all means to protect civilians. The dynamics within the Security Council – with China, Egypt, Russia and Venezuela abstaining on the resolution – revealed geopolitical divisions and interests that may come to affect how long-term peace and stability in South Sudan is secured. International and regional actors – including the AU, IGAD, International Conference on the Great Lakes Region (ICGLR), the East African Community (EAC) and AU High-Level Implementation Panel (AUHIP) – remain uncoordinated and lack a unified diplomatic approach that can apply adequate pressure to the warring parties and provide the space for renewed dialogue.

Following the Security Council resolution, Juba sent a team of key ministers to negotiate the mandate and terms to ensure that the deployment would not negatively affect its sovereignty.¹⁰ The government also wanted to separate the demand for regional force from the return and reinstatement of Machar as first vice president.¹¹ Swift diplomatic moves by Juba led to key international guarantors, in particular the United States, changing their original demand to reinstate Machar to the position that this was an internal SPLM-IO issue that should not derail the implementation of ARCISS. A Security Council visit



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to Juba in early September found that the government was working to stall the deployment of the regional force, despite agreeing to continue working 'through the deployment modalities.' In a subsequent press conference, cabinet minister Martin Elia claimed that the 'government won the game.'¹²

The July crisis revealed some of the fragilities in the implementation of ARCISS, in particular the failure to demilitarise Juba in the run-up to the Machar's return in April. It revealed that efforts to build trust between the two sides were not sufficient and called into question the wisdom of having two forces in Juba. The fluidity of the current political and military situation presents an opportunity to incorporate new provisions in ARCISS that address elements that are currently not covered by ARCISS but that fall within the spirit of the agreement and could strengthen it. Several such provisions are proposed at the end of this report.

The limits of ARCISS

Efforts to secure peace in South Sudan have created the potential for new conflict, as revealed by the outright rejection of key aspects of ARCISS by the government ahead of signing, subsequent strategies to undermine its implementation, and the general lack of political will among the parties to the agreement. The challenge of ARCISS, as with other power-sharing agreements, is to resolve any new divisions caused by the agreement while continuing to push for its full implementation.

Earlier peace agreements involving Sudan and the former Southern Sudan revealed several lessons:

- Default survival positions will take precedence over principled positions during the negotiations.
- Ambitious reform programs and external state-building models rarely accomplish the desired effect of improving governance and accountability.
- Elite compacts do not always satisfy the grassroots and may instead create further political fragmentation.
- The appeal of powerful positions in the executive, state government and the security forces leads to side agreements that have become known as the 'big tent' approach, rather than streamlining and professionalising state offices and organs.

- Prioritising one region at the expense of others – as was the case with the south and the two areas (Blue Nile and Southern Kordofan) in 2005, and as is the case now with Upper Nile at the expense of Equatoria and Bahr El Ghazal – is a recipe for continued instability.
- The legitimacy awarded to militarised elites, and their resulting impunity, exacerbates the failure to address the deep schisms in the country and obscures the need for serious reforms within the ruling party, state governments and the security apparatus.

Efforts to secure peace in South Sudan have created the potential for new conflict

In the case of the 2005 Comprehensive Peace Agreement (CPA) between the SPLM and the government of Sudan, the default position for the government in Khartoum was regime survival, while the SPLM's default position was independence for the South. In the case of ARCISS, the government's default position was regime survival but also weakening the opposition. For the SPLM-IO, the default position was seeking power and diluting Dinka hegemony.

Unlike the CPA default positions, which were compatible, the current positions are not, as they require the destruction, through non-violent or violent means, of the other party to the agreement. This has translated zero-sum calculations into a peace agreement, and is the biggest limitation of ARCISS for having failed to change this altogether. The parties to ARCISS never owned it, and thus implementation in its current form is difficult. Both the government and the SPLA-IO fail to recognise that by weakening their opponents they are weakening their own capacity to persuade their respective communities to accept difficult concessions. The longer Machar remains isolated and Taban Deng continues to seek alliances for his SPLM-IO faction, the harder it will be to determine how many peace partners the country needs to incorporate into future political arrangements.

Internal and external (international and regional) peace brokers need to focus their efforts on changing these dynamics early in the peace process and seeking the necessary flexibility to address ARCISS's shortcomings.

By not dealing adequately with some existing conflict triggers, ARCISS has exacerbated them. Power-sharing arrangements have resulted in ethnically exclusionary political alignments that risk isolating more diverse and non-partisan communities. This has led to the militarisation of ethnicity as different communities that fell outside the power-sharing agreement came to realise that to play a political role in peace they had to be armed. This view was compounded by the perception that ARCISS shared power between the Dinka and Nuer and allowed them to control rewards to members of other communities, thus filtering those communities' concerns through the interests of the two dominant groups. Funnelling the concerns of Equatorians and other groups through alignments of either the government or the SPLM-IO has weakened and fragmented their leaders.

Without an overhaul of the way politics is managed at the national and state levels, ending the transitional period with an election could be disastrous

The resurgence of serious fighting in Greater Equatoria in 2016 is an example of a fault line exacerbated by ARCISS. The exclusionary nature of the governance and security arrangements and the preferential treatment of the Upper Nile region under ARCISS have fuelled the formation and realignment of armed groups in the rest of the country.¹³ Furthermore, the government's and opposition's counterinsurgency responses, which focus on collective punishment of communities, facilitate significant recruitment drives by armed groups throughout the country. The recent escalation between Dinka and Equatorian communities, with youths on both sides rallying for targeted killing and mass expulsion amounting to ethnic cleansing, is worrying the government, which has been unable to find a consensual solution, instead turning to Ugandan security forces to patrol key roads.¹⁴ The recent surge of targeted killings led the UN Special Advisor on the Prevention of Genocide, Adama Dieng, to warn against a looming genocide in South Sudan.¹⁵

The ARCISS power-sharing arrangement not only nurtured old and new conflicts but will not change the manner in which exclusionary interests are entrenched. Politics in South Sudan has shifted significantly since the CPA years and since independence. The South at the time of the 2011 referendum was described as having the following concentric circles of political power – (1) the core SPLM leaders, (2) those, like Riek Machar, who left and came back to the SPLM but would never be part of the inner sanctum, (3) the southern parties outside the SPLM that were loyal to the idea of an independent South, and (4) the southern politicians who remained aligned with the North or joined it, like Lam Akol (until recently TGNU minister of agriculture and head of the SPLM-Democratic Change party) – that had to be accommodated.

The current concentric circles of power are as follows: (1) at the core, the Dinka Bahr El Ghazal political and military elite, (2) the Dinka Bor of the



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SPLM and others, former members of the Sudanese National Congress Party, which played a strategic role in cementing the president's grip on power, (3) the Nuer and Equatorians who remained loyal and are part of the core SPLM group, (4) the SPLM-Former Detainees leaders, militia leaders with multiple defections and co-opted opposition parties including Taban Deng's group, (5) in the outermost circle, Machar and his SPLM-IO group. Unless ARCISS and subsequent political and security arrangements can alter these dynamics, entire segments of the country will remain marginalised and lack legitimate and peaceful avenues to power and political representation. Without an overhaul of the way politics is managed at the national and state levels, ending the transitional period with an election could be disastrous and mark the beginning of new conflicts.

Fragmented alliances and shifting loyalties

The formation of the TGNU in April 2016 came with great delays, manoeuvres to undermine ARCISS, and visible tensions in the implementation of political and security arrangements. Despite this, there was an underlying belief that the agreement would hold. South Sudan's difficult economic situation gave the international community greater leverage to persuade the parties to continue implementing ARCISS. The threat of a hybrid court was thought to keep the parties aligned in implementing provisions and reforms, hoping that goodwill would buy them time before having to face justice. And the SPLM-IO, seen as a confederation of five potentially contradictory groups,¹⁶ was expected to hold together because of the potential for accessing the rewards of power.

But after the July crisis, these calculated costs for peace have shifted. The risk is that, in the absence of Machar's SPLM-IO faction and with the disillusionment of key political players and militarisation of others, ARCISS may fail to transform power relations, while addressing regional wars as localised conflicts rather than a symptom of the expansion of the conflict, as epitomised by the rift between Machar and Kiir.

A number of challenges now face the government. It understands that vital economic aid depends on full implementation of ARCISS and deployment of the regional protection force, but also recognises that the context creates additional difficulties. It is struggling to

determine what to do with Machar, as there is a clear rejection within the SPLM-IG (SPLM in Government) of working with him again. The questions remain: can Kiir still work with Machar and vice versa, and how will the government balance its commitment to Taban Deng with restoring the status quo if Machar returns? Moderate elements within the government also understand the need to try to avert a destructive inter-Nuer war and among other communities.¹⁷ Divisions within the Bul Nuer, that have historically collaborated with the government, have begun to emerge as seen with the recent resignation of Lt. General Bapiny Wuor, a prominent Bul Nuer commander, as Deputy Chief of Staff of the SPLA.

While the SPLM-IO may currently seem more fractured, the SPLM-IG could face serious challenges to its cohesion as disagreement develops over how to proceed with ARCISS and the international community. Speculation is rife among the political elite on all sides in Juba that tensions between General Malong (who largely controls Aweil and other areas of Bahr El Ghazal) and President Kiir (who controls Lakes and Warrap) are deepening with manoeuvres by Malong to undermine Kiir, undercutting the implementation of ARCISS in favour of a military solution.¹⁸ Speculations around President Kiir's health in November exposed tensions within the Dinka elite over succession. The JCE is allegedly divided on the issue and key Dinka Bor and Bahr El Ghazal generals are positioned in opposite camps, revealing the underlying Dinka fault lines.

The threat of a hybrid court was thought to keep parties aligned in implementing reforms

Cohesion on the government side is attributed to a strong Bahr El Ghazal regional identity and aligned interests, yet the president is said to have strengthened the National Security Service to keep a close eye on the chief of staff, while also using Generals Obote Mamur and Kuol Manyang as counterweights in the security forces. As tensions increase with the Equatorian communities, so will pressure for Equatorian SPLM-IG members to leave the government. The 2013–15 war resulted in the exclusion of a large majority of Nuer leaders,

commanders, troops and civil servants from the government; the 2016 war may do the same for the Equatorians, leaving only token representation of these communities in a largely Dinka-dominated government.

There are few if no nationalist symbols, political agendas, or social forums to bring communities together. Countering this fragmentation is key to avoiding the call for autonomy of different regions and the total breakdown of the central state and its authority at the local level. The liberation struggle's symbolic capital has been exhausted among the political elite and the grassroots. Alliances are based on the convergence of interests in some areas and on identity in others.

The fragmentation of the SPLM-IO has widened the gap between those benefitting from peace and those who are now more aggrieved than ever

It is difficult to foresee where certain communities will stand, in particular the Equatorian communities and the Shilluk, who might begin to take on their own political roles, and how they will need to be accommodated in an ARCISS-like agreement. An SPLM-IO member who defected with Taban Deng said, 'The Equatorians started their war at the end of 2015 so that they would get positions in the army – they want cantonment,'¹⁹ pointing to the idea that positions in government and access to resources was behind the move to start fighting. Yet there are serious grievances that need to be understood. Equatorian leaders aligned with the government and Taban Deng seem unable to satisfy their constituencies. Bari armed groups are fighting the government despite having Wani Igga and Alfred Lado Gore in key positions; the same applies to the Mundari, with Clement Wani Konga and more recently Ramadan Hassan, the Lainya forces which do not support Martin Elia, or the armed groups in Mundri that seem detached from elite members in the TGNU. Because of their alignment with a government these groups are contesting, these leaders seem unable to bring in their communities into consensus positions, represent them and help address their grievances. While four cantonment areas have been discussed for the different Equatorian regions, it is unclear who will join the demobilisation process, as fighting continues and SPLM-IO commanders such as Martin Kenyi and John Jok Gai are not standing down.

The fragmentation of the SPLM-IO has widened the gap between those benefitting from peace and those who are now more aggrieved than ever.²⁰ This splintering of the opposition was beneficial to government hardliners, the army and the Jieng Council of Elders (JCE), but it may now be harder to contain. As first vice president, Taban Deng appointed a cabinet mostly comprised of Nuer; by contrast, Riek's cabinet had aimed for greater representation of non-Nuer communities. The SPLM-IO seems to be severely



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divided within its ranks but also within the diaspora, the camps for internally displaced people, and the larger Nuer community. Many in the Nuer community see the move to take power of the SPLM-IO by Taban Deng as the ultimate betrayal of his community's interests and as a de facto integration into the SPLM-IG. Yet the SPLM-IO under Machar is experiencing an interesting phenomena: its leadership is currently weak but its support base has grown exponentially by default of divisive government actions and counter-insurgency strategies.

Militarily it is unclear who supports Riek Machar and who supports Taban Deng. Unofficially, Shilluk General Johnson Olony and his troops stand with Riek, while Dinka General Dau Athorjok and Murle Commander Ismael Konyi have defected to Taban's camp and the government. Some Nuer commanders have defected, but many have not yet announced their position, and the situation is likely to remain fluid in the coming months. Efforts by the government and Taban Deng are said to be underway to buy the support of Nuer commanders,²¹ while several Nuer community leaders have openly rejected the leadership of Taban Deng,²² who from their perspective has joined the SPLM-IG. In a strategic move, Machar placed Dr Henry Odwar, an Acholi from eastern Equatoria, as his Deputy Commander in Chief, a move that has been very well received within the Equatorian community.

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The Juba crisis has raised the crucial question: is this peace agreement about individuals or about groups? Everything pointed to the need to accommodate both Salva Kiir and Riek Machar during the transition, despite the private views of many international partners that both needed to relinquish power. Yet in the over-concentration on the roles awarded to the president and the first vice president, not enough consideration was given to the Arusha Agreement on the Reunification of the SPLM, which also provided a framework for the development of party policy and the fostering of cohesive groups to lead the transition.

The TGNU continues to operate despite the changes resulting from the president's replacement of all the SPLM-IO ministries and the finance minister and the dismissal of Deputy Foreign Minister Cirino Hiteng. All TGNU partners except the SPLM-IG have experienced some form of reorganisation, bringing into question the TGNU's credibility. For a unity government to operate there needs to be a balance of power, but only one side holds real power – the others have been weakened or have walked away.

On 1 August, Democratic Change Party leader Lam Akol resigned as minister, chairman of his party and head of the national alliance of opposition parties, stating that the peace agreement had collapsed. The SPLM-Former Detainees group officially remains part of the TGNU yet is increasingly divided as it faces the contradiction of running the Foreign Ministry (under Deng Alor) while other members call for new political solutions to the crisis.

Opposition groups met in Nairobi in late August to discuss possible alliances to combat the government in Juba.²³ If an alliance of disaffected groups, intellectuals and politicians that hold sway with different constituencies is achieved, and the peripheries are united under an umbrella organisation, the TGNU will face a severe challenge to its credibility and security. Lam Akol's new rebellion under the National Democratic movement is only dividing the Shilluk armed groups and weakening a unified front in the Greater Upper Nile region. Neither of these groups seems to have a concrete political program for national renewal and reform. That may change as the government's counter-insurgency strategy could by default build greater cohesion in the opposition.

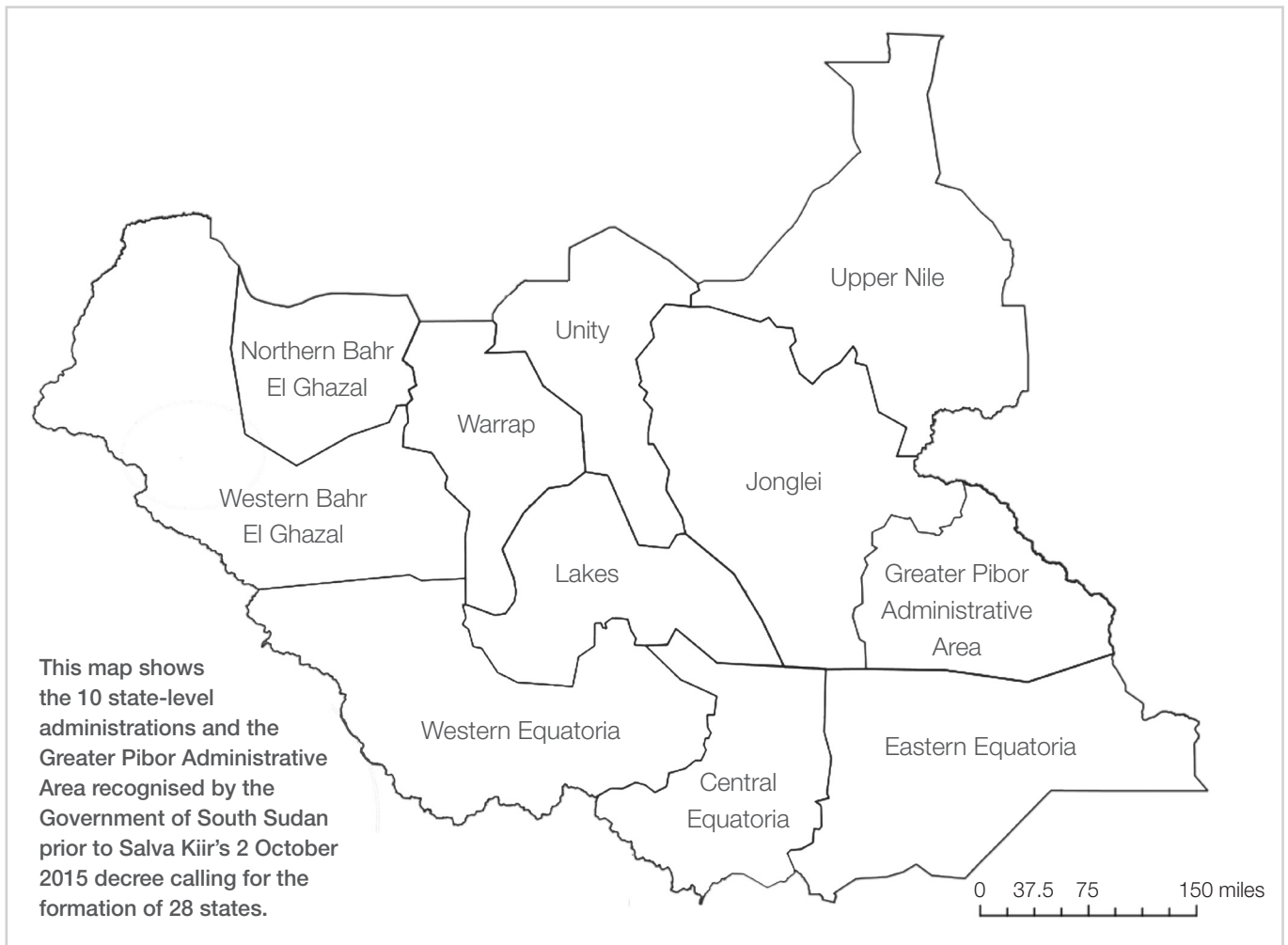
Issues related to decentralisation and the 28 states

The presidential decree of October 2015 creating 28 states has generated serious controversy.²⁴ While supported by a large constituency, in particular the Dinka, as a popular response to calls for decentralisation, the move was opposed by other communities. The redrawing of state, county and *payam* (sub-division of counties) boundaries has become a political issue aimed at enhancing ethnic proportions of power rather than respecting community boundaries and securing peaceful relations at the local level.

Under the previous 10-state model, the Dinka community controlled 26 counties (representing 25% of the total land area), the Nuer 16 counties (15%), the Equatorians 24 counties (31%), the Shilluk four counties, the Murle one county and other groups six counties. Under the 28-state model, the Dinka dominate 12 states (42% of the total land area), the Nuer five states (13%), the Equatorians eight states (31%), the Shilluk one state (2%) and the Murle one state (7%); the remaining one state (5% of the land area) is controlled by other groups.²⁵ The Nuer perspective – and that of SPLM-IO members who had, during the Addis Ababa negotiations, proposed a federal system of 21 states based on British districts with demarcated borders – does not reject the idea of federalism. The SPLM-IO proposal did, however, remove some land from the Dinka communities in the three former Greater Upper Nile states and merged them into Nuer-dominated states.

Both the SPLM-IO and the government tried to benefit their communities in this process, but their political calculations had little consideration for the reorganisation's local effects given that different communities are impacted not just the Dinka and the Nuer.

Figure 1: South Sudan, pre-2015 decree



As an SPLM-IO leader said, ‘Any conflict tied to land is always permanent’²⁶ and will invariably create the conflict system of land disputes, resource appropriation, community grievances and political manipulation. A much-needed debate on decentralisation and federalism is expected during the constitutional review, yet there seems to be little agreement in the TGNU on what form this should take. The Council of States should deal with issues of decentralisation, but it has remained in the shadows of the executive (much like the Parliament) and has been hijacked by its leaders, who also belong to the Jieng.

Reversing the 28-state decree would create dissatisfaction within the Dinka communities and would likely lead to land grabbing by other communities that have a sense of marginalisation.

The states in the Greater Upper Nile region have been divided into broadly representative single-ethnic states,

isolating the Nuer in a form of ethnic balkanisation,²⁷ while the new states in other regions are multi-ethnic. This has been perceived as an attempt to weaken Nuer voting capacity while diluting the political power of other communities that are now placed in Dinka-dominated states. Several flashpoints of violence have already started to emerge, the most visible being the loss of land of the Chollo community with the division of eastern and western Malakal. The Shilluk are now on the west side of the Nile, with the east given to the Padang Dinka.

Other flashpoints are emerging in Jonglei, with land taken from the Nuer in Upper Nile, and in Western Bahr El Ghazal, with the annexation of Rajah to Aweil West and North. In Equatoria, conflicts are also starting to emerge, for example the struggle over borders between the Bari and the Mundari in Mongalla.

Figure 2: South Sudan, post-2015 decree



Communities' fears of being placed alongside historically hostile communities are also resurfacing, as with the case of the Bul Nuer in Unity state and their incorporation into Northern Lich state with the Leek and Jikany Nuer.²⁸

These flashpoints are likely to become centres for resistance. Community leaders and politicians from Equatoria, from the Nuer and the Shilluk communities, claim that the creation of these states was aimed at (1) securing land with oil for the Dinka, as in the Upper Nile and in areas of Jonglei, (2) eliminating the unity of Equatoria, and (3) enhancing Dinka majority control in any future political and security arrangement based on proportional representation.

The creation of additional states will require reorganising the civil service and establishing new local government offices

This land allocation is not based on population numbers. A credible census is yet to be conducted to determine the ethnic demographic figures, which would most likely alter political perceptions on numbers and the sense of majority entitlement held by elements of the Dinka community and the Nuer community, which claims that its population would exceed that of the Dinka if the population in Gambella (Ethiopia) were included.

The creation of the 28 states has also resulted in some governors losing their positions and could push some to reactivate their militias or take opposing political positions out of retaliation. The creation of ethnically defined states directly contravenes John Garang's idea of nation-building and his ambition to create a sense of responsibility among government officials to serve the nation rather than their communities – as proposed in his unimplemented proposal for 'caretaker governors' who would rule in states where they had no community or tribal affiliation.²⁹ New ideas need to emerge that will gain traction with the grassroots and buy-in from the elite on how to address representation and ethno-national fault lines.

The 28-state decree has exacerbated ethnic conflict and hardened the positions of communities that previously had shared resources and cooperated. The uneven demarcation of ethnic federalism and the lack of financial capacity could derail legitimate calls for decentralised government. These new states may also be unable to create the proximity of governance and participation expected by different communities, given the organisational, financial and infrastructural constraints.

In practical terms, the creation of additional states will also require reorganising the civil service and establishing new local government offices and separate financial systems, tax systems, budgets, state constitutions, and state governments (each having a governor, a deputy, seven ministers, five advisors, a speaker and a 21-member state assembly). It will also require



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that new governors begin restructuring the national police force, the national security service, the joint operations commands, and wildlife and prisons services to reflect the new administrative boundaries.

Another important consideration will be the organisation of traditional systems of justice with the chiefs A and B courts at the existing *boma* (smallest administrative unit, a collection of villages) and *payam* levels. Chiefs provided crucial forums for dispute resolution and justice at the local level in the previous 10 states. With new *bomas* and *payams* established under multiple new counties, these courts will take a significant amount of time to get established.

It is unclear how the issue of the 2% or 3% of oil revenue for the oil-producing states will be tackled. While it seems that the three former Unity states will have to divide the earnings, other states in the former Upper Nile will be entirely cut off from oil revenue.³⁰

Reorganisation will also entail a complex process of registration of voters, constituency demarcations and a new census in preparation for the elections. It will also affect the process of electing candidates through primaries or other methods at the *boma* and *payam* levels for the SPLM and other political parties.

Creating these new states is likely to lead to the emergence of new elites who will expect to rule unhindered in their localities but also have a role to play at the national level. A mismanaged decentralisation process will not address the sense of marginalisation felt by several communities but rather lead to local government structures resembling ethnic fiefdoms where tribalism is entrenched in competition for resources.³¹ There is an urgent need to reformulate the decentralisation process and allow it to develop through the building block approach³² and popular consultations. Strategies to manage ethnic conflict between communities include different forms of power-sharing and decentralisation: cantonisation, federalism and consociationalism. These forms will need to be carefully studied during the constitutional review process and implemented through careful and sustained monitoring. Failure to do this will further push the country to a 'somaliasation' scenario, with governors and armed faction leaders using resources to sustain local fiefdoms while Juba becomes increasingly isolated and unable to govern.

Corruption and nepotism

*'Today a government office or institution is not national; it is the preserve of a tribe. The thinking is: after all, who paid dowry for this seat?'*³³

'Sovereignty is not edible,' said a National Liberation Council (NLC) member of the SPLM in 2012 as the country's elites were beginning to mishandle their political and economic ambitions, in the process undoing any institutional, political and symbolic achievements of the CPA years. The economic rehabilitation of the country is vitally important for peace to hold at all levels. Locally across the different regions, many grievances are pinned to economic terms of marginalisation, disenfranchisement and expropriation of resources. At the national level, elites fight over the means of extraction, production and economic power to advance narrow military and political interests. All this is achieved through mechanisms that perpetuate corruption, nepotism and patronage.

The economic rehabilitation of South Sudan is vitally important for peace to hold at all levels

Tackling this should be a key policy imperative for any new government in Juba but also for the region and the international community as they support peacebuilding and post-conflict reconstruction. All aid and development assistance should be conditional on implementing mechanisms for accountability and transparency. Corruption is a threat to peace insofar as it perpetuates informal loyalties and reinforces the marginalisation of communities. It distorts political power and the duties that come with holding public office. It disempowers the state and adds an additional level of arbitrariness outside respected legal custom, customary or formally codified, that in a context of lack of accountability and widespread grassroots demands for justice will further divide communities.

In the context of conflict, corruption and nepotism may seem like a less urgent governance priority that can be addressed by a transitional government or the subsequent elected government. But they lie at the heart of the crisis and are part of the same conflict system. Addressing these issues will need to factor into the same

strategies as addressing the issues of decentralisation, the reconciliation of communities and neutralising South Sudan's deepening ethnic animosities.

Since 2005, corruption has evolved in South Sudan from mismanagement at the highest levels of power to a more generalised practice that characterises entire state institutions. While there have been efforts to curb such practices – committees created, laws passed and rhetorical commitments made – the country is still far from instituting effective checks against corruption, embezzlement, rent-seeking, fraud, double taxation and money laundering. Institutions like the National Audit Chamber, Anti-Corruption Commission, Public Grievances Chamber and Fiscal Financial Allocation and Monitoring Commission, as well as the judiciary, exist to fight corruption and create greater accountability and transparency in government, but they face tremendous challenges. Even a full implementation of ARCISS will not be sufficient to revive these institutions and establish serious checks and balances.

Corruption has evolved from mismanagement at the highest levels of power to a more generalised practice that characterises entire state institutions

The discretionary power and practices of the executive are also replicated at the state level. Governors have complete authority to appoint and depose state ministers and local government officials, which encourages nepotism and political favour. Such practices not only fuel conflicts at the local level, while tapping into larger national dynamics, but also add a level of intractability that will delay stabilising the country. The situation is worse in the oil-producing states of Unity and Upper Nile because of the 2% of oil revenues given to state authorities, with accusations that revenue from oil was being directly used to mobilise, train and arm militias.³⁴ The revenue these oil-producing states receive has become commonly referred to as 'the missing two per cent.'³⁵ After independence, the Transitional Constitution increased the allocation from 2% to 5% with the additional 3% going to the communities,³⁶ although it has been difficult to ascertain how this additional money was managed.

The lack of transparency on the state budget worsened with the 2013 war. Since 2006 the only budget debate in Parliament has been regarding salaries and the running costs of the state. 'The majority of the budget remains with the military or defence and is largely controlled by the Presidency.'³⁷

During the oil shutdown in 2012 and 2013, government revenue from customs, the second greatest source after oil, increased from 2% to 36%. Customs revenues mainly derive from Nimule and Kaya, the two main entry points from neighbouring countries. Given the under-developed domestic capacity to produce goods and services, most items are imported, creating an opportunity for many checkpoints and customs operations to extract money from traders coming into the country. While oil revenues attracted high-level

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corruption, customs has attracted similar corruption among lower-level officials.

Further research is needed into how the current war has created new economies at local and national levels. Reports on corruption like that of *The Sentry*,³⁸ an initiative of the Enough Project released in September 2016, may highlight important elements but do not provide the investigative work needed to unpack how misappropriation of funds and elites are linked and how to remove corruption from institutions and governing practices.

Localised conflicts

War and conflict on the peripheries have, in the past, shaped politics at the centre of power. There is no indication that this will change under the current crisis. Armed groups have proliferated outside the ARCISS framework and will – if left outside a formally checked, monitored and broadly aligned political and security framework – continue to fight the central government or their neighbouring communities.

Groups are emerging and aligning against the central government because it is perceived as a Dinka hegemonic project. Such groups are fighting a legacy of military, economic and political subordination. Other groups aligned with the government are emerging out of a need to protect themselves, defend their communities, and secure access to power. Strategies need to be found to address this dynamic. Localised issues that interlock with national grievances and power grabs need to be addressed at multiple levels, not just at the national level as provided by ARCISS. Because many of these armed groups are local and their military arrangements informal, they are not included in security arrangements.

This report does not provide a comprehensive list of groups that exist outside of the formal ARCISS agreement, but will highlight how violence at the local level can derail any implementation of ARCISS if these groups are not integrated. While ARCISS mainly provides for governance reconfigurations and representation in the Greater Upper Nile region, several armed groups have become increasingly visible and vocal in Greater Equatoria and Greater Bahr El Ghazal. Accepting the cantonment of SPLM-IO forces in these two regions will

no longer suffice. Political and local issues are in many cases at the heart of these insurrections and need to be addressed accordingly, within the framework of the TGNU but also as part of security arrangements, border demarcations and a constitutional review that will reflect state-level reforms.

Ethnic, clan-based, state-sponsored, and externally created militias are all phenomena of the wars in the Sudan and are characteristic of how political conflict degenerated into military conflict during the CPA years and after independence. Armed groups are mushrooming all over the country, many as different versions of previous militias. There are over 40 active militia groups³⁹ in the country, many of which feed into the SPLM-IG and SPLM-IO dynamics, but there are many others that have their own grievances.

In a highly militarised state and society, militias have been used to support structured forces. The SPLA has a long history of militia integration, which has caused several challenges related to security sector reform (SSR); in the current conflict, it has increased its ranks to about 300 000 soldiers including the three influential militias: the Babaeng of the Bul Nuer, the militias integrated from George Athor, and the Cobra militia aligned with the current deputy defence minister.⁴⁰ Despite this, the SPLA is becoming increasingly a uniquely Dinka army. Other militias have more localised mandates and operate within a single state rather than across states.

Armed groups are mushrooming all over the country, many as different versions of previous militias

Militias in many areas fill a security vacuum and claim to protect community or clan interests. They operate in a complex environment characterised by livelihood insecurity, cattle rustling, land issues, quests for representation and resources, clashes with existing security forces, and other issues. Some are political; others are driven by community issues. All need to be dealt with in an integrated manner that upholds the objectives of ARCISS but expands into national and state-level SSR, while also reversing real and perceived marginalisation.

Greater Upper Nile

Greater Upper Nile is likely to remain a hotspot of conflict after the July Juba crisis for reasons connected to the previous war and the 28-states issue. It could respond to new calls by opposition leaders to unite against the government in Juba. The splintering of the SPLM-IO has added another layer to the dynamic between the Eastern and Western Nuer communities. The Eastern Nuer see Taban Deng Gai as a traitor and as a project of the Jieng, while for the Western Nuer he represents a long tradition of working with the government.⁴¹

The Greater Upper Nile Region is a classic example of how synergies between local and national military and political interests continue to fuel local wars with serious national implications. In addition to being home to some of the many ethnic groups in the conflict, it is also the region where oil is produced. Patronage and the policy of using land, community pacification and dominance to extend and safeguard national interests generate systems of conflict, while achieving only temporary alliances and military and political gains.

The Shilluk and Padang Dinka communities have used the traditional Nuer inter-communal conflicts to advance their narrow military and political goals

Increasingly ethnicised and localised wars are taking place between communities. While these wars are primarily driven by the communities' quest for survival and for dominance within the region, military and political officers from these communities serving at the national level have used inter-communal grievances to their own advantage. The Shilluk militias' preoccupations are the sanctity, security and survival of their kingdom and community, while those of the Padang Dinka militia include consolidating and expanding military, political and economic control and influence in the region. The Shilluk and Padang Dinka communities have used and abused the traditional Nuer inter-communal conflicts to advance their narrow military and political goals.

Several groups are aligned with the two main parties, while others claim independence. The Agwelek Shilluk militia, led by General Johnson Olony, has been aligned with the government but is now aligned with SPLM-IO. It is mainly concerned with securing the territory that belongs to the Shilluk and advocating for a federal system, as well as building a national army through proportional representation.⁴² The Tiger Faction New Forces, under the leadership of Yaones Okij, is another Shilluk militia that split from the SPLA, although it has not aligned itself with the SPLM-IO. The Padang Dinka militias from Renk, Akoka, Baliyet and Melut, which include the Mathloun militias, were created in 2014.⁴³ Initially formed to protect the oil fields, they are trying to assert their relevance in national politics, when traditionally they were far less

2014

THE YEAR THE PADANG
DINKA MILITIAS FROM RENK,
AKOKA, BALIET AND MELUT
WERE CREATED

prominent than the Dinka Bor and Bahr El Ghazal, and have tried to capitalise on the presence of a Padang Dinka minister, Stephen Dieu Dau, in government.⁴⁴ Tensions with the Murle community had been appeased with the agreement signed between the government and General Yau Yau but the recent defection of commander Khalid Boutros and the reactivation of the SSDM-Cobra faction has led the Murle to begin defecting. In late September, 5000 Murle soldiers reportedly defected from the SPLA under General John Welarum to join the SSDM-Cobra.

The largest of the non-elite militia groups in the region remains the Nuer White Army, which maintains a non-committal stance towards the SPLM-IO.⁴⁵ Their motivation for fighting is to seek justice for the deaths of thousands of their fellow Nuer in the December 2013 massacre in Juba. For the White Army, the war has not yet ended.⁴⁶ Understanding this, the government was careful to avoid outright targeting of Nuer during the recent Juba crisis.⁴⁷ However, this has not guaranteed any pacification of grievances.

Greater Equatoria

In the past year, localised militias have been fighting over local issues of land and representation and conflicts between communities. In addition, armed groups seeking greater access to national politics through affiliation with SPLM-IO have emerged. Despite this, underlying grievances are surfacing beyond these armed groups. 'Equatorians at the grassroots [level are] boiling, with many groups mushrooming, but there is no central and military leadership.'⁴⁸ Attacks by armed groups on civilians of Dinka origin have increased dramatically over the last two years on the roads in Equatoria. The rape and killing of Dinka have become more visible as resentment grows against Dinka domination and overrepresentation in the army and the government. The government's response has been a brutal scorched-earth counter-insurgency strategy using the SPLA and thousands of militias, including the Maathiang Anyoor of General Malong, in greater Equatoria, leading to mass atrocities being committed. The underreported crisis has already led to the creation in Uganda of one of the world's largest refugee camps, that is hosting over 880 000 South Sudanese. This camp did not exist before the July crisis.

Several armed groups share similar grievances: military and political impunity, incursions by armed cattle herders who are supported by the government, land grabbing and political marginalisation. Western Equatoria, which had experienced stability since the 1990s, has seen violence between local communities⁴⁹ as well as the rise of armed groups. The Arrow Boys, a large group of armed youths active throughout Western Equatoria, are said to lack any central command but to report to the chiefs. Others claim that Major General Alfred Fatuyo Karaba controls the group, although he may only command one section of it; the Zande and the Moru may have different divisions within it.⁵⁰ The phenomena of community protection youth groups, with an estimated force of 20 000,⁵¹ has changed from a primarily rural group to include urban youths who roam the former state capitals of Western Equatoria.⁵² Their grievances include marginalisation and an unpaid five million South Sudanese pounds that was legislated as remuneration for their services in defending Western Equatoria against the Lord's Resistance Army.

Attacks by armed groups on civilians of Dinka origin have increased dramatically over the last two years

The South Sudan National Liberation Movement, comprised of former SPLA and Arrow Boys members and led by Mbereke Faustino, signed a peace agreement with the government in April. The agreement, brokered by Bishop Edward Hiboro of Yambio, stipulates terms for the integration of fighters into the SPLA, South Sudan police (SSNPS) and other forces. The South Sudan People's Patriotic Front of Charles Kisanga claimed some form of political umbrella for the Arrow Boys, a claim for which there is little evidence. The Revolutionary Movement for National Salvation, led by former member of parliament Wesley Weluba Samson, operates in the Mundri area, and is a Moru-led militia, but there is also a Revolutionary Movement for National Salvation that operates in Maridi. Weluba recently denounced the 'defection' of Richard Mulla to the government.

In November 2015 an agreement was reached between the Mundri community and the SPLA Division, led by Bishop Paul Yugusuk, but it left much to be defined

in concrete political and social terms. These types of agreements establish guiding principles for coexistence but do not translate into arrangements for representation and governance at the local level that include the aggrieved communities.

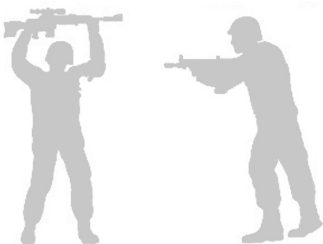
Several armed groups active in Central Equatoria have been involved in the recent fighting in Mangalla, Wonduruba, Lainya, Kajo-Keji, Pageri and Lobonok. The fighting in Wonduruba led to a peace agreement with the government in December 2015. Eastern Equatoria has also witnessed heavy fighting. The Lotuko militia, known as the South Sudan Armed Forces and led by Major General Anthony Ongwaja, has been responsible for instability in Torit.

Greater Bahr El Ghazal

Greater Bahr El Ghazal has several dynamics that can be understood in terms of both past wars and the current war. These include understanding how local militias like the Galweng and centrally controlled militias like the Maathiang Anyoor are changing politics in the region and building expectations for the communities they deem to represent but also creating fissures among the Dinka elites in Juba. Other issues that need to be incorporated into any post-conflict stabilisation strategy in Western Bahr El Ghazal are the instrumentalisation of the SPLA-SSDF fault lines and how this will affect future SSR strategies, as well as the effects of the re-defection of General Dau Aturjong to the SPLA.

Any strategy to deal with militia groups should avoid the mass push for integration as was carried out under the 2006 Juba declaration

The Galweng militia in Warrap and Lakes state is a local militia created during the second civil war to protect communities against cattle raids and other attacks. It is thought to outnumber the police force in these states and is credited with repelling attacks in April 2014 from Unity state.⁵³ The Fertit militia in Wau, Western Bahr El Ghazal, has a long history of challenging the SPLA and has been very active in creating instability. A new group has emerged calling itself the Islamic Movement for the Liberation of Raja, led by Ali Tamin Fartak with fighters from Sudan, and the government claims Fartak is trying to carve out an Islamist state.⁵⁴ Clan-based armed groups have also staged revenge attacks throughout the region, including in the Aguok and Apuk communities, the Lauch and Thiik clan fighting in Warrap, the Lakes fighting between the Aliap and Gony clans, the clashes between Akok and Marial Lou clans in Warrap and the Ruek and Kuei clan clashes in Lakes.⁵⁵



THE FERTIT MILITIA IN WAU HAS A LONG HISTORY OF CHALLENGING THE SPLA

Any strategy to deal with these groups should avoid the mass push for integration carried out under the 2006 Juba Declaration, which saw several militias remain unintegrated, enhancing operational contradictions within the SPLA, creating cleavages within the ranks and resentment about promotions.

This 'big tent' approach of integrating different military and political groups to ensure stability worked because there was a national aim of reaching the 2011 referendum, so continual negotiation was carried out and accommodation strategies were devised to promote stability.

After independence there was a vacuum at the SPLM party level, politically and regarding how the state would redefine its relations with civilians and with the armed forces, and how elite interests would be managed. Instead of tackling the difficult options for reform and defence transformation within the SPLA, which could have been accomplished with quotas at the state level to ensure inclusion, the government pushed to further integrate and rearm militias outside the SPLA remit. Many of these strategies were devised by elites for narrow purposes.

If ARCISS is to stabilise the country and the regions, it will need to accommodate negotiation with non-elite groups and localised militias, with the capacity to distinguish between militias that serve community interests, those that serve politicians, and those that were created for other purposes but find themselves in the forefront of local grievances. In addition, disarmament needs to be conducted in a systematic and apolitical manner, in a long-term strategy that includes economic empowerment and agricultural development. Militias cannot be disarmed while civilians retain weapons. They need to be integrated into pacification strategies at the community level, peace conferences and reconciliation drives.

Councils of elders and ethnic divisions

The deep schisms between ethnic communities in South Sudan are the result of unresolved conflicts from the civil war, the lack of reconciliation efforts after independence, the perceived or real domination of one community, economic imbalances between the regions, and almost genocidal revenge cycles in the 2013 war. The rhetoric that only one of the 64 communities in South Sudan retains power is generating disunity and resentment. Pre-existing social forums have taken on greater political roles and in several cases created greater divides between elites and communities. Ethnic lobby groups like the Dinka Jieng are becoming increasingly strong among different constituencies and the leadership. The Jieng is thought to be behind the creation of the 28 states, several foreign

policy initiatives, and manoeuvres to create parallel power bases outside of ARCISS.⁵⁶

Most ethnic groups seem to have some form of community leadership council, formed in most cases before the 2013 war. Their purpose has been to streamline the policies and interests of the community in the social sphere. They played different roles for the Dinka, Nuer and Shilluk communities during the 1990s splintering of the SPLM, yet became less prominent during the CPA and post-independence years, since many members of the JCE, and the Bari community, among others, were already senior officials of the SPLM. The recent trend of ethnic councils taking on greater political roles is a direct result of the prominence and hard-line positions of the JCE.

The deep schisms between ethnic communities are the result of unresolved conflicts from the civil war

When ethnic groups consider themselves to be nations, they more easily create moral, political and cultural justifications for the use of violence to defend themselves from internal and external enemies.⁵⁷ Sub-level nationalism has become shrouded in the language of blood, identity and exclusive protection, leading to targeted killings of outsiders. Dinka intellectuals argue that the Jieng has a social and not political status, with a focus on revising norms and defending its 'society's' interests, which are under attack by neighbours like the Mundari, Nuer, Shilluk, and Murle over land.⁵⁸ The Jieng, representing over 55 Dinka communities, is thought to be behind many presidential directives and openly states that South Sudan should be ruled by a Dinka. Led by former chief justice Ambrose Ring, the JCE is today an opaque, unaccountable and informal institution that stands to lose everything if presidential succession occurs through the democratic process or by political coalition.

Other councils protecting ethnic interests have also begun taking on greater roles in mobilising communities. These include the Equatorian Council of Elders, the Shilluk Kingdom's Intellectuals Committee and Community Councils, and to a lesser extent the Nuer

Supreme Council. The Equatorian council was created in July 2015 in response to the lack of a cohesive position among different Equatorian communities and groups. The council was initially led by General Alison Magaya and is currently trying to appease tensions but largely unable to secure any resolution to the escalation in Equatoria as long as the government continues pursuing a military strategy rather than engage in dialogue. A new forum, the Equatoria Forum, recently called for the Equatorian community to reject any alliance with Machar. It is unclear what the level of representation is of the different Equatorian communities in any of these fora.

Less is known about the Nuer Supreme Council and its membership and power base. A socially based group that emerged several years ago to promote the interests of the Nuer nation, it seems to be less influential within the larger Nuer community, surpassed in many ways by the influence of prophets and other leaders. Some claim that the Nuer council is weak due to Machar's dominance and the lack of alternative Nuer leaders.⁵⁹

ARCISS needs to be salvaged and peace secured, but not at the cost of inter-Nuer and multiple community conflicts

The Chollo kingdom has two councils, but the king is the ultimate arbitrator. The Shilluk Intellectuals Committee, based in Juba, is headed by Professor Joshua Otor and has support from the king and prince. It was formed because of the Shilluk land issue in 2012. The Chollo Community Council is led by Samson Oyay Awin, who in the beginning of the year raised concern that the Shilluk were under-represented in the transitional government,⁶⁰ a situation that has worsened since the recent reshuffle.

The danger with these and other councils is the difficulty of undoing their divisive mobilisation and neutralising the emergence of the 'greater ethnic sentiments' and their potential to sabotage national and multi-ethnic political processes. These councils can, however, if led by consensual and moderate individuals, be used to promote harmony among communities and address the issues that divide them.

Conclusion

ARCISS needs to be salvaged and peace secured, but not at the cost of inter-Nuer and multiple community conflicts. The population wants justice, security (peace) and development. Their priorities need to be translated into concrete and enforceable measures within a resurrected and more inclusive peace agreement. Conflict needs to be addressed at the national and local levels, with elites and non-elites, and with different communities. A starting point would be to convene a national political dialogue to discuss implementation of the agreement but also to ensure its broader application and ownership. While what follows is not an exhaustive list of processes that could complement



A NEW ROADMAP FOR PEACE IS NEEDED IN THE CONTEXT OF A NATIONAL DIALOGUE, SUPPORTED BY INTERNATIONAL AND REGIONAL ACTORS

ARCISS, it identifies areas that need serious technical and financial support, sustained political engagement, and enough flexibility to allow for transformation. They do not require a change to the principles of ARCISS; rather, they reinforce mechanisms that have already been identified and build on agreed parameters.

The monitoring mechanism for ARCISS, the Joint Monitoring and Evaluation Commission, needs to enhance its capacity and assert its authority if it is to remain a credible convener of the peace process. It needs to begin engaging with different informal systems of government to strengthen the implementation of the agreement. Where it is unable to act, it needs to coordinate and support alternative platforms for peace.

A new roadmap for peace is needed in the context of a national dialogue, supported by international and regional actors. To do this, the relationships between the actors and the different mechanisms have to be strengthened and clarified, with the AU'S special representative potentially taking the lead.

Power-sharing and constitutional review

Ethnicity is one of the hardest cleavages to manage. Integrated and formal formulas are needed to address this issue at national and state levels. Ethnic quotas may be necessary in the short term to secure trust in institutions, with particular attention to the security apparatus at the national level and to state institutions and public order organs at the local level.

Decentralisation has to be discussed within a consultative process and given priority during the transitional process. This requires that the ARCISS-mandated processes of constitutional revisions and preparation for elections maintain complementarity and consistency with discussions on decentralisation, the design of the electoral system and the future structure of government.

Different approaches need to be considered at the national and local levels so that they complement and reinforce the transformative capacity of reforms. ARCISS provides a framework for the constitutional review process but needs to take this further to incorporate solutions for different levels of government. Approaches to managing ethnic conflict include consociationalism,

centripetalism, multiculturalism, cantonisation, federalism and confederation. The process is just as important as the form; consultation and local-level dialogue are necessary. Consociationalism – which includes coalition government, minority vetoes, proportional representation and levels of community autonomy – may provide a useful framework for South Sudan's ethnic pluralism.

Economic rehabilitation and anti-corruption efforts

South Sudan's disastrous economic situation increases international donors' leverage. Immediate interventions are needed to address the humanitarian crisis and food insecurity countrywide; support for the budget is crucial, as salaries are not being paid; the timing of the Transitional Financial Arrangements payments to Sudan, which have over \$2 billion outstanding, will need to be renegotiated; and debt restructuring urgently needs to be negotiated. Loans and other direct and indirect financial assistance need to be conditioned on the full implementation of ARCISS. Anti-corruption mechanisms should be a prerequisite for any funds coming into South Sudan and any strategy to rehabilitate the economy.

South Sudan's disastrous economic situation increases international donors' leverage

ARCISS designates several institutions as guarantors of fiscal transparency but does not specify how this should be accomplished or what sanctions should be imposed if it is not. Consideration needs to be given to how small loans and development projects can be framed to benefit communities and ex-combatants on all sides. ARCISS provides some ideas but it does not specify the need to balance the development and economic capacity of South Sudan's three main regions differently to address imbalances and neutralise moves to capture oil and other revenues.

Support for local peace initiatives

Local peace initiatives should not be hijacked by the TGNU for the purpose of appeasement during the transitional period by offering partial solutions and quick fixes without serious commitment to addressing the

concerns of different communities. Analysts have introduced several important considerations to the peacebuilding debate.

A recent study drew on the example of Nuer prophets Gatdeang Dit and Nyachol to show how local actors with strong moral legitimacy can contribute to peacebuilding, working within local frameworks that stand in stark contrast to but can inform internationally crafted solutions. The authors argued that ‘political discourses and perspectives that ignore local, ostensibly “nonpolitical” actors also overlook, and perhaps intentionally narrow, the diversity of possible solutions available.’⁶¹

The elites in power today have come to define themselves in terms of the conflict itself, rather than through a political programme focused on the future

The international community would also do well to consider creative strategies tested during the civil war to reconcile highly divided communities and settle violent conflicts – such as the Wunlit, the Lilir local peacebuilding processes and the Kejiko conferences of the 1990s. The achievements of these community-level processes, led by religious leaders and others, need to be institutionalised so that elite interests do not override them. Yet none of these alone can achieve a lasting solution if the national peace agreement does not ensure representative government at the national and state levels.

Changing leadership dynamics

Calls for renewed leadership have been made since the war erupted in 2013. However, an entire generation of leaders in South Sudan has had a hand in sustaining the crisis. The elites in power today have come to define themselves in terms of the conflict itself, rather than in terms of a political programme focused on the future. This is a characteristic of intractability.⁶² Changing the old guard will not change the emerging conflicts but rather the responses to them, an area where ARCISS and subsequent agreements can also make a difference. Given that there is no leader who can unite communities at the national level, a national dialogue is urgently needed.

Communities remain divided and engulfed in fear, resentment and mutual mistrust. Divisions within the SPLM-IO need to be addressed for the sake of implementing the peace agreement. Legitimacy cannot be granted to any SPLM-IO leader on the basis of international or regional acceptance, or even formal nomination to the TGNU, but by negotiating this through the core power bases of the movement. Efforts also need to be made to bring in more moderate elements within the SPLM-IG that can help push the agreement forward and provide solutions to the insecurities that will be revealed with peace. This requires dealing with the psychology of the leaders and building trust and avenues of dialogue within groups and between them.



MOST LEADERS ON EACH SIDE OF THE WAR DREAD THE PROPOSED HYBRID COURT

Governance

ARCISS establishes the parameters for how the TGNU will divide tasks, seats and power in the Presidency, the Cabinet, and the Parliament. It focuses on offices and seats rather than on a political transformation programme, which in many respects the CPA attempted but ultimately failed to achieve. Reforming central institutions in Juba has remained the focus of this and previous initiatives, with not enough consideration for building state capacity at the local level.

The ARCISS transition is expected to end in national elections. This is a mistake. Sufficient groundwork to ensure that a highly divisive exercise such as an election does not plunge the country back to violence may not have been possible given all the manoeuvres to deflect the reforms proposed by ARCISS. Democratisation and improved governance do not occur in a vacuum; they are affected by the internal relations of elites and the ways that they manage and accommodate diverse opinions. (The CPA in 2005 made the same mistake: it failed to provide the basis for party development and internal democratisation of the different groups.) New alternative governance arrangements need to be devised so that the postponement of elections is not seen as a means of extending the mandate of the existing regime. Proposals for a caretaker government need to be considered as part of the national dialogue.

To neutralise the dangers of entrenched ethnic animosities (and the councils of elders phenomenon), institutions need to contribute to the de-ethnicisation of the conflict by allowing for cross-ethnic alliances. Other instruments like the Arusha intra-SPLM agreement are still vitally important to bridge the ethnic divide and create points of convergence between communities and elites.

Achieving justice

The manner in which this conflict has pitted communities against each other, the scorched-earth strategies of the different warring factions, the targeting of civilians and mass violence against women and children cannot be overcome with political agreements alone. Communities demand justice and need justice mechanisms to help offenders and victims reinsert themselves into their communities; victims need some form of recognition of

what has happened, but also need to reactivate their faith in the state's capacity to rectify the ills of the past. Most leaders on each side of the war dread the proposed hybrid court, yet there are many other mechanisms to achieve justice that can begin to be enacted while the hybrid court is being created (or even if it is not created) – such as compensation mechanisms, truth commissions and lustration. Justice needs to be seen to be done in South Sudan. Diplomatic and political solutions need to factor in the divisive nature of justice and determine responses to maintain stability.

Disarmament, demobilisation and reintegration and security sector reform

Creating a unified army is not a cure-all for the over-securitisation of state and society. Strategies need to be devised to reintegrate the many militia groups; providing opportunities for cantonment or negotiating agreements with opposing forces will not bring peace but only replicate previous mistakes and dysfunctions. A holistic but coordinated approach is necessary that includes elements of the disarmament, demobilisation and reintegration (DDR) and SSR processes, while directly addressing the failures of previous reform attempts during the CPA and post-independence years. Donors, international agencies, and implementing partners would do well to coordinate training, the aligning of strategies and support.

The ARCISS transition is expected to end in national elections. This is a mistake

With current numbers of troops from the SPLA, the police and other organised forces, national security, government-affiliated militias and SPLM-IO affiliated forces, as well as other armed groups, this could bring between 200 000 and 100,000 armed men needing integration, demobilisation, or some form of accommodation and psycho-social support for this transition. Disarmament needs to be conducted in a systematic, apolitical and ethnically neutral manner, as part of a long-term strategy that includes economic empowerment, agricultural development and skills

training. Former combatants cannot be disarmed and inserted into communities in which civilians retain weapons, so sequencing is a very important issue.

Previous DDR and SSR programmes failed to sufficiently involve local communities and authorities in planning and implementation. Communities were not economically prepared to absorb ex-combatants, and efforts to help reconciliation were not aligned. Creative strategies need to be incorporated: the SPLA should be used to help rebuild the country's infrastructure; SPLA farms need to be reactivated; programmes to prevent conflict-generating practices need to be reconstituted and enhanced, such as the Livestock Patrol Unit in Jonglei. The SSNPS desperately needs to establish standard operating procedures, coordinate public-order strategies, and institute training, including in information-led community policing; and all police need to understand the laws they are meant to enforce.

Urgent action

The challenges are many and require long-term investment beyond the transitional period.

The AU is undergoing a leadership transition creating a vacuum in decision-making and response when urgent action is required

Without concerted and urgent national, regional and international efforts to provide the political space for ARCISS to be implemented, as well as to directly address the effects of the July crisis and the dismissal of Machar, the peace deal will be declared dead and unresurrectable by several elements of the opposition. Failure to reopen the political process will leave the opposition with few or no other options than to pursue a military strategy. The presence of militia groups throughout the country means that any new conflict is likely to be much more destructive and ruthless and harder to resolve. Both the South Sudanese leadership and the international community need to take responsibility for the current breakdown of peace, trust and dialogue.

Lessons from the mismanagement of ARCISS and deadline diplomacy need to be headed. However, the conflict has shifted but so has the interests of several key peace actors. The national and international/regional terrain has shifted significantly making the resolution to this current war a more complex and tenuous prospect. Key players in the region, Kenya, Ethiopia, Sudan and Uganda, are focusing on their internal issues and have opted for bilateral engagements with Juba rather than a cohesive regional approach. For now they may not be ideally placed to assist. This means the African Union needs to take the lead. Yet the AU, like the UN and the US, is undergoing a leadership transition creating a vacuum in decision-making and response when urgent action is required. While it is urgent to wait it is urgent to act

> 8 million

THE NUMBER OF SOUTH
SUDANESE IN NEED OF
HUMANITARIAN ASSISTANCE

as the humanitarian situation is worsening and military and political fragmentation increasing. Over eight million South Sudanese are in need of humanitarian assistance yet the UN and relief agencies are struggling to get access and face increasing impediments. The ‘conspiracy of silence’⁶³ has to end and the trampling of humanitarian principles and space understood as a violation of the laws of war. Imperfect solutions may be necessary to stop this war but they need to be carefully corrected and built upon to secure a lasting peace.

Notes

- 1 ARCISS was established to resolve the conflict that broke out in December 2013 as the ruling SPLM party split into three factions. It was signed in August 2015. It set out a 30-month transition involving a government of unity with Riek Machar as first vice president; security arrangements including the unification of forces; a reconstruction and economic rehabilitation programme; a hybrid court to try war crimes, genocide and other crimes; a truth commission and other reconciliation initiatives; and parameters for a new constitution. The implementation of ARCISS is overseen by the Joint Monitoring and Evaluation Commission.
- 2 A joint commission made up of representatives of SPLM in Government and SPLM in Opposition was set up to investigate the violence, but it failed to deliver a report that was due on 19 July.
- 3 Battle in Juba: 8 questions for confused observers, Radio Tamazuj, 11 July 2016; correspondence with numerous sources in Juba from the government and opposition, July–August 2016.
- 4 Correspondence with SPLM-IO supporters and a close aide to Riek Machar, July 2016.
- 5 A leaked report by the UN Panel of Experts on the July crisis claims that the deployment of such military hardware would have to be authorised by Salva Kiir and Paul Malong.
- 6 South Sudan UNHCR Operational Update, 1–20 July 2016, ReliefWeb.
- 7 This was also reported in the leaked, not official, UN Panel of Experts report.
- 8 Amnesty International, *‘We did not believe we would survive’: killings, rape and looting in Juba*, October 2016.
- 9 South Sudan peacekeeping commander sacked over ‘serious shortcomings’, *The Guardian*, 2 November 2016.
- 10 <http://sudan.shafaqna.com/EN/SD/793549>; www.sudantribune.com/spip.php?article59949; www.africanews.com/2016/07/23/photos-museveni-meets-kiir-regional-issues-south-sudan-tops-the-agenda/.
- 11 Correspondence with a senior member of government, August 2016.
- 12 What did the UN Security Council achieve in South Sudan?, Radio Tamazuj, 7 September 2016.
- 13 Under ARCISS, the three former states of the Greater Upper Nile region would be managed in a power-sharing formula (46% to the government, 40% to SPLM-IO, 7% to the SPLM-Former Detainees group, and 7% to other political parties at the local level, with the government nominating the governor of Jonglei and SPLM-IO the governors of Upper Nile and Unity states). The remaining states in the Equatoria and Bahr El Ghazal regions would be administered by the government (85%) and SPLM-IO (15%) – an arrangement perceived by many groups excluded from the arrangement as solidifying the grip of the Dinka elites in those regions.
- 14 Correspondence with former South Sudanese diplomat and member of government, October 2016.
- 15 UN Fears ‘outright ethnic war’ in South Sudan, JusticeInfo.Net, 11 November 2016.
- 16 The SPLM-IO groups were (1) the warlords who remained and those who had left with Peter Gadet, (2) the diaspora and those expecting to be reinstated in their previous jobs, (3) rank-and-file army members wanting promotions, (4) educated people aligned with Taban Deng, including those who failed to get posts in the TGNU and (5) people loyal to Riek Machar and Angelina Teny.
- 17 Phone conversation with SPLM-IG presidential advisor, August 2016.
- 18 J Copnall, In Paul Malong’s kingdom: politics on South Sudan’s periphery, *African Arguments*, 8 July 2015, <http://africanarguments.org/2015/07/08/in-paul-malongs-kingdom-politics-on-south-sudans-periphery-by-james-copnall/>.
- 19 Interview SPLM-IO official (before the split of July 2016), May 2016, Juba.
- 20 The splintering of SPLM IO in the run-up to the signing of ARCISS, when prominent members defected, was expected to derail the group’s core leadership under Machar, given the seniority of Generals Peter Gadet

- (Bul Nuer) and Gathoth Gatkuoth (Jikany Nuer), yet it didn't. The group, together with Gabriel Changson, later formed the Federal Democratic Party but has not been integrated into the peace agreement or any other bilateral agreement with the government.
- 21 Phone conversation with senior leader of TGNU, September 2016. While it is difficult to verify this assertion, the strategy of buying commanders is common in South Sudan as part of an existing patronage system of governance.
 - 22 Nuer chiefs disown new FVP Taban Deng, *Sudan Tribune*, 29 August 2016.
 - 23 Opposition groups meet today in Nairobi to discuss South Sudan political process, Radio Tamazuj, 17 August 2016.
 - 24 Statements were issued by 37 members of Parliament from the Equatoria region and 29 from the Upper Nile region rejecting the creation of the 28 states and alerting to the risk a tribal war (South Sudan legislators warn of tribal war over 28 states constitutional amendment, *Sudan Tribune*, 20 November 2015).
 - 25 The Greater Equatoria region has been divided into eight states: Imatong, Namorunyang, Maridi, Amadi, Gbugdwe, Jubek, Terekeka and Yei River. Greater Bahr El Ghazal now comprises 10 states: Wau, Aweil, Lol, Aweil East, Twic, Gogrial, Tonj, Eastern Lakes, Western Lakes and Gok. The Greater Upper Nile region has also been divided into 10 states: Northern Liech, Southern Liech, Ruweng, Eastern Nile, Jonglei, Western Nile, Western Bieh, Eastern Bieh, Latjor and Boma. Maps of the previous ethnic balance of all three regions can be found in Map Analysis: ethnic balance to change if 28 states approved, Radio Tamazuj, 22 November 2015.
 - 26 Interview with an SPLM-IO member of the Political Bureau, January 2016.
 - 27 Small Arms Survey, The conflict in Unity State, in *Human security baseline assessment for Sudan and South Sudan*, 23 February 2016, www.smallarmssurveysudan.org/facts-figures/south-sudan/conflict-of-2013-14/the-conflict-in-unity.html.
 - 28 Ibid.
 - 29 The idea was to strengthen the focus on the task of governing and reduce the risk of nepotism and corruption. Garang's nominations included Riek Machar (from Upper Nile) to be the governor of Western Equatoria, Wann Iggga (from Central Equatoria) as governor of Upper Nile, Daniel Awet (from Lakes state) for Eastern Equatoria, Lam Akol (from Upper Nile) for Western Bahr El Ghazal, Kuol Manyang (from Jonglei) for Northern Bahr El Ghazal, Deng Alor (from Abyei) for Jonglei and Pagan Amum (from Upper Nile) for Lakes state.
 - 30 What steps are needed to create 28 states in South Sudan?, Radio Tamazuj, 28 November 2015.
 - 31 M Schomerus and T Allen, *Sudan at odds with itself: dynamics of conflict and predicaments of peace*, 2010, DESTIN, London School of Economics.
 - 32 This approach was developed in the 1990s in the context of Somalia to stabilise area by area as a decentralised approach to state-building. It stood in opposition to the top-down solutions.
 - 33 Interview with a veteran SPLM member and member of government, February 2012, Juba.
 - 34 UN Panel of Experts report 2015; HSBA Report 'The conflict in Upper Nile State', Small Arms Survey, March 2016.
 - 35 Unpublished report on corruption in South Sudan, prepared for a western aid agency, November 2013.
 - 36 Ibid.
 - 37 Interview with a senior SPLM official and economist, October 2013, Juba.
 - 38 'War Crimes Shouldn't Pay', September 2016.
 - 39 Country Report: South Sudan Conflict Update, July 2016, Armed Conflict Location and Event Dataset Project (ACLED).
 - 40 Interview with a military source, May 2016, Addis Ababa.
 - 41 Correspondence with a Nuer intellectual, August 2016.
 - 42 Agwelek Forces position paper on peace talks with SPLM-IO, *South Sudan Nation*, July 2015.
 - 43 HSBA report 'The Conflict in Upper Nile State,' Small Arms Survey, 8 March 2016.
 - 44 Small Arms Survey, The conflict in Unity State, in *Human security baseline assessment for Sudan and South Sudan*, 23 February 2016, www.smallarmssurveysudan.org/facts-figures/south-sudan/conflict-of-2013-14/the-conflict-in-unity.html.
 - 45 They are considered non-elite forces because they were not created and are not commanded by Juba military or political elites. They have local command-and-control structures (even if very loose) and therefore need a different approach to integration and negotiation. This was recognised by experts during the peace talks as an issue – the commanders of the White Army should have been at the table as they were not always aligned with SPLM-IO positions.
 - 46 HSBA Report by J Young, 'Popular Struggles and Elite Co-optation: The Nuer White Army in South Sudan's Civil War,' Small Arms Survey, July 2016.
 - 47 Correspondence with a presidential advisor, August 2016.
 - 48 Interview with an Equatorian elder, May 2016, Juba.
 - 49 Interview with women leaders, May 2016, Yambio.
 - 50 Former Western Equatoria governor Bakosoro is said to have achieved the impossible in uniting the Moru and the Zande, who 'had animosities like the Dinka and the Nuer' (interview with an SPLM-IO member, May 2016, Juba). Bakosoro's role in these armed rebellions is unclear, although he remains aligned to SPLM-IO and is influential in Western Equatoria.
 - 51 Interview with members of government, May 2016, Yambio.
 - 52 Interview with a religious leader, May 2016, Yambio.
 - 53 *South Sudan's Galweg: filling a security gap, or perpetrating conflict?*, case study, Saferworld, April 2015.
 - 54 Rebel, army clashes kill 43 near South Sudan's Wau: government, *Reuters*, 28 June 2016.
 - 55 Country report: South Sudan conflict update July 2016, Armed Conflict Location and Event Dataset.
 - 56 Interviews with South Sudanese intellectuals, January–May 2016.
 - 57 M Ignatieff, *Blood and Belonging*, London: Vintage, 1994.
 - 58 Correspondence with Dinka intellectuals, August 2016.
 - 59 Interviews with Nuer intellectuals, May–August 2016.
 - 60 Letter to Riek Machar regarding Presidential Order 36/2015 and the selection of the National Assembly members and TGNU ministers, 13 January 2016.
 - 61 S Hutchinson and N Pendle, Violence, legitimacy and prophecy: Nuer struggles with uncertainty in South Sudan, *American Ethnologist* 42:3, 2015, 415–430.
 - 62 This is explained clearly in C Crocker, F Hampson and P Aall (eds.), *Grasping the nettle, analyzing cases of intractable conflict*, Washington, DC: US Institute of Peace, 2005.
 - 63 Expression used by humanitarian actor, conversation Nairobi, December 2016.

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