

South Sudan

Country:

South Sudan

Year:

2016

Freedom Status:

Not Free

Political Rights:

7

Civil Liberties:

6

Aggregate Score:

14

Freedom Rating:

6.5

Overview:

After seven broken cease-fires, the main protagonists of South Sudan's civil war signed a deal in August 2015 to end the fighting. Riek Machar, the former vice president whose dismissal by President Salva Kiir in 2013 presaged the fighting, was the first to sign the agreement. Kiir added his name to the deal after stalling for a week, but made it clear he was acting under pressure from the international community. The agreement essentially returned South Sudan to the status quo ante, with Machar taking up the position of first vice president under Kiir in a transitional government of national unity, to expire in 30 months.

There were reported violations of the cease-fire by each side in the latter part of 2015. In November, the United Nations said the two factions were actively amassing weapons and ammunition in preparation for a resumption of hostilities. Despite these reports, the UN Security Council decided against imposing an arms embargo.

In October, the full horrors of the conflict became clearer when the African Union (AU) made public the findings of its long-delayed investigation into human rights abuses in the early months of the war. The report said both sides committed grave offenses such as rape, murder, torture, dismemberment, forced cannibalism, and looting, largely targeting civilians. The commission submitted a confidential list of alleged perpetrators to the AU's Peace and Security Council and called for the creation of a special court to try them. It also recommended the establishment of a Truth and Reconciliation Commission.

South Sudan's conflict has contributed to one of the most serious humanitarian crises in the world. According to a UN report from October, around 2.2 million people have been displaced and more than 4.6 million people were severely food insecure, partly as a result of the fighting. As of August,

almost 200,000 people were taking shelter at bases of the UN Mission in South Sudan (UNMISS) throughout the country.

Political Rights and Civil Liberties:

Political Rights: 2 / 40 [Key]

A. Electoral Process: 3 / 12

Kiir was elected president of the semiautonomous region of Southern Sudan in 2010, and became president of South Sudan when it achieved independence in 2011. A revised version of Southern Sudan's 2005 interim constitution, adopted at independence, gives sweeping powers to the executive, which dominates all other institutions of the state. The president cannot be impeached and has the authority to fire state governors and dissolve the parliament and state assemblies. Kiir was quick to use these wide powers, notably dismissing his entire cabinet and the vice president, Machar, in 2013. He also fired two state governors and missed constitutional deadlines to elect permanent replacements.

A permanent constitution was due to be passed by 2015, but work was hampered by administrative delays, budget shortfalls, and the civil war. The National Constitutional Review Commission has yet to produce a draft. Some opposition politicians boycotted the constitutional consultation process, claiming it was insufficiently inclusive and was dominated by members of the ruling Sudan People's Liberation Movement (SPLM).

South Sudan's bicameral National Legislature was reconfigured after independence. The SPLM exercises almost total control of the lower house, the National Legislative Assembly (NLA), holding 90 percent of the 332 seats. In addition to members of the old, preindependence Southern legislature—who were elected in 2010—the chamber includes 96 former members of Sudan's National Assembly and 66 additional members appointed by the president. The upper chamber, the Council of States, includes 20 former members of Sudan's Council of States, plus 30 members appointed by Kiir. In principle, significant powers are devolved to the 10 state assemblies, but there have long been complaints that power is too centralized. In October, Kiir announced that South Sudan's 10 states would be replaced by 28 new states with boundaries that largely reflected ethnic divisions. The plan raised some concerns that federal level political tensions would merely be transferred to a lower level of government.

Preparations for the country's first national elections, originally scheduled for 2015, were derailed by the outbreak of the civil war. Under a new timetable established by the August 2015 peace deal, elections will be held at least 60 days before the 30-month mandate of the national unity government expires.

B. Political Pluralism and Participation: 1 / 16 (+1)

Although the peace agreement reached in August set a timetable for elections, in practice opposition parties have no chance of winning real political power. Five opposition parties are represented in the NLA, but they lack both the resources to operate effectively and the experience to formulate policy and set party platforms. The SPLM is intolerant of opposition. The derailment of electoral preparations by the civil war removed what little opportunity there might have been for the opposition to gain power.

The SPLM is also deeply intolerant of internal dissent. The civil war was preceded by Kiir's decision to marginalize a significant portion of South Sudan's political leadership, his refusal to convene a meeting of the SPLM's executive body to discuss complaints about his governing style, and his

failure to promote internal party democracy. Kiir has been accused of allowing his decisions to be led by a group of close advisers, described by his opponents as “regional and ethnic lobbies and close business associates.” Accusations persist that members of the country’s largest ethnic group, the Dinka, dominate the SPLM’s leadership and the security services to the detriment of others.

South Sudan’s military, the Sudan People’s Liberation Army (SPLA), exercises an overbearing influence over political affairs and public life.

C. Functioning of Government: 1 / 12

Endemic corruption has shattered public confidence in the state. South Sudan is ranked 163 of the 168 countries and territories surveyed in Transparency International’s 2015 Corruption Perceptions Index. Government appointments are typically handed to SPLM loyalists or potential rivals with little regard for merit, and corrupt officials take advantage of inadequate budget monitoring to divert public funds. The vast majority of the state’s revenues remain in the capital, Juba, where they are shared among a tiny elite. Ghost workers are used to artificially inflate the public payroll, allowing corrupt officials to steal the surplus.

Opaque management of South Sudan’s oil wealth, which accounts for the largest share of government revenue, allows some SPLM officials to line their own pockets without consequences.

The civil conflict has engendered a war economy where well-connected military elites have flourished while formal economic activity has ground to a halt. Military spending takes up at least 40 percent of the budget. In addition, the president’s office operates its own, entirely opaque, security budget.

Institutions set up to promote accountability are weak and underfunded. According to the Enough Project, in the first quarter of 2015 the Anti-Corruption Commission and the National Audit Chamber received only 64 and 17 percent of their budgets, respectively.

Discretionary Political Rights Question B: 3 / 0 (-1)

In both government-controlled areas and parts of the country occupied by Machar loyalists, combatants have engaged in targeted killings against opponents based on their ethnicity in order to pursue vendettas and seek political gain. Civilians have been murdered, raped, tortured, and had their homes and livestock destroyed because of their ethnicity. While some of these atrocities were the result of poorly disciplined fighters acting on their own initiative, others appear to have been officially planned and coordinated.

The AU report on South Sudan relayed estimates from exiles and the opposition that mass killings of up to 20,000 members of the Nuer ethnic group took place in the opening days of the civil war, in December 2013. It said the killings were carried out by members of the state security forces and the Presidential Guard. The AU commission found that systematic gross violations of human rights were committed by both sides and that in some cases, these crimes were planned and coordinated. Neither side has made any attempt to hold its forces accountable for the widespread abuses that mostly targeted civilians.

Civil Liberties: 12 / 60 (-1)

D. Freedom of Expression and Belief: 4 / 16

The operating environment for journalists has deteriorated since independence. Conditions became even more difficult with the outbreak of the civil war, which prompted a government crackdown on reporters, including some foreign correspondents, who tried to interview rebel leaders or provide balanced coverage of the conflict. As a result, many reporters exercise self-censorship, while others have left the country altogether. The government's attitude toward the media was summed up by Kiir in August, when he said that "freedom of the press does not mean you work against the country."

Events in 2015 underlined the risks faced by the media. In the worst incident, five reporters were killed in January when their convoy was attacked in Western Bahr el Ghazal state. Two other journalists were shot dead in separate attacks in May and August. These incidents made South Sudan the deadliest African country in which to practice journalism in 2015, according to the Committee to Protect Journalists (CPJ). No suspects have been arrested in connection with any of the attacks, nor has there been any progress in the investigation into the 2012 murder of online journalist Diing Chan Awuol.

Members of the National Security Service (NSS) have ordered the closure of newspapers with coverage they disliked in recent years. In February 2015, the independent *Nation Mirror* was shut down for printing antigovernment articles. In August, two newspapers and a radio station were shuttered indefinitely.

Although parliament has passed bills to govern public broadcasting in South Sudan, to set up a media oversight authority, and to guarantee the public right of access to information, none of the bills have been implemented.

The interim constitution guarantees religious freedom, but places of worship became targets for attack by both sides in the conflict after the civil war broke out. During the fighting in Malakal, Bor, and Bentiu, thousands of people taking refuge in churches and mosques were attacked because of their ethnicity.

There are no government restrictions on academic freedom, but basic access to education is limited outside state capitals. The education system has been seriously disrupted by the civil war. Some 70 percent of schools were closed in the three most conflict-affected states—Jonglei, Unity, and Upper Nile—and some schools were commandeered for military use.

Public discussion of political issues is muted for fear of harassment by authorities. The government uses the NSS to track and intimidate perceived critics and is believed to use telephone surveillance to monitor opponents.

E. Associational and Organizational Rights: 3 / 12

Freedoms of assembly and association are enshrined in the interim charter but have been seriously eroded in practice. Protests do occur but have faced excessive governmental force. South Sudan is highly dependent on assistance from foreign nongovernmental organizations (NGOs), yet the government has taken an increasingly confrontational approach toward them. In May, South Sudan's parliament passed a law that included a provision to limit the number of foreign workers organizations could hire. Kiir refused to sign the bill and sent it back to parliament for further consideration; it had not been enacted by year's end.

South Sudan is a dangerous place for humanitarian workers, who have been targeted by combatants on numerous occasions. At least 29 aid workers were killed during the civil war through

August 2015, according to the United Nations. Four World Food Programme staff who had gone missing in 2014 were declared presumed dead in August 2015. Armed groups have singled out UNMISS personnel and civilians in their care for attack. Both sides in the civil war have interfered with the delivery of humanitarian supplies, especially to areas near South Sudan's second largest city, Malakal.

Domestic civil society organizations, including unions, remain nascent. A Workers' Trade Union Federation, formed in 2010, has 65,000 members. Legislation to codify labor rights has stalled in the NLA.

F. Rule of Law: 1 / 16

The rhetorical commitment to an independent judiciary in South Sudan's interim constitution is "unmatched by practice," according to the October AU report. Judges are few in number, the mechanism for appointments is unclear, and the court system is under huge strain. According to the U.S. State Department, pretrial detainees were estimated to account for between one-third and two-thirds of the prison population. Inefficiencies in the justice system have led to indefinite detention.

The president was accused of using the outbreak of fighting in December 2013 as a pretext to detain prominent political rivals. Eleven current and former senior SPLM officials were arrested on suspicion of involvement in an attempted coup. All members of the group were released in 2014 following pressure from the international community and were reinstated to the SPLM in June 2015.

There is a culture of impunity within the security forces, with serious abuses carried out against civilians, reportedly with the full knowledge or on the orders of senior commanders. The NSS, which reports directly to the president, has been responsible for arbitrary arrests and abuses. Under the National Security Service Law, which came into force in early 2015, the NSS has almost unlimited powers to detain and interrogate suspects.

Members of the SPLA, the South Sudan National Police Service (SSNPS), and the NSS have played a central role in the violence that has engulfed South Sudan since 2013. UNMISS, the AU, and human rights organizations have accused members of the security services of involvement in extrajudicial killings, attacks on civilians, enforced disappearances, destruction of property, and sexual violence. Internal investigations into their conduct were announced in recent years, but there have been no public reports on their progress.

While there have been modest improvements to the penal system, prison facilities are poor, with unsanitary conditions and insufficient food for inmates. Children and the mentally ill are routinely detained with the general prison population.

Civilians, including children, the elderly, and the infirm, have been terrorized by both sides in the civil war. The AU report outlined multiple cases of murder, rape, mutilation, and even forced cannibalism committed by armed combatants against civilians, and said war crimes had taken place in the cities of Juba, Bor, Malakal, and Bentiu. Control of Malakal changed hands a dozen times during the fighting, leaving it virtually destroyed. Residents, including women and children, were targeted for attack by combatants from both sides, even as they took refuge in churches and hospitals.

Since the war for independence from Sudan ended in 2005, more than two million refugees and internally displaced people have moved back to the South. The government encouraged their return but has largely failed to provide them with even the most basic assistance.

Same-sex sexual conduct is not explicitly illegal in South Sudan, but “carnal intercourse against the order of nature” is punishable by up to 10 years in prison. LGBT (lesbian, gay, bisexual, and transgender) individuals face widespread discrimination and stigma.

G. Personal Autonomy and Individual Rights: 4 / 16 (-1)

South Sudan’s interim constitution enshrines the rights of free movement and residence, as well as the right to an education. In reality, poverty, poor to nonexistent service delivery, and conflict have restricted the ability of most citizens to exercise these rights.

Land use and ownership are frequent causes of conflict in South Sudan, and returning refugees have exacerbated the problem. Unclear or nonexistent laws have been exploited by SPLM officials and overseas investors to uproot people from their land. Foreign workers in South Sudan have complained of harassment and discrimination. Both sides in the civil war have reportedly looted foreign-owned businesses.

The interim constitution guarantees the rights of women to equal pay and property ownership. Women hold a quarter of the posts in the NLA, fulfilling a constitutional gender quota. Nonetheless, women are routinely exposed to discriminatory practices and domestic abuse. The prevalence of child marriage contributes to low levels of educational attainment among girls. Official figures suggest that almost half of girls aged 15 to 19 are married. Systematic and widespread sexual and gender based violence against women was committed with impunity by both sides during the civil war.

Sex and labor trafficking is widespread, with rural woman and girls, the internally displaced, or migrants from neighboring countries being the most vulnerable to exploitation. The use of child soldiers is widespread, with both the SPLA and other armed groups forcibly recruiting children as combatants.

Scoring Key: X / Y (Z)

X = Score Received

Y = Best Possible Score

Z = Change from Previous Year

Full Methodology

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