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## 2011 Country Reports on Human Rights Practices - South Sudan

### EXECUTIVE SUMMARY

The Department of State's Country Reports on Human Rights Practices typically covers the period from January 1 through December 31. However, the Republic of South Sudan (hereafter referred to as South Sudan) became an independent republic on July 9, when it completed its secession from the Republic of Sudan (hereafter referred to as Sudan). The creation of the new country followed a January referendum in which 98 percent of citizens of Southern origin voted in favor of independence. International and national observers characterized the mostly orderly and peaceful balloting as consistent with international standards and representative of the genuine preferences of voters. Under a power-sharing arrangement established by the 2005 Comprehensive Peace Agreement (CPA), a simultaneous referendum on the status of the Abyei Area was also scheduled for January, but it was not held. At year's end the Abyei Area was jointly administered by Sudan and South Sudan, with its final sovereignty status unresolved pending negotiations. The CPA also called for popular consultations in the Sudanese states of Southern Kordofan and Blue Nile to determine whether constitutional, political, administrative, and economic preconditions for peace were satisfactory or needed to be renegotiated with the government of Sudan. However, this process had not concluded by the July 9 end of the CPA, was abandoned by Sudan, and resulted in armed conflict that triggered refugee flows into South Sudan. President Salva Kiir, who was elected in free and fair elections in April 2010, headed the government of South Sudan. On July 9, Independence Day, the president signed into law the transitional constitution, which provides for an executive branch headed by a president, a bicameral national legislature, and an independent judiciary.

Prior to July 9, the territory that now comprises South Sudan was the sovereign territory of Sudan. Security forces operating in South Sudan were composed of both the Sudanese Armed Forces (SAF) – the armed forces of Sudan – and the Sudan People's Liberation Army (SPLA) – the armed forces of South Sudan – which were combined in 2007 to form the Joint Integrated Units (JIUs) under the joint control of the governments of Sudan and South Sudan. After independence on July 9, the SPLA became the national defense force of South Sudan and continued to be composed of various ethnic groups. Fighting between the JIUs and rebel militia groups (RMGs) resulted in numerous killings and abductions of civilians, especially of children and women. Fighting occurred along the border between Sudan and South Sudan, where disputes continued over claimed territories, in addition to RMG and interethnic conflicts in Upper Nile, Jonglei, Unity, and Warrap states. The zones of conflict were primarily in Jonglei, Unity, Warrap, Upper Nile, and Western Equatoria states. There were instances in which elements of the security forces acted independently of civilian control.

The most serious human rights problems in the country included extrajudicial killings, torture, rape, and other inhumane treatment of civilians as a result of conflict between the SPLA and SAF, RMG attacks on SAF and SPLA security forces, government counterattacks, clashes between security forces and civilians, interethnic and intercommunal conflict, and civilian clashes related to cattle rustling. Conflict also resulted in approximately 250,000 internally displaced persons (IDPs) during the year.

Other human rights abuses included politically motivated abductions by ethnic groups; harsh prison conditions; arbitrary arrest and detention, including prolonged pretrial detention; and an inefficient and corrupt judiciary. The government restricted freedoms of privacy, speech, press, assembly, and association. Displaced persons were abused and harassed. Official corruption was pervasive. The government restricted the movement of nongovernmental organizations (NGOs), and NGO workers were attacked and harassed. Violence and discrimination against women were widespread. Violence against children included child abuse, child abduction, and harmful traditional practices such as "girl compensation." Police recruited child soldiers prior to independence in July, and RMGs recruited child soldiers throughout the year. Trafficking in persons; discrimination and violence against ethnic minorities and homosexuals; governmental incitement of tribal violence; and child labor, including forced labor, were problems.

The government seldom took steps to punish officials who committed abuses, and impunity was a major problem.

The jointly administered Abyei Area was the site of violence, widespread displacement, and human rights violations during the year.

Attacks by RMGs, including those led by Peter Gatdet Yak, David Yau Yau, George Athor, and Gatluak Gai, resulted in deaths, injuries, property destruction, and civilian displacement in Jonglei, Unity, Warrap, and Upper Nile states. (During the year Yak and Yau Yau joined the government, and Athor and Gai were killed.) The South Sudan Liberation Army (SSLA) perpetrated numerous human rights abuses, including killings and politically motivated kidnappings and disappearances. The Lord's Resistance Army (LRA) and SSLA abducted women and children and recruited child soldiers. LRA attacks also resulted in deaths, injuries, and the displacement of approximately 7,400 persons in Western Equatoria. RMGs obstructed the delivery of humanitarian assistance.

## **Section 1. Respect for the Integrity of the Person, Including Freedom from:**

### **a. Arbitrary or Unlawful Deprivation of Life**

There were several reports that the government or its agents committed arbitrary or unlawful killings. The SPLA, RMGs, and ethnic groups were responsible for arbitrary killings in conflict zones during the year (see section 1.g.).

In August, in Juba, men wearing police and military uniforms reportedly killed and robbed civilians, including a priest in Jebel Kunjur. Some members of these groups were reportedly arrested, although no investigations were conducted. In response to this incident, police intensified night patrols and imposed restrictions on movements after midnight in areas in Juba witnessing increased crimes.

### **b. Disappearance**

RMGs and ethnic groups abducted numerous persons, including women and children, in the conflict zones of Jonglei, Unity, Warrap, Upper Nile, and Western Equatoria during the year (see section 1.g.).

On July 25, President Salva Kiir ordered the arrest of General Mariel, who was charged with involvement in the April disappearance of an engineer named John Luis Silvio. Silvio disappeared after being ordered to appear before General Mariel Nuor Jok, the former director of the Public Security and Criminal Investigation Department. Silvio had been summoned in connection with a disputed plot of land.

On July 7, prior to the July 9 independence of South Sudan, the Muslim Brotherhood accused the state government in Wau of involvement in the disappearance of Al-Shayk Foud Richard, the secretary general of the South Sudan Islamic Council in Western Bahr el Gazal. The state government denied any involvement in this case.

### **c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment**

The transitional constitution prohibits such practices; however, government security forces tortured, beat, and harassed political opponents, journalists, and human rights workers during the year (see sections 2.a. and 5). Government forces, RMGs, and tribal factions committed torture and abuse in conflict zones (see section 1.g.).

On July 7, prior to the country's independence, SPLA military intelligence personnel allegedly arrested, beat, and tortured eight members of the opposition Sudan People's Liberation Movement-Democratic Change party at their party headquarters in Juba. The government, which provided no explanation for its actions, did not punish the perpetrators.

Police and SPLA personnel reportedly tortured and raped women during the year. For example, on July 22, at Juba's Malakia police station, police officers assaulted a female detainee, according to Radio Miraya, a station operated by the UN Mission in South Sudan (UNMISS). The victim told Radio Miraya the officers raped her with stones and bottles, including a beer bottle that the men drove into her uterus. The victim claimed she was held for a month in connection with a business dispute between her husband and another man. Police officers reportedly were detained in connection with the case.

In late 2010, prior to the July 9 independence of South Sudan, the UN Office of the High Commissioner for Human Rights reported that police raped and abused female cadets at the John Garang Unified Police Academy in Rajaf. On March 25, President Kiir appointed an independent committee to investigate the allegations; no information had been released by the committee at year's end.

#### *Prison and Detention Center Conditions*

Prison conditions were harsh and life threatening, and prisons were overcrowded. Rumbek Prison in Lakes State, for example, was designed for 200 inmates but reportedly held more than 550. Health care and sanitation were inadequate, and basic medical supplies and equipment were lacking. Prisoners generally received one meal per day and relied on family or friends for food. Potable water was limited. During the day prisoners usually stayed outside and participated in recreational activity; at night they slept in overcrowded, open hallways lined with bunk beds. Ventilation, temperature, and lighting were inadequate.

Poor prison conditions, including malnutrition and lack of medical care, resulted in inmate deaths, although statistics were unavailable.

At year's end there were 6,027 prisoners and detainees incarcerated. The Prisons Directorate of Southern Sudan generally provided separate cells for men and women; however, juveniles sometimes were not held separately from adults, and pretrial detainees were not held separately from convicted prisoners. Children, especially infants, were often held with adult female prisoners.

Detention centers were under the control of local tribal or state authorities, and conditions were uniformly harsh and life threatening. Some were uncovered spaces where detainees were unsheltered from the sun and chained to a wall, fence, or tree. Sanitary and medical facilities were poor or nonexistent. Detention centers had limited potable water. Detainees sometimes spent days outdoors but slept inside in areas that lacked adequate ventilation, temperature, and lighting.

There were no prison ombudsmen, but prisoners were allowed to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhumane conditions. Prison authorities investigated such allegations, although action was seldom taken. Prisoners were allowed access to visitors and permitted to take part in religious observances.

The government permitted and encouraged visits by independent human rights observers, including the UNMISS human rights officer and independent nongovernmental observers, such as Human Rights Watch.

#### **d. Arbitrary Arrest or Detention**

The transitional constitution prohibits arbitrary arrest and detention without charge; however, the government continued to arbitrarily arrest and detain persons during the year. While not legally invested with the power to arrest or detain civilians, the SPLA arrested and detained persons.

#### *Role of the Police and Security Apparatus*

The South Sudan Police Services (SSPS), under the Ministry of Interior, are responsible for law enforcement and maintenance of order within the country. The SPLA is responsible for providing security throughout the country and is under the Ministry of Defense and Veteran Affairs. The SSPS, many of whom were former SPLA members, were ineffective and corrupt. Illiteracy was a problem. Police reports were often incomplete, and files, if created, were often misplaced. Detentions were sometimes based on accusation rather than official investigation. Complaints of police abuse were rarely investigated, and impunity was a serious problem.

The SPLA does not have law enforcement authority, unless acting at the request of civil authorities. Nevertheless, the SPLA detained persons, including in SPLA-run detention facilities, most notably in Lakes State. During the year the SPLA's conduct of internal security and civilian disarmament was often unsystematic and failed to simultaneously disarm rival communities. Citizens charged that the SPLA's lack of discipline and political neutrality contributed to tensions between communities. There were reports that the SPLA used indiscriminate and excessive force, particularly against women.

The UNMISS police component trained SSPS personnel on a wide range of security-related subjects during the year, although training and personnel were insufficient, and lack of government resources impeded the effectiveness of the program.

### *Arrest Procedures and Treatment While in Detention*

Persons arrested must be brought before a public prosecutor, magistrate, or court within 24 hours; however, there were no available public prosecutors or magistrates in many regions. Police may detain individuals for 24 hours without charge; this may be extended up to one week with authorization from the public prosecutor and by up to two weeks with authorization from a magistrate. Nevertheless, detainees were not always informed of charges against them. There was a functioning bail system. Those arrested have a right to an attorney, but the country had few lawyers, and prisoners were not always informed of this right. The law allows detainees to contact their family.

*Arbitrary Arrest:* Security forces arrested opposition members and journalists (see sections 1.c., 1.e., 2.a., and 3).

During the year, prior to the July 9 independence of South Sudan, the commissioner of Juba ordered the arrest of young girls and women who wore clothing considered to be revealing (see section 6).

*Pretrial Detention:* Lengthy pretrial detention was a problem. Estimates of the number of pretrial detainees in prison ranged from one-third to two-thirds of the prison population. The country's lack of lawyers and judges contributed to lengthy pretrial detention. During the year the UNMISS Rule of Law, Judicial Systems, and Prison Advisory Unit started a justice sector mapping project to collect data on pretrial detainees, including those held for more than one year.

### **e. Denial of Fair Public Trial**

The transitional constitution provides for an independent judiciary; however, the courts were subject to pressure from the government and the SPLA on sensitive matters, such

as the possible illegal sale of government land. The court system did not function in many areas due to lack of infrastructure, communications, funding, and an effective police force. In areas where courts existed, they were understaffed, and judges handled many of the court's administrative tasks. Courts lacked resources and trained personnel. According to the UN human rights officer in Rumbek, some judges in formal courts reportedly continued to follow Sharia principles of tribal customary law in their rulings. Judicial corruption was a problem.

In parts of the country where civil authorities and institutions did not operate, there were no effective judicial procedures beyond customary courts. The government recognized traditional courts or courts of elders, which applied customary law to most cases in remote and rural areas, including in domestic matters and criminal cases. The government continued efforts during the year to formalize and integrate tradition courts into the judicial system. According to credible reports, military units in those areas summarily tried and punished those accused of crimes, especially for offenses against civil order.

### *Trial Procedures*

Under the transitional constitution, defendants enjoy a presumption of innocence, public trials, the right to be present in a criminal trial without undue delay, the right to confront witnesses against them and present witnesses and evidence, and the ability to access legal aid if they are unable to defend themselves against serious charges. These rights were rarely respected due to lack of attorneys and trained court personnel. No legal aid system existed in the country. Lack of due process was widespread, and observers expressed particular concern about lack of due process in the trials of persons sentenced to death.

Persons tried in traditional courts did not always enjoy the same legal protections as those in the formal system. Defendants did not necessarily have access to counsel or the right of appeal, and discrimination against women was common. However, some customary courts, particularly those in urban areas, had fairly sophisticated procedures, and verdicts were remarkably consistent. At least one customary court judge (a Bari chief) in Juba kept records that were equal to or better than those kept in government courts.

### *Political Prisoners and Detainees*

The government held an undetermined number of political prisoners and detainees. Conditions of detention were harsh. The government permitted access to such persons



by international humanitarian organizations. Security forces often detained without charge and abused political opponents.

For example, on March 23, prior to the country's July 9 independence, nine opposition members were arrested in connection with a document criticizing the Northern Bahr el-Ghazal governor and calling for antigovernment demonstrations in the state. At year's end the nine were reportedly being held without charge in Machar Kunyuk Prison, and no trial had been scheduled.

#### *Civil Judicial Procedures and Remedies*

The legal system provides for an independent and impartial judiciary in civil matters; however, civil courts were neither independent nor impartial. The courts provided the only option for those seeking to bring claims to address human rights violations and damages.

Court orders were not always enforced due to the frequent lack of court documentation, such as arrest warrants.

#### **f. Arbitrary Interference with Privacy, Family, Home, or Correspondence**

The transitional constitution prohibits interference with private life, family, home, and correspondence, and the government generally respected these prohibitions. However, there were reports that rural detention centers held family members in lieu of accused persons who had fled to induce the accused persons to turn themselves in.

#### **g. Use of Excessive Force and Other Abuses in Internal Conflicts**

Human rights abuses occurred throughout the conflict zones of Jonglei, Unity, Warrap, Upper Nile, and Western Equatoria states. Conflict between the SPLA and SAF along the northern border areas, RMG attacks on SAF and SPLA security forces, government counterattacks, clashes between security forces and civilians, interethnic and intercommunal conflict, LRA attacks, and cattle rustling resulted in widespread civilian deaths, injuries, kidnappings, and approximately 250,000 IDPs. SAF aerial bombardments in disputed territories along the border in November and December resulted in refugee flows into South Sudan and civilian deaths and injuries.

South Sudan has a long history of cattle raiding, often resulting in territorial, ethnic, and communal conflicts over migration patterns, access to water, and land, in addition to theft. Following the decades of civil war, cattle rustling became more deadly because of

the widespread use and availability of small arms. During the year interethnic fighting led to a series of violent, retributive attacks in Jonglei, Warrap and Lakes states.

The lack of political reconciliation and a cohesive national identity exacerbated the violence, as did the inability of central and state governments to provide security or resolve internal conflict.

Prior to the July 9 independence of South Sudan, following disputes over the scheduled referendum that did not occur, violence between SAF and SPLA forces in the jointly administrated Abyei Area resulted in the displacement of an estimated 110,000 persons. Most IDPs fled to Northern Bahr el Gazal, Unity, and Warrap states, where they remained at year's end. Since sovereignty over the Abyei Area remained in dispute, these persons were considered neither refugees nor IDPs, but rather "displaced persons of concern" for purposes of this report.

### *Killings*

The use of excessive force by government forces resulted in civilian deaths. For example, prior to the July 9 independence of South Sudan, on April 23, in Jonglei and Unity states, the SPLA attacked forces loyal to RMG leaders Peter Gadet Yak and Gabriel Tanginya, resulting in 85 civilian deaths.

Prior to the July 9 independence, fighting in May and June between SPLA and RMGs led by George Athor, Gatluak Gai, Peter Gadet Yak, David Yau Yau, and Olony resulted in hundreds of civilian deaths and injuries and widespread displacement. RMGs also distributed weapons to different ethnic groups to instigate violence among local ethnic communities involved in cattle-related disputes.

RMG attacks decreased following the president's October executive order offering amnesty to RMG members who agreed to reintegrate into the SPLA; however, RMG attacks on security forces resulted in casualties during the year. For example, on March 12, prior to the July 9 independence of South Sudan, armed persons under the command of RMG leader Olony attacked SSPS offices in Malakal. At least one UN official and 12 civilians were injured.

Intertribal and intercommunal clashes, particularly in Jonglei and Upper Nile states, continued throughout the year and resulted in numerous deaths. According to the UN Office for the Coordination of Humanitarian Affairs (OCHA), 1,698 persons were killed during the year in Jonglei State alone.

On August 18, in Jonglei, conflict over cattle raiding between members of the Murle and Lou Nuer tribes resulted in an estimated 600 deaths, the destruction of seven villages, and the abduction of nearly 200 women and children. On December 20, interethnic and intercommunal fighting in Jonglei resulted in 51 deaths.

Prior to the July 9 independence of South Sudan, LRA attacks occurring primarily in Western Equatoria but also in Western Bahr el Ghazal resulted in at least 18 deaths between January and March, according to OCHA.

### *Abductions*

Intertribal and intercommunal clashes, particularly in Jonglei and Upper Nile states, resulted in abductions. For example, on August 18, approximately 200 women and children were kidnapped during conflict over cattle raiding between members of the Murle and Lou Nuer tribes.

According to OCHA, the LRA abducted 49 civilians during the year. Most abductions occurred in Raga County, Western Bahr el Ghazal. For example, on September 4, LRA forces – reportedly accompanied by women and children they had abducted – attacked a village in Western Bahr el Ghazal and abducted two young men. According to the Raga County commissioner, the LRA attacked the Deim Jallabi police station, where they took three guns, and then attacked and robbed homes in the village.

### *Physical Abuse, Punishment, and Torture*

Government and RMG forces tortured and abused civilians during the year, often to extract information. Government and RMG forces also raped women, although victims seldom reported such incidents.

Land mines planted by RMGs resulted in deaths and injuries. For example, on April 19, prior to the July 9 independence of South Sudan, the UN reported that an Adventist Development and Relief Agency truck carrying more than 56 metric tons of food detonated a land mine between Abeimnom and Mayom in Unity State. The driver and a passenger were injured.

On August 19 and 20, the detonation of two land mines in Bentiu, Unity State, resulted in at least five civilian deaths and injuries to numerous others. The government continued to cooperate with the UN Mine Action Group and other demining groups to remove land mines in the South.

### *Child Soldiers*

Government and RMG forces recruited children during the year. In April, prior to the July 9 independence of South Sudan, the SSPS in Unity State reportedly recruited persons forcibly into its ranks, including children. Some of these children ended up in the SPLA, when it subsequently tapped the SSPS for its own recruitment needs. The SPLA ordered local commanders to release underage children in their units. The SPLA also took steps during the year to remove child soldiers from RMGs. In collaboration with UNMISS, the SPLA conducted a workshop in November to develop a strategy for protecting children in armed conflict.

When threatened by RMGs, tribal disputes, or natural disasters, women and children historically gravitated to SPLA military camps for protection, exacerbating the problem of child soldiers. From 2009 until 2011, a total of 328 boys were observed in SPLA camps. Children "associated" with the SPLA posed a dilemma for SPLA leadership as there were no other governmental agencies or institutes to receive the children, many of whom had either lost their parents or were displaced from their families due to conflict. The Demobilization, Disarmament, and Reintegration Commission (DDR) and the Ministry of Gender, Child, and Social Welfare continued to track and demobilize children associated with military organizations. The government conducted public relations campaigns to discourage families from sending their children to SPLA military camps to seek shelter, support, and financial compensation. UNMISS training emphasized that SPLA members would be liable for recruiting and keeping children in the barracks even if children are not recruited but return to the SPLA on their own volition.

The reintegration process – the final stage of the DDR campaign that began in 2001 in Rumbek, Lakes State – aimed to demobilize children associated with the army following a Sudan People's Liberation Movement (SPLM) agreement with the UN. Since 2005 more than 3,000 children were demobilized, mainly from the Bahr el Ghazal region consisting of Western and Northern Bahr el Ghazal states. The South Sudan DDR Commission managed the reintegration process after the signing of the CPA in 2005. At year's end most children had been reintegrated with their families and had attended vocational training, primary schools, and accelerated learning programs. In some cases UNICEF partnered with the South Sudan DDR to provide the families of demobilized children with goats to help pay for the children's needs until the family was able to support the child.

The use of child soldiers was common throughout the two-decade Sudanese civil war, although the 2008 Child Act banned it as well as the employment of children in the military. The 2008 Act establishes 18 as the minimum age for voluntary recruitment into the armed forces and requires the government to ensure that "no child be used or recruited to engage in any military or paramilitary activities, whether armed or unarmed, including, but not limited to work as sentries, informants, agents or spies,

cooks, in transports, as laborers, for sexual purposes, or any other forms of work that do not serve the interests of the child."

The SPLA released approximately 20,000 child soldiers in the past few years. While the SPLA no longer recruited children, UNMISS previously stated that there was still a problem with "associated" child soldiering by former child soldiers who spent much of their time in and around SPLA units.

Also see the Department of State's *2011 Trafficking in Persons Report*.

### *Other Conflict-related Abuses*

Security forces and RMGs operating in South Sudan restricted the movement of UN personnel and other humanitarian groups. Conflict in intertribal areas impeded the delivery of assistance to vulnerable populations, particularly prior to independence on July 9. Trucks carrying humanitarian supplies were vulnerable to land mines and hijackings. For example, a World Food Program truck on its way to deliver food to schools was hijacked during the year. Establishing the identity of perpetrators was often difficult.

Conflict between the SPLA and SAF along the northern border areas, RMG attacks on SAF and SPLA security forces, government counterattacks, clashes between security forces and civilians, interethnic and intercommunal conflict, LRA attacks, and cattle rustling resulted in 250,000 IDPs during the year.

In Jonglei alone, 63,000 persons were displaced between August and December as a result of interethnic and intercommunal violence, much of it related to cattle raiding. In most cases the homes of IDPs who fled were burned, their cattle stolen, and their means of livelihood destroyed.

Approximately 7,400 persons were displaced as a result of LRA attacks in Western Equatoria and Western Bahr el Ghazal. Approximately 70,000 civilians were displaced in previous years by LRA attacks and had not returned to their homes by year's end.

In addition to civilian displacement, massive refugee flows resulted from conflict during the year. Approximately 78,000 refugees from Sudan fled to South Sudan as a result of conflict between the SPLA-North (SPLA-N) and SAF along the disputed border areas. This number included 24,000 residents of Southern Kordofan and 54,000 residents of Blue Nile State who fled SAF aerial bombings in November and December. Most refugees from Sudan settled in Unity and Upper Nile states.

In early July, prior to the July 9 independence of South Sudan, the UN reported that more than 8,000 residents of Southern Kordofan fled SAF aerial bombing attacks in the Lake Jau area, a disputed and undemarcated border area between Unity State in South Sudan and Southern Kordofan in Sudan.

The government's capacity to assist IDPs and refugees was extremely limited, and most humanitarian aid was provided by the international community or host families and communities. The UN High Commissioner for Refugees (UNHCR), other UN agencies, international NGOs, domestic NGOs, and other donors provided shelter, emergency health-care services, water and sanitation services, food assistance, nonfood items, and livelihood assistance for IDPs. However, conflict along the border, RMG activity, attacks, lack of infrastructure and road access, land mines, heavy rains, and flooding impeded the delivery of assistance to refugees inside and outside conflict zones. UN assessments consistently concluded that some areas of South Sudan's border with Sudan remained unsafe for the return of IDPs.

Returnees suffered abuses, such as armed attacks, killings, gender-based violence, recruitment of child soldiers, and forced labor, according to the UNHCR. Government forces, RMGs, and ethnic groups were responsible for such abuses. Returnees also faced delayed allocation of land, lack of basic services, inability to obtain transportation to their final destinations, and lack of employment.

There were credible reports that the following armed groups perpetrated serious human rights abuses in South Sudan during the reporting period: the LRA and the SSLA.

## **Section 2. Respect for Civil Liberties, Including:**

### **a. Freedom of Speech and Press**

#### *Status of Freedom of Speech and Press*

The transitional constitution provides for freedom of speech and press; however, the government did not always respect these rights in practice.

*Freedom of Speech:* Individuals could criticize the government publicly or privately without reprisal, in large part because the government did not have the ability to impede criticism or regularly monitor political meetings.

*Freedom of Press:* Independent media in the country included four newspapers and 11 radio stations. The government occasionally interfered in the publication of articles. Due

to the high price of television sets and poor electricity, the country had only one government-owned television station, Southern Sudan TV.

At a dialogue forum during the year for the media and national security services, an SPLA spokesman warned reporters against covering sensitive topics, including any reporting on the army.

*Violence and Harassment:* Journalists were detained, intimidated, and harassed for criticizing security forces or the government. Security forces confiscated or damaged journalists' cameras and equipment, demanded photography permits from journalists, and restricted their movements, particularly prior to independence.

For example, prior to the July 9 independence of South Sudan, Nhial *Bol*, the editor of *The Citizen* newspaper, was arrested, detained, and later released without charge. Security forces arrested Bol three times since 2007 following articles in *The Citizen* that accused officials of corruption and mismanagement.

On November 2, security forces arrested without charge Ngor Aguot Garang, editor of the English-language daily *Destiny*, following an October 26 article in the newspaper that criticized President Kiir. The newspaper was suspended, and on November 5, Dengdit Ayok, the deputy editor of *Destiny* and author of the article, was also arrested and suspended from working as a journalist. On November 18, both journalists were released. Garang claimed that he was beaten and tortured while in detention.

*Libel Laws/National Security:* Security forces accused journalists of espionage without any substantial evidence. For example, prior to the July 9 independence of South Sudan, on May 18, security forces arrested Mohamad Arkou Ali, a journalist from Sudan Radio Service in Wau, for taking photographs without a permit. Arkou, who was not in a military area at the time, was held for three weeks.

#### *Internet Freedom*

There were no government restrictions on access to the Internet or credible reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the expression of views via the Internet, including by e-mail.

#### *Academic Freedom and Cultural Events*

There were no restrictions on academic freedom or cultural events.

#### **b. Freedom of Peaceful Assembly and Association**

### *Freedom of Assembly*

The transitional constitution provides for freedom of peaceful assembly, and the government generally respected this protection. However, there were unconfirmed reports from opposition political leaders that they were not allowed to hold rallies or political events in some states.

### *Freedom of Association*

The transitional constitution provides for freedom of association, and the government generally respected this right in practice. However, there were unconfirmed reports from opposition political leaders that their right of association was not respected in some states.

### **c. Freedom of Religion**

See the Department of State's [\*2010 International Religious Freedom Report\*](#).

### **d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons**

The transitional constitution provides for freedom of movement within the country, foreign travel, and repatriation, and the government generally respected these rights outside the zone of conflict; however, the government obstructed movement within the zone of conflict (see section 1.g.) The transitional constitution does not provide for emigration. Conflict involving government forces, RMGs, and ethnic groups in conflict areas resulted in widespread displacement and restrictions on movement (see section 1.g.).

The government cooperated with the UNHCR and other humanitarian organizations in providing protection and assistance to IDPs, refugees, and persons of South Sudanese nationality living in Sudan who returned to South Sudan during the year. However, security forces and RMGs operating in South Sudan sometimes restricted the movement of UN personnel and the delivery of humanitarian aid.

*Emigration and Repatriation:* During the year approximately 360,000 persons of South Sudanese nationality living in Sudan returned to South Sudan through government-organized programs coordinated by the UNHCR and International Organization of Migration (IOM). The majority of returnees settled in Northern Bahr el Gazal, Unity, and Upper Nile states but continued to face violence, abuse, and lack of basic services. However, living conditions for returnees were almost indistinguishable from the general



population due to the lack of development and livelihood activities throughout the country. The government faced enormous challenges in addressing the needs of the massive influx of returnees, in addition to those of the existing population. Challenges included implementation of a comprehensive development plan to assume control of and professionalize public sector services, particularly the health sector.

### *Internally Displaced Persons (IDPs)*

Conflict between the SPLA and SAF along the northern border areas, RMG attacks on SAF and SPLA security forces, government counterattacks, security forces clashes with civilians, interethnic and intercommunal conflict, LRA attacks in Western Equatoria, and cattle rustling resulted in approximately 250,000 IDPs during the year (see section 1.g.).

### *Protection of Refugees*

*Access to Asylum:* The country's laws do not provide for the granting of asylum or refugee status, and the government has not established a system for providing protection to refugees. However, the government allowed refugees to settle in the country.

Approximately 78,000 refugees from Sudan fled to South Sudan as a result of conflict between the SPLA-N and SAF along the disputed border areas (see section 1.g.).

Approximately 20,000 refugees from the Democratic Republic of the Congo (DRC) and the Central African Republic (CAR) fled to Western Bahr el Ghazal due to LRA attacks in their home countries.

Approximately 5,000 Ethiopian refugees fled to South Sudan due to ethnic persecution in Gambella, Ethiopia.

The government's capacity to assist refugees was extremely limited, and most humanitarian aid was provided by the international community or host families and communities. The UNHCR, the lead agency in providing and coordinating humanitarian assistance for refugees, worked closely with the South Sudanese Relief and Rehabilitation Commission. UNHCR support varied depending on refugee location and specific circumstances, but on a national level it provided physical protection, food, legal assistance, livelihood activities, and family reunification. The UNHCR also provided either direct or indirect support through numerous international NGOs contracted as implementing partners to provide humanitarian assistance and fill protection gaps. The International Committee of the Red Cross, IOM, and numerous NGOs provided relief assistance to refugees and IDPs throughout the country. However, fighting between the

SAF and SPLA-North in disputed border areas, RMG attacks, lack of infrastructure and road access, land mines, heavy rains, and flooding impeded humanitarian access to many towns and villages.

*Refugee Abuse:* Refugees suffered abuse, such as armed attacks, killings, gender-based violence, recruitment of child soldiers, and forced labor, according to the UNHCR. Government forces, RMGs, and ethnic groups were responsible for such abuses. Returnees also faced delayed allocation of land, lack of basic services, inability to obtain transportation to their final destinations, and lack of employment.

### *Stateless Persons*

While data was incomplete, there were reports of de facto stateless populations in South Sudan. During the week beginning July 25, state authorities in Western Bahr el Ghazal ordered 3,000 to 5,000 members of the nomadic Mbororo population to leave the state; the Mbororo are a nomadic population who move between the DRC, CAR, and South Sudan. State authorities claimed that other ethnic communities living in Western Bahr el Ghazal feared an "Arabization" of Western Bahr el Ghazal by the Mbororo population and complained of land disputes and crop damage from Mbororo cattle. Most Mbororo members departed the state for South Darfur and the CAR; however, between 150 and 160 Mbororo members remained in Western Bahr el Ghazal and were de facto stateless. Observers agreed that the Mbororo population posed no security threat and that action taken against the Mbororo was motivated by ethnic and political considerations.

### **Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government**

The transitional constitution, which came into effect in July, does not address the right of citizens to peacefully change their government; however, citizens of Southern origin exercised this right in a January referendum in which they voted overwhelmingly to secede from Sudan to create the independent republic of South Sudan.

#### **Elections and Political Participation**

*Recent Elections:* South Sudan has not yet held elections as a new nation. Prior to independence on July 9, more than 98 percent of voters cast their ballots in favor of secession during the Southern Sudan Self-Determination Referendum on the status of Southern Sudan, held between January 9 and 15. Both international and domestic observers characterized the process as generally peaceful and fair, despite some irregularities. The Carter Center reported to the South Sudan Referendum Commission

that incidents of assisted voting for illiterate and poorly educated voters occurred in all 10 states and could have undermined the secrecy of ballots, although in most cases it did not influence the will of voters. Security officials reportedly were present in some referendum centers, which could have intimidated some voters. The absence of large-scale voter education and civic education contributed to voters' limited understanding of the process and inhibited their ability to make informed decisions about the impact of continued unity as opposed to secession.

Presidential and legislative elections were held in April 2010 and were dominated by the SPLM party. While the presidential election, which resulted in the election of President Salva Kiir Mayardit, was deemed generally free and fair by international observers, the SPLM imposed governors in some states. Voters in Unity State, for example, voted overwhelmingly for the independent candidate, but the incumbent SPLM governor was declared the winner. The imposition of SPLM governors in Jongei and Unity states triggered violence, resulting in deaths and injuries.

In the months leading up to the April 2010 elections, security forces harassed, arrested, and detained persons thought to be opposed to the SPLM, including journalists and opposition members.

*Political Parties:* The SPLM enjoyed a near-monopoly of power and has been the most broadly recognized and supported political entity since the signing of the CPA in 2005. SPLM membership conferred political and financial advantages. In the new cabinet announced in August, opposition parties headed only four of 29 ministries. Many opposition members were dismissed from civil service employment at central and state levels during the year. Opposition parties lacked large constituencies, were not represented in many states, and had limited financial resources and poor infrastructure. Only a few had regular party conventions or established communication networks. Contrary to the principles adopted at the October 2010 Political Parties Conference – including the establishment of a National Constitutional Review Commission that would convene an all-party constitutional system and a broad-based transitional government during the transitional period – opposition representation was inadequate, according to civil society members. SPLM leaders alleged that opposition parties were financed by, and their leaders were loyal to, Sudan. Security threats and increased RMG activity exacerbated such suspicions.

*Participation of Women and Minorities:* The CPA stipulates at least 25 percent female participation in the legislative and executive branches of government, and women held 90 of the 332 seats in the National Assembly; however, women occupied only five of the

50 seats in the Council of States. Fifteen female ministers, including five female ministers and 10 deputy ministers, served in the 56-member cabinet.

The government made efforts to obtain representation from all ethnic groups; however, no formal mechanism to achieve such balance had been established by year's end.

#### **Section 4. Official Corruption and Government Transparency**

The transitional constitution provides criminal penalties for acts of corruption; however, the government did not effectively implement the law, and officials continued to engage in corrupt practices with impunity. Although President Kiir publicly criticized corruption, it was a problem in all branches of government and was compounded by poor record keeping, lax accounting procedures, and the pending status of corrective legislation within the country.

The South Sudan Anticorruption Commission (SSACC) was created in 2009 under the authority of an amendment to the interim constitution of 2005. The transitional constitution expanded SSACC responsibilities to include prosecuting as well as investigating allegations of corruption. However, the 2009 Southern Sudan Anticorruption Commission Act provides that the SSACC refer investigations suggesting criminal activity to the Ministry of Justice for prosecution. On September 6, the National Legislative Assembly adopted the 2010 SSACC annual report and noted that the transitional constitution mandates that the commission prosecute corruption suspects. In practice the commission had no authority to prosecute because the constitution does not repeal or amend the 2009 act, previous laws, or procedures vesting prosecutorial powers in the Ministry of Justice. Further complicating the prosecution issue, corruption is not defined in the constitution or criminal code. Since its establishment, the SSACC has submitted six cases of corruption for prosecution to the Ministry of Justice, none of which had been adjudicated by year's end.

In June, prior to the July 9 independence of South Sudan, the SSLA called the ministers of finance and legal affairs to testify on a massive grain scandal in 2009. According to the SSLA Select Committee, in 2009 the Finance Ministry had asked contractors to build 132 emergency grain stores at a cost of \$34 million. Only 46 of the 132 were built, and the rest of the money was either misappropriated or embezzled.

Government officials of director general rank and higher are required to submit financial declaration forms, although there is no penalty for failure to comply.

No law provides for public access to government information.

## **Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights**

Prior to independence in July, domestic and international NGOs were unable to work effectively due to conflict, flooding, and occasional government restrictions. Security forces and RMGs operating in South Sudan sometimes restricted the movement of UN personnel and other humanitarian groups, and conflict in intertribal areas also impeded the delivery of assistance to vulnerable populations (see section 1.g.).

Following independence on July 9, a variety of domestic and international human rights NGOs generally operated without government restriction, investigating and publishing their findings on human rights cases. During the year there were reports of increased visa and residency processing requirements for NGO employees. Government officials were generally cooperative and responsive.

*UN and Other International Bodies:* The government generally cooperated with representatives of the UN or other international organizations. However, on August 20, police officers beat the chief human rights officer for UNMISS after he refused to let police officers search his luggage at a hotel in Juba. The UNMISS official, who told reporters that he was beaten, kicked, and punched, was hospitalized for five days before being sent abroad for further medical treatment. Four police officers involved in the attack were stripped of their ranks and given extra work for seven days. The Ministry of Interior commissioned an investigation.

*Government Human Rights Bodies:* Members of the South Sudan Human Rights Commission are appointed by the president, but the organization operated somewhat independently. The commission cooperated with international human rights advocates and submitted reports and recommendations to the government. Severe resource constraints prevented the commission from doing more than raising awareness of human rights issues during the year.

## **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**

The transitional constitution prohibits discrimination on race, gender, disability, language, and social status; however, the government did not effectively enforce the law.

### **Women**

*Rape and Domestic Violence:* Rape is punishable by up to 14 years' imprisonment and a fine; however, the government did not effectively enforce the law, and rape was

thought to be widespread. Spousal rape is not addressed in the law. No information was available on the number of persons who were prosecuted, convicted, or punished for rape, and convictions of rape were seldom publicized. According to observers, sentences meted out to persons convicted of rape were often less than the maximum.

The law prohibits domestic violence; however, the government did not enforce the law. Violence, including spousal abuse, against women was common, although there were no reliable statistics on its prevalence. Women were often reluctant to file formal complaints, and police seldom intervened in domestic disputes. Statistics on the number of abusers prosecuted, convicted, or punished were not available.

*Sexual Harassment:* Sexual harassment is punishable by up to three years' imprisonment and a fine; however, the government rarely enforced the law. Although no statistics were available, observers noted that sexual harassment was a serious problem throughout the country, particularly by police. In 2010 the local press reported that newly trained police in Juba harassed women for wearing jeans and short skirts. Victims of such harassment filed complaints against the police, and an investigation into the complaints continued at year's end.

*Reproductive Rights:* Couples were not subject to coercion or violence in deciding the number, spacing, and timing of children; however, few couples had access to the information and means for responsible birth control methods. Contraception, skilled medical attendance during childbirth, and obstetric and postpartum care were not widely available. Reproductive choices were also limited by dowry since men who paid exorbitant dowries to marry believed they should have the final say in domestic decisions. High illiteracy rates among women also limited female access to accurate information concerning the right to healthy birth control. The maternal mortality rate was 2,000 deaths per 100,000 live births. According to Doctors without Borders, a woman in South Sudan had "a bigger chance of dying during childbirth than of going to high school." Women were not provided equal access to diagnosis and treatment for sexually transmitted diseases because there were no facilities to provide these services.

*Discrimination:* The transitional constitution provides for gender equality and equal rights for women; however, deep cultural prejudices continued to result in widespread discrimination against women. Communities often followed customary laws and traditional practices harmful to women. For example, women were arrested and detained for adultery. Women also experienced discrimination in employment, pay, credit, education, and owning and/or managing businesses.

The government took steps to empower women in political, economic, and social arenas. For example, during the year the Ministry of Gender, Child, and Social Welfare

used a World Bank grant to disseminate funds to 109 women, who started businesses in all 10 states. In April the government also launched the first women's vocational training institute in Yirol West County, Lakes State. The government also held an "activism week" to raise awareness about violence against women.

## Children

*Birth Registration:* The transitional constitution states that persons born to a South Sudanese mother or father have the right to citizenship. The government did not register all births immediately.

*Education:* The law provides for tuition-free basic education up to grade eight, although education was not compulsory, and many children did not attend school. Lack of schools and muddy terrain during the rainy season made it difficult for children to attend school. Girls often lacked equal access to education. Many girls chose not to attend school or dropped out of school due to the absence of separate bathrooms in some schools and the preponderance of male teachers.

*Child Abuse:* Child abuse, including sexual abuse, was widespread. Child rape was common but seldom reported due to fear among victims and their families of stigmatization. Child abduction also was a problem, and the Murle ethnic group often abducted women and children during cattle raids.

*Child Marriage:* The transitional constitution provides for a minimum marriage age of 18; however, the law was not enforced, and child marriage was a problem. No statistics were available on the extent of the practice. Many abducted children, especially girls, were forced into marriage.

The practice of girl compensation – compensating the family of a crime victim with a young girl from the perpetrator's family – occurred in three counties of Eastern Equatoria State. Victims were generally between the ages of 11 and 15, were often physically and sexually abused, did not attend school, and served as servants for the victim's family. Local officials complained that efforts to curb the practice were impeded by the lack of security services and rule of law in many areas. However, during the year the advisor to the governor on gender and human rights formed an NGO to combat the practice in Eastern Equatoria State.

*Sexual Exploitation of Children:* The law does not provide for a minimum age of consensual sex, and commercial sexual exploitation of children was a problem. The law does not address child pornography. The perpetrators of child prostitution and child trafficking may be punished by up to 14 years' imprisonment; however, both crimes

occurred, particularly in urban areas. In Juba numerous girls between ages 12 and 15 were involved in prostitution.

*Child Soldiers:* Children were used as soldiers in government forces and armed groups (see section 1.g.).

*Displaced Children:* During the year numerous children were displaced as a result of conflict and flooding; few had access to government services, such as education.

*International Child Abductions:* The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

### **Anti-Semitism**

It was unknown whether there were Jews among the Ethiopian community; there were no reports of anti-Semitic acts.

### **Trafficking in Persons**

See the Department of State's [2011 Trafficking in Persons Report](#).

### **Persons with Disabilities**

The law does not specifically prohibit discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, access to health care, or the provision of other state services. The government has not implemented programs to ensure access to buildings for persons with disabilities. There were no mental health hospitals or institutions, and persons with mental illnesses were held in prisons.

### **National/Racial/Ethnic Minorities**

Interethnic fighting was a serious problem (see section 1.g.). The country had more than 81 ethnic groups and a long history of interethnic conflict. Ethnic groups were broadly categorized into the Nilotic (Dinka, Nuer, and Shilluk ethnic groups), Nilo-Hamitic, and the Southwestern Sudanic groups. For these ethnic groups, cattle represented wealth and status, and competition for resources to maintain large cattle herds often resulted in conflict. Longstanding grievances over perceived or actual inequitable treatment and distribution of resources and political exclusion contributed to conflict.

Several interethnic clashes occurred following independence in July, including a cycle of retaliatory attacks between the Murle and Lou Nuer ethnic groups in Jonglei State.



Interethnic conflict spread throughout Lakes State with subgroups of the dominant Dinka group, Dinka pastoralists, and Jur Bel agriculturalists fighting for land resources. Interethnic clashes occurred in northeast Lakes State between the Nuer from Unity State and the Dinka in Lakes State. Longstanding tensions in Unity State between the nomadic Misseriya, the Nuer, and the Ngok Dinka communities resulted in a series of violent confrontations. Following the January referendum on secession, northern Arab groups, including the Misseriya from Southern Kordofan and Abyei Area, migrated into northern Unity State, increasing competition and tension over resources for cattle.

Christians in South Sudan often discriminated against Arabs and Muslims.

### **Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity**

The law prohibits sodomy, which is punishable by death. There were no reports that this law was enforced during the year. Societal discrimination against gay men and lesbians was widespread. There were no known lesbian, gay, bisexual, or transgender organizations.

In July 2010, prior to the July 9, 2011 independence of South Sudan, President Kiir remarked in an internationally broadcast radio interview that homosexuality would not be accepted in the South.

### **Other Societal Violence or Discrimination**

There were no credible reports of discrimination against persons with HIV/AIDS.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

As a new nation, South Sudan continued to operate under select legislation inherited from Sudan. The 1997 Labor Act of Sudan remained in effect during the year. Under the act independent unions are permitted. The law is silent on the rights to strike and bargain collectively and does not explicitly prohibit antiunion discrimination or provide for reinstatement of workers fired for union activities. A new draft labor law was under review by the Ministry of Justice at year's end; it was expected to go before the National Assembly in 2012. Government enforcement of preexisting labor laws was little to nonexistent.

The country had no industries or manufacturing sector, and 80 percent of the population relied on subsistence farming or animal husbandry for their livelihood. The South Sudan Workers' Trade Union, the country's only trade union, had approximately 50,000 public sector workers.

#### **b. Prohibition of Forced or Compulsory Labor**

The law prohibits all forms of forced or compulsory labor. Government enforcement of the law was weak. According to the Ministry of Justice, neither the police nor labor inspectors referred cases of forced labor to the ministry during the year.

Government forces and RMGs recruited child soldiers (see section 1.g).

Also see the Department of State's *2011 Trafficking in Persons Report*.

#### **c. Prohibition of Child Labor and Minimum Age for Employment**

The law prohibits child labor and the act of exposing children to economic exploitation. The minimum age for paid employment in strenuous work is 14, while the minimum age for "light work" is 12. Under the law strenuous work includes activities such as mining and quarrying, work in factories, graveyard shift work, or employment in prisons or the military. Light work is defined as work that does not harm the health or development of a child and does not affect the child's school attendance or capacity to benefit from such.

The government did not enforce child labor laws. Child labor was concentrated in the agricultural sector (the majority of which was subsistence farming) and cattle herding. The Ministry of Labor estimated that approximately 2,000 children in Juba County were engaged in child labor of some kind.

Government forces and RMGs recruited child soldiers.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at [www.dol.gov/ilab/programs/ocft/tda.htm](http://www.dol.gov/ilab/programs/ocft/tda.htm).

#### **d. Acceptable Conditions of Work**

South Sudan continued to operate under select legislation inherited from Sudan. There were no new laws stipulating a national minimum wage, nor was there an official estimate of the poverty income level. The Civil Service Provisional Order applies to the public sector and outlines the rights and obligations of public sector workers, including benefits, salaries, and overtime. The law provides the Ministry of Labor, Public Service,

and Human Resources with the right to issue the schedule of salary rates according to which all civil servants, officials, and employees are to be paid. Under the law only unskilled workers are to be paid overtime in excess of 40 hours of work per week. Civil servants, officials, and employees working at higher pay grades are expected to work necessary hours beyond the standard work week without overtime pay. When exceptional additional hours are demanded, the department head may grant time off instead of reimbursement.

The government set occupational safety and health standards for public sector workers through the Acceptable Conditions of Work laws. The government has not enacted similar legislation on wages, working conditions, or occupational safety and health for workers outside of the public sector.

The Ministry of Labor, Public Service, and Human Resources is responsible for enforcement of laws on wages and working conditions. It had between seven and 10 labor inspectors. Standards were not effectively enforced, and the Ministry of Justice reported receiving no cases of labor violations. Penalties for violations of laws on wages and working conditions were not sufficient to deter violations. The International Labor Organization (ILO) attempted to train labor inspectors during the year but found most persons lacked professional training or were not actual employees of the Labor Ministry. During the year the Central Equatoria State labor ministry reportedly conducted 69 labor inspections in Juba.

No information was available on working conditions with respect to minimum wage, hours of work, and occupational safety and health. According to the ILO, less than 12 percent of workers were in the formal sector, which included a few security companies and a brewery. The majority of workers in the country were agricultural workers, of which 70 percent were agropastoralists, and 53 percent were engaged in unpaid subsistence family farming.