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World Report 2012 - South Sudan

Events of 2011

Following an overwhelming vote for secession from Sudan in the January 2011 referendum, South Sudan declared independence on July 9. The new nation faces major human rights challenges. However, officials have expressed the new government's intention to ratify major human rights treaties.

An influx of refugees and returnees from the North has presented severe humanitarian challenges to South Sudan. Between January and August political, inter-communal, and resource-driven clashes killed over 2,600 people, according to the United Nations. The government failed to fulfill its responsibility to protect civilians from this violence, as security forces fighting against armed militias committed serious abuses against civilians. Across the country, lack of capacity and inadequate training of police, prosecutors, and judges have resulted in numerous human rights violations in law enforcement and in the administration of justice.

Political and Legislative Developments

The January referendum was held under the terms of Sudan's 2005 Comprehensive Peace Agreement, which ended over two decades of civil war. Southern Sudanese cast ballots either for the continued unity of Sudan or for secession from the North. Over 98 percent of votes were cast in favor of separation.

In late January the president of the new nation, Salva Kiir, established a constitutional review committee to draft a transitional constitution. Opposition political parties complained of the committee's work being dominated by the ruling Sudan People's Liberation Movement (SPLM), and several withdrew in protest.

The Transitional Constitution entered into force on July 9 for a period of four years, to be followed by national elections and the adoption of a permanent constitution. It expanded presidential powers and created a new and enlarged bicameral legislative body, which incorporated South Sudanese who left legislative positions in Sudan's former Government of National Unity. It also provided for the transformation of the Sudan People's Liberation Army (SPLA) into the South Sudan Armed Forces.

Tensions along the North-South Border

Tensions between Sudan and South Sudan rose steadily throughout 2011. Negotiations between the southern ruling SPLM and the Sudan's ruling National Congress Party (NCP) regarding post-secession issues – such as oil revenue sharing, border management, and the status of the contested area of Abyei – stalled on several occasions. Many issues remain unresolved.

Conflict in border areas has had a significant impact on South Sudan. In May Sudan's violent occupation of Abyei displaced an estimated 110,000 people, mostly to Warrap state in South Sudan. Fighting between the Sudan Armed Forces (SAF) and elements of the SPLA in Southern Kordofan drove some 20,000 people to South Sudan's Unity state. Approximately 4,000 more

people arrived in Upper Nile state following the September clashes between Sudanese government forces and the SPLM-North in Southern Kordofan. Humanitarian agencies are struggling to meet the health, nutrition, and security needs of these displaced people and refugees.

South Sudanese continue to return from the North, with over 340,000 arriving between October 2010 and October 2011, according to the UN. Many moved in the months prior to the referendum. Returnees cited a rise in anti-southerner sentiments and uncertainty of citizenship status in the North as reasons for their decision to return. Less than two weeks after the secession of the South, Sudan amended its nationality law, raising concerns that people of South Sudanese origin residing in Sudan will be discriminatorily stripped of citizenship, and as a consequence might be made stateless.

Clashes between SPLA and Armed Militia Groups

Armed insurgencies by rebel militia groups against the South Sudan government, originally triggered by disapproval of the outcome of the April 2010 general elections, continued in 2011. Hundreds of civilians, including women and children, were killed, and tens of thousands of people were displaced, primarily in Upper Nile, Unity, and Jonglei states.

Both opposition militias and government soldiers have failed to take adequate precautions to protect civilians. Human Rights Watch documented grave human rights abuses and violations of humanitarian law by SPLA soldiers in the course of fighting in Upper Nile, including unlawful killings of civilians and the destruction of homes and civilian property. According to UN reports, SPLA soldiers in May opened fire indiscriminately on civilians during a confrontation with a militia group in Jonglei.

President Kiir has offered a general amnesty for armed militias in exchange for the promise to lay down arms and integrate their forces into the national military. Several militia leaders have entered into ceasefire agreements with the government, but others continue to clash with government forces.

Inter-Communal Violence

Cyclical fighting between ethnic communities caused by cattle-raiding, competition over land resources, and kidnapping of women and children continued to put civilians at risk of injury and death. The most intense clashes occurred between the Lou Nuer and Murle communities in Jonglei state, where over 1,000 people were killed between April and August.

The government has taken some steps to promote reconciliation between neighboring communities. However, both the government and the UN peacekeepers have been unable to protect civilians and prevent these often predictable outbreaks of violence. Land mines and ongoing insecurity have hampered humanitarian access. The government has also failed to conduct public investigations into abuses against civilians and ensure accountability.

Attacks by the Lord's Resistance Army

Attacks and abductions by the Lord's Resistance Army, a Ugandan rebel group, continued to pose a threat to civilians. The UN reported over 25 separate attacks in 2011, mostly in western areas of the country bordering the Democratic Republic of Congo and Central African Republic. The displacement of populations in response to this violence has threatened food security, according to local officials. The SPLA and Ugandan People Defence Force (UPDF) continued efforts to improve safety, relying frequently on a local defense group known as the Arrow Boys.

Law Enforcement and the Administration of Justice

Human Rights Watch has documented numerous violations by security forces. These include unlawful killings, beatings, and looting, particularly when conducting forcible community disarmament operations, as well as unlawful arrests and detentions. Security forces have also used arrests and intimidation to suppress opponents of the ruling party and independent journalists.

UN and humanitarian aid groups have reported that police, soldiers, and local authorities have harassed staff, hijacked vehicles, and stolen aid supplies. In August police officers in Juba severely assaulted the UN human rights chief in South Sudan, forcing him to seek medical treatment. President Kiir has warned security forces against such abuses.

There are serious human rights violations in the administration of justice such as prolonged periods of pre-trial detention and poor conditions of detention. Children are often detained with adults, while persons with mental disabilities languish in prison without any legal basis for their detention and do not receive treatment. Lack of legal aid also renders defendants vulnerable to due process violations.

Economic and Social Rights

Millions of South Sudanese suffer from lack of access to education, health care, food, and water. The government estimates that 47 percent are undernourished. Less than half of primary school age children are in schools and only 16 percent of women are literate. The maternal mortality rate of 2,054 per 100,000 live births is the highest in the world.

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Women's and Girls' Rights

Women and girls are routinely deprived of the right to choose a spouse or to own and inherit property. They are subjected to degrading practices such as forced and early marriage, wife-inheritance, the use of girls to pay debts, and various forms of domestic violence. Domestic disputes are resolved by traditional courts that often apply discriminatory customs.

Key International Actors

There was a high level of international engagement in support of the January referendum. Some 600 international observers – including delegations from the African Union (AU), the Arab League, the European Union, and the Intergovernmental Authority on Development – monitored the polling process, which was found to comply with international standards.

Sudan officially recognized the Republic of South Sudan on July 8, and many other countries immediately followed suit. Approximately 30 heads of state as well as UN Secretary-General Ban Ki-moon attended independence ceremonies in Juba. South Sudan became a UN member on July 14 and joined the AU on July 27.

When the mandate of the UN Mission in Sudan (UNMIS) expired with the independence of South Sudan, the Security Council unanimously approved a successor mission, the UN Mission in South Sudan (UNMISS), to include 7,000 military personnel. It has the mandate to "consolidate peace and security," to help establish conditions for development, and to strengthen the capacity of South Sudan to govern effectively and democratically.

The AU's High-Level Implementation Panel continued to play a key role in facilitating negotiations between the SPLM and the NCP, including a June agreement for the demilitarization of Abyei and monitoring by Ethiopian troops. This led the Security Council to establish the UN Interim Security Force for Abyei (UNISFA), to comprise a maximum of 4,200 troops.

At its 18th session, the UN Human Rights Council did not appoint an independent expert as it did for Sudan, but instead called for the identification of areas for technical assistance and capacity-building to promote respect for human rights in South Sudan and requested that the high commissioner for human rights present a report on the human rights situation in the country at its September 2012 session.

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