

From Independence to Civil War

Atrocity Prevention and US Policy toward South Sudan

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Foreword

The civil war in South Sudan has resulted in some of the most severe, deliberate violence against civilians since the Rwandan genocide. Although Americans see little of South Sudan on the nightly news, for nearly five years South Sudanese civilians have been subjected to mass killing, widespread sexual violence, torture, and other atrocities. The violence, which continues unabated, has displaced more than four million people, at least one-third of the country's population. The targeting of civilians on the basis of ethnicity has led credible observers, including the UN special adviser on the prevention of genocide, to warn on multiple occasions of the very real possibility of genocide.

Since the war began in December 2013, the Museum has attempted to shine a spotlight on ongoing atrocities in South Sudan. We have shared the stories of South Sudanese victims, supported reporting and photojournalism to document the severity of the abuses, and pressed for more sustained policy efforts to address South Sudan's atrocity crisis. In addition, the Museum's new Ferencz International Justice Initiative is working in collaboration with South Sudanese activists to strengthen prospects for justice and accountability for these crimes.

These activities reflect the Museum's mandate to catalyze global action to prevent genocide and mass atrocities. The Museum's mission, at the same time, demands that we try to learn from failed attempts to prevent and respond to the violence in South Sudan. Indeed, the institution was founded, in Elie Wiesel's words, as a "living memorial to the victims of the Holocaust," on the conviction that the history of catastrophe holds lessons that can help build a better future. Therefore, in late 2017 we asked Jon Temin, a longtime expert on conflict in Sudan and South Sudan and a former member of the State Department's policy planning staff, to conduct research into the US government's policy response to mass atrocities in South Sudan since the country gained its independence in 2011. We hope that this analysis will help current and future policy makers focused on South Sudan and other atrocity crises around the world.

Learning lessons from past cases of international response, including through reflection and analysis by former officials, is a longstanding theme of the Museum's efforts to conduct policy-relevant research about genocide and mass atrocities and their prevention. We often have engaged former senior government officials soon after they have left government service to reflect on their experiences as "insiders" in order to draw lessons, determine best practices, and create an informal record of the actions taken and processes followed. We hope future generations of scholars and officials can learn from these efforts and apply those lessons to future cases. In the cases of Rwanda, Srebrenica, Central African Republic, and Syria, our "lessons-learned" studies of Clinton, George W. Bush, and Obama-era efforts have attempted to understand how US and international policy officials responded—or did not respond—to new or ongoing atrocities. They have detailed the effects of these decisions and how those lessons might be applied to potential future instances of genocide and mass atrocities.

Based on extensive interviews with US policy makers and other experts, Temin's analysis provides rich detail about the deliberations and debates over South Sudan policy. The report focuses principally on

diplomatic efforts to prevent and later resolve the war, given that the conflict itself has been the central driver of atrocities against civilians. Unfortunately, prospects for a resolution to the civil war continue to be dim. It is also vital, therefore, to debate actions that can be taken in the midst of the war to protect still-vulnerable populations.

Although the South Sudan case has some distinctive characteristics, Temin's core conclusions—to challenge the legitimacy of governments responsible for atrocities, not to overvalue our own leverage, to question core assumptions, and to decide how much to invest in resolving a crisis—are important general admonitions for US policy makers in this area of work.

In addition to these points, we also see in Temin's analysis of South Sudan several points of resonance with recurring policy challenges that the United States faces in responding to mass atrocity crises. For example:

- The debate about whether the United States should have called for President Salva Kiir and Vice President Riek Machar to retire from South Sudanese politics or continue trying to facilitate a negotiated agreement between them echoes dilemmas faced most recently in Syria, but also in the Balkans in the 1990s.
- In discussing the failed negotiated agreement between the warring parties, which the subregional organization mediated, Temin highlights the risks of holding on to false hope for a peace deal that is either deeply flawed from the start or has been cast aside by the parties. This point recalls the international community's stubborn commitment to the Arusha Accords in the early 1990s, even while signs emerged that Hutu extremists in Rwanda were preparing to exterminate the Tutsi and moderate Hutu populations.
- Finally, Temin points to the negative consequences for US policy of having vacancies in senior policy and diplomatic positions. A similar problem was observed in the US response to escalating conflict in Central African Republic in 2013, when the United States lacked an ambassador or other senior diplomat at critical moments.

That many of the situations Temin analyzes echo the progression of other recent crises suggests that identifying lessons is just the first step. More effective action will come only when these lessons are truly absorbed and incorporated into US government policy and practice, and when leaders are willing to take promising, if necessarily uncertain actions to prevent atrocities. By continuing to tell the human stories of genocide and mass atrocities, studying successes and failures, and serving as a resource to policy makers, the Museum strives to advance the goal of turning lessons into effective action.

Lawrence Woocher
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Executive Summary

Could the civil war in South Sudan have been prevented? Could some of the violence and misery caused by the war have been avoided?

Those questions are academic in some ways, as so much damage has been done. But in other ways, seeking answers is vital because patterns of violence in the 21st century suggest there will be more wars that resemble the South Sudan conflict: (a) fought within a country's borders, (b) fought between multiple groups that regularly fragment and realign, (c) driven in part by access to lucrative natural resources and capture of state coffers, (d) with civilians often targeted, and (e) in which the lines between civilians and combatants are sometimes blurred. When the threat of such state collapse appears elsewhere—and we should expect that it will—lessons from the South Sudan experience will be valuable.

This project seeks to identify some of those lessons by examining US policy toward South Sudan in the years leading up to and during the civil war. President Barack Obama's administration placed an emphasis on atrocity prevention, and South Sudan's civil war was the source of some of the most egregious atrocities anywhere during his time in office. The author conducted in-depth interviews with more than 30 former and current American officials (from the Obama and George W. Bush administrations), South Sudanese experts, and longtime observers of South Sudan from the think tank, nongovernmental organization (NGO), and academic communities. Through those interviews, the author sought to identify pivotal periods in US policy making, short stretches of time during which events in South Sudan compelled the United States to act—or, in hindsight, times at which the United States could have acted with greater conviction but did not. This report identifies four such periods. For each, the author seeks to identify alternative policies that could have been considered and to assess whether those policies may have been able to prevent or limit violence. These are the four periods:

1. The spring and summer of 2013, when it was increasingly clear that major fissures in the ruling Sudan People's Liberation Movement (SPLM) were likely to trigger violence—violence that erupted in December 2013. A series of warning signs throughout the year suggested that political and ethnic tensions within the SPLM and within broader society were escalating. Senior American officials were warned directly by at least one senior South Sudanese official that the SPLM was fragmenting and struggling to manage difficult succession issues. Some observers in and outside the US government viewed the likelihood of a calamitous war as rapidly increasing, although a more optimistic narrative prevailed in other quarters. Preemptive action was required to reverse the negative trends, but the United States was reluctant to directly and forcefully engage, and at that critical time, several key senior policy positions were unfilled.
2. December 2013 and early 2014, when the Ugandan People's Defense Force (UPDF) intervened in South Sudan, soon after fighting started in the capital, Juba. The UPDF intervention was initially greeted with appreciation, including by the international community, as the intervention may have prevented significantly greater violence in Juba and surrounding areas and helped

secure diplomatic compounds and other critical infrastructure in the city. But the Ugandan presence quickly became problematic, as Ugandan President Yoweri Museveni clearly sided with South Sudanese President Salva Kiir and has overtly supported him ever since. This emboldened Kiir, and the UPDF intervention freed up South Sudanese troops loyal to Kiir to fight across the country, rather than having to defend Juba, and UPDF troops reportedly fought on the government's behalf outside Juba. Diplomatically, Museveni has been a consistent negative influence in multiple peace processes.

3. The spring and summer of 2014, when the United States considered but ultimately chose not to support an arms embargo on South Sudan. In hindsight, the absence of an arms embargo on South Sudan is difficult to justify. Various arguments were made that an embargo would harm the government more than rebels or that an embargo would be ineffective. But an embargo would likely have succeeded in stopping the inflow of some large weapons systems—which were used to devastating effect later in the war—and would have been a signal of international fortitude. Instead, the United States' resistance to an embargo, when much of the rest of the world favored the move, was likely interpreted by the South Sudanese government as a sign of support, one in a series of American moves that bolstered Kiir and his government. By the time the United States changed its position on an embargo, finding international support was more difficult.
4. The spring and summer of 2016, when a unity government in Juba, the product of a short-lived peace agreement, collapsed and the United States chose to support replacing First Vice President Riek Machar with Taban Deng. After violence in Juba between forces loyal to Machar and Kiir, Machar was forced from the city and his position, and he trekked across South Sudan while government forces sought to kill him—an effort that brought almost no international condemnation. Kiir's government then engineered the replacement of Machar with one of his lieutenants, Taban, who has little support on the ground and was disavowed by Machar. The United States supported that move and endorsed the exclusion of Machar, who soon found himself under house arrest in South Africa. That decision by the United States effectively ended any effort to maintain a government of national unity, weakened the peace agreement, and gave Taban license to seek to impose his newfound political authority on the ground, which led to disastrous consequences.

In addition to the pivotal periods, the report identifies two recurring critical questions—questions that repeatedly arise in policy analysis but are not tied to an individual period.

1. Should the United States, at any of several different moments, have called for President Kiir and Machar to leave South Sudanese politics? There have been multiple calls, largely from political opposition and civil society, for both leaders to go, and the US government considered supporting such calls. Both men are responsible for massive levels of violence, and Kiir's claims to continued legitimacy are debatable. But two questions were consistently difficult for policy makers to answer: How could East African heads of state be convinced to support efforts to remove another head of state? Who would be able to replace Kiir and Machar, achieve a lasting peace, and more effectively serve the interests of the South Sudanese?
2. Is the 2005 Comprehensive Peace Agreement (CPA), which ended Sudan's brutal civil war, ultimately to blame for South Sudan's collapse? Two main arguments connect the CPA to South

Sudan's civil war. One is that the CPA cemented the hegemony of the SPLA/M, a rebel movement unaccountable to the population that showed little interest in democratic processes. The agreement, and the United States' strong support for it, emboldened the movement. The second argument is that the architects of the CPA failed to anticipate and plan for the seemingly high likelihood that South Sudan would eventually secede. There was no nation-building plan incorporated into the agreement, nor did the agreement contemplate a gradual secession process and international oversight mechanisms that may have helped rein in SPLA/M excesses and build a stronger foundation for the new state.

From the examination of the pivotal periods and recurring questions, several conclusions and implications emerge that are analyzed at the end of the report, including the following:

- **Question Legitimacy, Even of Erstwhile Allies.** Throughout the war, President Kiir has been treated as the legitimate leader of South Sudan. His claim to legitimacy is dubious. In actions, if not in words, the United States consistently favored Kiir and his government over Machar, in part because of the perception of Kiir's legitimacy. The inescapable fact of American policy toward South Sudan from the start of the civil war through the end of the Obama administration is that the United States consistently sided with the government of South Sudan and its president.
- **Do Not Overvalue Relationships.** Longstanding relationships between senior American and South Sudanese officials were beneficial at times, but they may have colored judgment in other instances, and they were too often erroneously assumed, in themselves, to be a source of leverage.
- **Challenge Assumptions, Especially When Mass Atrocities Are Involved.** The relatively smooth secession process produced a feel-good narrative about South Sudan and its leaders that was too slow to change in the face of mounting evidence to the contrary. The United States, at multiple stages, failed to step back and broadly reassess policy or to undertake any sort of "red team" analysis. The presence of mass atrocities is indicative of the dissolution of basic norms and institutions—something fundamental is broken—which makes the need to question core assumptions about a society and its leaders even more urgent.
- **Make a Decision on US Investment, and Stick to It.** American officials consistently grappled with the extent to which the United States should "own" the problem of ending South Sudan's civil war, often wavering between a desire to lead and deference to African leadership. Indecision concerning the extent of US ownership and the degree of US influence compromised American efforts.

Introduction

South Sudan's civil war is one of the most brutal and destructive conflicts of the 21st century. It is all the more tragic because it followed a moment that could have been a historic turning point: the creation of an independent South Sudan on July 9, 2011. Instead, fewer than three years later, the country was enveloped by a war that, at the time of writing, shows no sign of ending.

The human costs are enormous. Of an estimated prewar population of, at most, 12 million people, more than two million have fled across borders and another two million are internally displaced. Indicative of the relative neglect of South Sudan on the world stage, there is no accurate count—or even a reliable estimate—of the number of people who have died as a result of war, a figure that could be well into the hundreds of thousands. In 2017, portions of the country were declared to be experiencing famine, the first such declaration anywhere since 2011. Civilians bear the brunt of the violence, with many forced to seek safety inside United Nations (UN) bases throughout the country. To this day, more than 200,000 still reside in those bases, too fearful to return to their homes. The economic costs are severe: a 2014 study estimated that if the war were to continue for five years, it could cost South Sudan, rich in natural resources, up to \$28 billion.¹

Reprehensible tactics have been employed by combatants on all sides. Sexual violence is frequently used as a weapon of war. Civilians are deliberately targeted based on ethnic identity. Entire towns and villages are razed due to perceived political allegiances. Some of those tactics are not new in the South Sudanese context, holdovers from the civil wars that gripped the then-united Sudan from 1955 to 1972 and again from 1983 to 2005. But the level of brutality has at times been shocking even to long-time observers of South Sudan.²

The African Union Commission of Inquiry on South Sudan, established late in 2013 to investigate the violence that was then only weeks old, concluded the following in its 2015 report:

There are reasonable grounds to believe that the gross violations of human rights committed against civilians in South Sudan amount to crimes against humanity...the Commission is led to conclude that there are reasonable grounds to believe that these crimes were committed in a widespread or systematic manner, and that evidence points to the existence of a state or

¹ Frontier Economics, “South Sudan: The Cost of War,” January 2015, <http://www.frontier-economics.com/publication/south-sudan-cost-war/>.

² The African Union Commission of Inquiry report includes the following passage: “The stories and reports of the human toll of the violence and brutality have been heart-wrenching: reports of people being burnt in places of worship and hospitals, mass burials, women of all ages raped; both elderly and young, women described how they were brutally gang raped, and left unconscious and bleeding, people were not simply shot, they were subjected, for instance, to beatings before being compelled to jump into a lit fire.” (“Final Report of the African Union Commission of Inquiry on South Sudan” (Addis Ababa: AUCISS, October 15, 2014), <http://www.peaceau.org/uploads/auciss.final.report.pdf>).

organizational policy to launch attacks against civilians based on their ethnicity or political affiliation.³

Similarly, in 2018 the UN Commission on Human Rights in South Sudan found that “there is sufficient evidence to conclude that the SPLA [Sudan People’s Liberation Army], both factions of the SPLA-IO [Sudan People’s Liberation Army-In Opposition, the main armed opposition group], as well as the armed groups that support the parties to the conflict, are deliberately targeting civilians on the basis of their ethnic identity and by means of killings, abductions, rape, and sexual violence, as well as the destruction of villages and looting. These acts constitute war crimes and crimes against humanity.”⁴ In 2016, the UN Special Advisor on the Prevention of Genocide concluded that “there is a strong risk of violence escalating along ethnic lines, with the potential for genocide.”

No single factor explains the civil war. The dynamics at play include (a) high-level political competition, especially between President Salva Kiir and former First Vice President Riek Machar; (b) unchecked



Figure 1: A map of South Sudan’s previous ten states. Since the country's independence, President Salva Kiir has subdivided South Sudan into 28 states, in 2015, and still further to 32 states, in 2017. *US Holocaust Memorial Museum*

³ “The African Union Releases the Report of the AU Commission of Inquiry on South Sudan,” Reliefweb, October 27, 2015, <https://reliefweb.int/report/south-sudan/final-report-african-union-commission-inquiry-south-sudan>.

⁴ United Nations Human Rights Council, “Report of the Commission on Human Rights in South Sudan,” February 23, 2018, <https://reliefweb.int/report/south-sudan/report-commission-human-rights-south-sudan-ahrc3771>.

greed and avarice among South Sudan's political class that drives massive corruption and competition for resources and control of the state, which grants access to South Sudan's abundant natural resources; (c) unresolved grievances from Sudan's civil wars, during which southern groups were frequently pitted against each other, leading to massive intra-southern violence; (d) an absence of accountability for crimes committed and only limited reconciliation among South Sudanese; and (e) a bloated and deeply fragmented security sector, with the SPLA comprising many reintegrated militia with little loyalty to centralized leadership. Ethnic dynamics and animosities are pervasive in South Sudan, and they intersect with almost every aspect of daily existence. Longstanding competition and grievances between ethnic groups, including between the two largest groups, Dinka and Nuer—represented by Kiir and Machar, respectively—trigger and exacerbate violence. As documented by the reports previously cited, civilians and soldiers alike have been targeted based on their ethnic identity.

Fundamentally, South Sudan's civil war, and all the attendant consequences, is the product of choices made by the South Sudanese, particularly at the elite political level. But that does not absolve the international community from a degree of responsibility. For the global community of individuals, organizations, and nations committed to atrocity prevention, the civil war represents a stark failure of the atrocity prevention agenda. It cannot be said that there was no warning; as just one example, the Annual Threat Assessment provided by the United States' Director of National Intelligence to the US Congress in 2010, even before the independence of South Sudan, predicted that "a new mass killing or genocide is most likely to occur in Southern Sudan [later South Sudan]."⁵ For the Obama administration—which through Presidential Study Directive-10 made the case that "preventing mass atrocities and genocide is a core national security interest and a core moral responsibility of the United States"⁶ and created the Atrocities Prevention Board—the civil war and disintegration of South Sudan contravenes that mandate. Whether the US government could have done more at the time to prevent or halt the war is the focus of this report.

⁵ "Annual Threat Assessment of the US Intelligence Community for the Senate Select Committee on Intelligence," February 2, 2010, https://www.dni.gov/files/documents/Newsroom/Testimonies/20100202_testimony.pdf.

⁶ "Presidential Study Directive on Mass Atrocities," August 4, 2011, <https://obamawhitehouse.archives.gov/the-press-office/2011/08/04/presidential-study-directive-mass-atrocities>.

Project Background

Supported by the United States Holocaust Memorial Museum’s Simon-Skjoldt Center for the Prevention of Genocide, this research project examines US government policy and action leading up to and during the civil war in South Sudan. The project seeks to identify pivotal periods for the United States vis-a-vis the South Sudan conflict and to identify alternative policies that the US government plausibly could have adopted. In this context, *pivotal periods* are defined as short stretches of time during which events in South Sudan compelled the United States to act—or, in hindsight, the United States could have acted with greater conviction but did not. In addition, over the course of the research, two sets of policy questions surfaced repeatedly, although they are not tied to particular temporal periods. They are explored below as *recurring critical questions*.

Conducting such *post facto* analysis is naturally going to identify mistakes in both the policy making process and in policies ultimately adopted. As the saying goes, hindsight is 20/20. Especially when information available is quite limited and sources have questionable motives, making policy in real time is fraught with difficulty. The “fog of war” is a legitimate challenge, and senior policy makers are inevitably seeking to respond to multiple crises simultaneously. The purpose of this exercise is not to criticize for the historical record but to (a) analyze the policies adopted and the processes leading to them to understand how, in future comparable scenarios of widespread violence and atrocities, outcomes from the past can be used as a reference; and (b) collect lessons that can be applied both to contemporary South Sudan—because the war continues—and more broadly.

Of note, the author of this report served in the US government from 2014 to 2017 and was involved, to varying degrees, in policy responses to South Sudan’s civil war. That experience provides additional insight into the policy process, but it also adds a degree of bias and means that the author shares responsibility for some policy mistakes and missed opportunities identified through the research.

Research for this report relied primarily on first-person interviews with more than 30 former and current government officials (ranging from senior- to mid-level and who serve or have served in the State Department, National Security Council, Agency for International Development, or Department of Defense); individuals who have worked on issues involving South Sudan and followed South Sudan in various capacities for many years, in some cases several decades; and leading South Sudanese experts. All interviewees were granted anonymity, in some cases to allow them to discuss internal US policy deliberations on South Sudan freely, and in other cases due to ongoing security considerations in South Sudan. The author also reviewed relevant secondary literature to supplement that primary research.

Through this research, the author developed an initial set of approximately 10 potential pivotal periods, which through further analysis and discussion were reduced to the four periods and two recurring critical questions examined here. Admittedly, important periods—for example, deeply flawed elections throughout Sudan in 2010 or President Obama’s trip to the region and personal intervention in mediation in 2015—are not examined in detail here. In some instances, periods were not chosen because the

preponderance of interviewees did not home in on and prioritize them; in others, because the alternative policy options for the United States are difficult to discern or are of limited plausibility. The author judged that the periods detailed here are both significant in the course of events in South Sudan and associated with plausible alternative policy options.

The interviews revealed a wide range of views and, in some cases, opinions that are directly at odds with each other, especially concerning perceptions of the United States' influence and leverage. In those instances, the author has sought to highlight and analyze those differences and in some cases make an argument for the views that seem more convincing in hindsight.

The South Sudan Context

Before exploring the pivotal periods, this section highlights several factors that are central to understanding the context in which American policy makers operate when addressing South Sudan. Although each situation has its unique characteristics, these dynamics make South Sudan policy making more complex and tortuous compared to other circumstances.

Post-Benghazi, Post-Rwanda

Two countervailing forces influenced the Obama administration's response to mass atrocities, especially in Africa. One was the legacy of the Rwandan genocide, which drove a desire among some senior Obama administration officials to avoid repeating the inaction that marked the US government's response to the genocide. Even though it occurred in 1994, the memory of inaction in Rwanda remains. Several senior officials in the Obama administration, such as National Security Advisor Susan Rice, had served in senior positions in the Clinton administration during the genocide, and former US Ambassador to the United Nations Samantha Power famously chronicled the tepid American response, quoting Rice saying of the genocide, "I swore to myself that if I ever faced such a crisis again, I would come down on the side of dramatic action, going down in flames if that was required."⁷ Although the death toll in South Sudan has not reached Rwanda proportions, it is among the most deadly civil wars anywhere since the Rwandan genocide.

At the same time, the more recent legacy of Benghazi—a very cautious approach to the safety and security of US embassies and personnel in countries affected by conflict and political instability—loomed large. The September 2012 attack on US facilities in Libya, in which the US ambassador and three other Americans were killed, became a political albatross for the Obama administration. When civil war erupted in South Sudan a little more than a year after the Benghazi attacks, the US embassy in Juba was located only minutes from the fighting. Throughout the second half of December 2013, cabinet-level officials worked daily to respond to the war—a remarkable level of attention for an issue in Africa—but a large portion of that attention focused on the security of embassy personnel and American citizens, including strong consideration of closing the embassy. Although that did not happen, throughout the ensuing years, embassy and American citizen security remained a major consideration, and at times a restraint on policy formulation, surely influenced in part by the experience in Benghazi.

⁷ Samantha Power, "Bystanders to Genocide," *The Atlantic*, September 2001, https://www.theatlantic.com/magazine/archive/2001/09/bystanders-to-genocide/304571/?single_page=true.

Long US History and Friendship

The United States and South Sudan have a unique relationship. Over the course of Sudan’s two civil wars, the South Sudanese cause developed a strong following in the United States with some members of Congress, Christian groups (responding primarily to Khartoum’s *Sharia* policies and slavery concerns), and officials in both the Clinton and George W. Bush administrations. Dr. John Garang, the charismatic founder of the South Sudanese liberation movement—the Sudan People’s Liberation Army/Movement (SPLA/M)—developed particularly strong relations with some in Washington and, during the Bush administration, engaged at the highest levels. South Sudan has also been the recipient of substantial American foreign assistance, before and during the current civil war.⁸ Given that American interest, the United States was a strong supporter, during George W. Bush’s presidency, of the negotiations leading to the 2005 Comprehensive Peace Agreement (CPA) between the SPLA/M and the Government of Sudan. In those negotiations the United States was often perceived to be supporting the SPLA/M. When the CPA came into effect, the United States continued to support the timelines and actions prescribed by the agreement, most notably the 2011 referendum on whether southern Sudan would remain part of a united Sudan or secede. That support contributes to the notion that the United States is the “midwife” of South Sudan—an idea that, notably, is rejected by many South Sudanese given their long and bloody struggle for independence.

Several senior Obama administration officials had longstanding relationships with senior SPLA/M (and then Government of South Sudan) officials and regular access to them. That created opportunities for influence, but access does not automatically equate to leverage, and the history and relationships contributed to a perception that the United States offered unquestioned support to South Sudan and did not see the internal flaws and divisions, even as they grew more prominent. “It’s a very dangerous idea that we need to be on their [South Sudanese] side all the time,”⁹ said one former senior US official. Notably, President Obama himself did not have a long history with South Sudan; according to a current government official, he “was less captivated by the narrative”¹⁰ of US–South Sudanese friendship, especially following difficult interactions with President Kiir, including a 2012 meeting on the sidelines of the UN General Assembly in which Kiir is said to have lied to Obama on issues concerning Sudan–South Sudan relations.

⁸ The Congressional Research Service (CRS) estimates that the US government has provided approximately \$1 billion per year in foreign assistance to South Sudan since the signing of the CPA in 2005. As CRS notes, an annual quantity regularly exceeding \$200 million is earmarked for non-emergency State Department programs such as those supporting democracy, governance, and security sector reform (https://www.everycrsreport.com/reports/R43344.html#_Toc462394021). The Office of Foreign Disaster Assistance, USAID’s primary office responsible for humanitarian operations, reports that the US government has provided almost \$3.1 billion in humanitarian assistance since the conflict began in December 2013 (https://www.usaid.gov/sites/default/files/documents/1866/south_sudan_cr_fs06_04-09-2018.pdf). From 2017 to 2018, the US government contributed more than five times as much funding as the European Commission, the next-largest international donor to the global humanitarian appeal for South Sudan (https://www.usaid.gov/sites/default/files/documents/1866/south_sudan_cr_fs06_04-09-2018.pdf).

⁹ Interview with former senior official, December 2017.

¹⁰ Interview with current official, December 2017.

Hostility Toward Sudan and Moral Equivalence

American support for South Sudan was driven, in part, by deep-rooted hostility toward northern Sudan.¹¹ Washington and Khartoum have long been at odds, including over Sudan's harboring of Osama Bin Laden in the 1990s and support for terrorist groups, the civil wars with the south, and what the United States declared to be a genocide in Darfur. Khartoum has at times, particularly after 9/11, feared that the United States would pursue a regime change policy in Sudan. Whether or not that was ever a credible concern, a strong dualistic narrative took hold in Washington, as described by a former US official:

Over the course of two decades, South Sudan's American backers coddled the SPLM, embraced a simplified narrative, and shaped a policy environment in which criticism was reserved for an undeniably awful regime in Khartoum—the “bad guys.” Criticism of the “good guys,” meanwhile, was either spared or suppressed, and sentiments that didn't fit this narrative were framed either as moral equivalency or as indirectly aiding the enemy.¹²

US officials, consciously or otherwise, guarded against charges of moral equivalence, inhibiting forthright policy analysis and development. “We were so focused on saving the southerners from Khartoum that we didn't bother to take a good look at who we were supporting and how undemocratic they are,”¹³ according to one former senior official. Another current official goes further: “If we were intellectually honest, we would have said that the separation of South Sudan is not viable, but the idea of giving Khartoum something they wanted was so anathema, I'm not sure we would have done that at that time.”¹⁴ Particularly before the start of South Sudan's civil war in 2013, that was the prism through which much US policy on Sudan and South Sudan was viewed.

Divergent Perceptions of Influence and Leverage

Interviewees disagreed sharply over how much influence and leverage the United States had over South Sudan and the East Africa region and ultimately over outcomes on the ground. Those disagreements go back to the CPA negotiations: whereas one former official said, “We pulled off miracles for them [South Sudanese] in the CPA....the CPA doesn't happen without the US,”¹⁵ another countered that the CPA negotiations “were IGAD [Intergovernmental Authority on Development]—the East African regional bloc negotiations and we were observers—we were never quite as involved on the substantive side as you would have expected.”¹⁶

¹¹ That hostility has, to a certain degree, dissipated recently following expanded engagement between Sudan and the United States on several sets of issues.

¹² Zach Vertin, “George Clooney and the Rot in South Sudan,” *The Washington Post*, September 23, 2016, https://www.washingtonpost.com/news/global-opinions/wp/2016/09/23/george-clooney-and-the-rot-in-south-sudan/?utm_term=.b3f46d5ced5e.

¹³ Interview with former senior official, December 2017.

¹⁴ Interview with current official, December 2017.

¹⁵ Interview with former official, December 2017.

¹⁶ Interview with former official, December 2017.

That divergence continued after South Sudan's independence and civil war, particularly concerning negotiations in 2014 and 2015 that led to the Agreement on the Resolution of Conflict in South Sudan (ARCSS), which was signed by the Government of South Sudan and the main rebel movement in August 2015 but failed to end the fighting. The differences in perceptions of influence between those inside and outside government often are most stark. In the words of one longtime observer outside government, "The US had a ton of leverage, though the US never thinks it does," and another argued that "the entire [ARCSS] negotiations were done with the active support of the US.... [There was] nothing the US was not involved in." In contrast, a former official closely involved in the negotiations said that "we had way more buy-in in the CPA process [compared to the ARCSS negotiations]....it was not remotely the same....I would have loved to have the power that everybody thought," and a current official lamented that "people on the outside overstate our influence." Another former official offered a cogent analysis:

We weren't acting like the US [in ARCSS negotiations]. We were wringing our hands saying we have no leverage, no power....you act that way long enough and people start to believe it. We had huge leverage with the region. We were behind all of it [ARCSS negotiations], but it felt like we had authority over none of it.¹⁷

The reality may be that the regional and global influence the United States exerted in the early 2000s, when the CPA was being negotiated, had diminished by the time South Sudan's civil war began roughly a decade later, but perceptions of influence have not kept pace. The United States clearly maintained some meaningful degree of influence in this corner of the world, though, exemplified by the central American role and senior American engagement in both convincing Khartoum to accept secession and pushing and supporting negotiations between Sudan and South Sudan in 2011 to 2012 over contentious questions associated with the details of dividing one country into two, negotiations that led to agreements that have generally been respected and implemented.

What seems indisputable is that the United States was in a stronger position to influence key actors in South Sudan compared with other atrocity crises—for example, in Burundi, Syria, or Sri Lanka, where the United States did not have comparable history or relationships. Nonetheless, fundamental differences in perceptions of US influence color almost all analyses of US options and actions. When, as concerning South Sudan, those differences exist within government, they inhibit coherent policy making.

¹⁷ Interview with former senior official, December 2017.

Pivotal Periods

The periods analyzed here highlight two instances in which the United States may have been able to do more, but the judgment is inconclusive (Pivotal Periods 1 and 2); and two instances in which the United States pursued policies that had significant negative consequences (Pivotal Periods 3 and 4).

1. Spring/Summer 2013: Opportunity for Prevention?

In hindsight, 2013 was filled with warning signs—spread across the economic, security, and political spheres—that South Sudan was about to implode.

In 2012, in an effort to gain the upper hand in a dispute with Khartoum over how revenue from South Sudanese oil that transits through Sudanese facilities was shared, South Sudan’s leaders made the unprecedented decision to shut down their oil production. That action had enormous implications for the oil-dependent economy and was, as one longtime observer described it, a “grand strategic miscalculation...a historically bad, self-damaging decision.”¹⁸ Beyond the overall economic impact, the shutdown slowed the wheels of South Sudan’s far-reaching system of corruption and patronage, a system that, although inefficient and unjust, was generally effective in papering over deep divisions and rivalries, which intensified when funds dried up.

Violence was also escalating, especially in Jonglei state, where the South Sudanese army, the SPLA, was engaged in a counterinsurgency campaign in 2012 and 2013 in response to an insurrection led by recently defected SPLA general David Yau Yau. Not for the first time, the SPLA employed scorched-earth tactics that terrorized whole communities, including indiscriminate killing and rampant sexual violence. “That violence was a preview of the way in which they conducted the war,” according to one former official. “Everything that is happening now happened then....we knew everything, there was no doubt in our mind what was happening then.”¹⁹ There was some discussion within the US government of using pressures to try to stem the violence; one current official recalled that there was movement toward sanctions, but when fighting subsided due to seasonal fluctuations, that conversation stopped.

Although those were deeply worrying developments, in retrospect the most concerning signals were the mounting tensions in the ruling SPLM, closing political space—exemplified by the murder in December 2012 of a prominent journalist who was critical of Kiir—and Kiir’s increasingly autocratic behavior. The SPLM was scheduled to hold a national convention in 2013 ahead of elections scheduled for 2015, which raised the political stakes, especially in the leadership competition between Kiir and Machar. Over the

¹⁸ Interview with longtime observer, November 2017.

¹⁹ Interview with former official, November 2017.

course of 2013, Kiir made increasingly provocative moves.²⁰ In January he removed the governor of Lakes state, who was perceived to be close to Machar, and placed 30 senior SPLA generals on reserve. In February he retired an additional 117 SPLA generals. In March Machar formally announced his plans to challenge Kiir for party leadership, which undoubtedly contributed to Kiir's decision in April to remove all of Machar's "duly delegated powers" as first vice president. Then in June, Kiir lifted immunity from two influential ministers, a move that was ostensibly in response to corruption concerns but was almost surely driven by politics.

In early July, Kiir removed another governor linked to Machar, and later that month he made his most consequential move: dismissing Machar as first vice president, removing all ministers, and suspending the influential SPLM Secretary General. In the following weeks, Kiir restructured the government and placed in prominent positions several appointees who were seen to be close to Khartoum, South Sudan's sworn enemy—which also meant that longstanding US contacts in the SPLM were sidelined. Kiir was clearly changing, surrounding himself with a smaller circle of hardline advisors, centralizing power in the office of the president, and curtailing his engagement with outsiders, including longtime American interlocutors. Parallel to those political developments were growing concerns that Kiir and his associates were building an armed force directly loyal to them rather than to SPLA command and control structures.

The gravity of those developments was not lost on many in the US government. "When Riek was removed, we knew it was a matter of time before the war would start. We saw the mobilization, the fact that they were rearming,"²¹ recalled one former senior official. In the words of another, "By August/September [of 2013], by the time Riek is ousted, it's the reckoning everybody knew was going to come. We knew it [the SPLM] was an empty shell, we knew only opposition to the north [Sudan] was holding things together. What did we think was going to mitigate against that?"²² However, one longtime observer noted that "there was a palpable sense in Juba [among the US delegation] in the fall of 2013 that Kiir pulled this off. There was a sense that the US dodged a bullet because violence did not break out immediately after the purge."²³ The way in which the war exploded later that year and the speed with



Salva Kiir Mayardit, President of South Sudan, speaks to news reporters outside the Security Council chamber at United Nations Headquarters in New York, November 6, 2007. *Jenny Rockett*

²⁰ Small Arms Survey, "Timeline of Recent Intra-Southern Conflict," Human Security Baseline Assessment (HSBA) for Sudan and South Sudan, June 27, 2014, <http://www.smallarmssurveysudan.org/fileadmin/docs/documents/HSBA-South-Sudan-Crisis-Timeline.pdf>.

²¹ Interview with former senior official, December 2017.

²² Interview with former official, December 2017.

²³ Interview with longtime observer, April 2018.

which it intensified took some by surprise. “We all underestimated that they would take it to the brink and go over the cliff,”²⁴ said one longtime observer.

Some American officials were receiving warnings directly from senior SPLM figures. In April the US government hosted an investment conference for South Sudan in Washington, DC, which included a delegation of South Sudanese officials. On the sidelines of the conference, a senior South Sudanese official met with senior US officials, including Deputy Secretary of State William J. Burns. In those meetings the senior South Sudanese official voiced concerns about growing dysfunction and discord within the SPLM and requested American assistance. He “messed that relations and tensions were getting bad,” recalled one current official. “We acknowledged it, it was in the talking points...we knew, we raised it [in subsequent interactions with SPLM officials], it didn’t alter their behavior.”²⁵

Any US response to the growing crisis in the SPLM was hindered by diminished diplomatic capacity. In March 2013 the US Special Envoy for Sudan and South Sudan, Amb. Princeton Lyman, left his post after several years of service. His successor, Amb. Donald Booth, did not start until August, and his work was hobbled by the US government shutdown in the fall of 2013. In addition, Assistant Secretary of State for African Affairs Johnnie Carson left his post at the end of March, with his replacement starting in the beginning of August. Thus for much of the period when the SPLM was fragmenting, including when Kiir made his pivotal moves in July, the two most critical State Department positions concerned with South Sudan were vacant. In addition, in the summer of 2013, Amb. Susan Rice—who had long experience with South Sudan—transitioned from US Ambassador to the UN to National Security Advisor, taking on a larger portfolio of responsibilities, which may not have allowed her to focus on South Sudan as much as she had in the past. “The gap between envoys in 2013 was absolutely critical and detrimental,”²⁶ said one current official. In response to the senior South Sudanese official’s request for assistance, one former official recalled that “there was no policy decision on not engaging, but a vacuum on who to do it.”²⁷

Washington wasn’t inactive during that time. Gayle Smith, then a senior official on the National Security Council staff and later the administrator of the US Agency for International Development, traveled to Juba twice in the summer of 2013. Smith had longstanding relationships with senior SPLM officials and access at high levels. General Carter Ham, the commander of the US Africa Command, also visited Juba that summer to meet with senior SPLA counterparts.

But there may not have been sufficient focus in 2013 specifically on the growing tensions within the SPLM, in part due to the focus on halting the substantial violence in Jonglei. “There was a tremendous overfocus on Jonglei,” recalled one former senior official. “It was the *crisis du jour*.”²⁸ Another former official agreed: “We were overly distracted by violence in Jonglei at the expense of the political split between Kiir and Machar.”²⁹ In the view of one longtime observer, “There wasn’t a sense within the US government that internal SPLM politics were important. They didn’t believe that the SPLM was an actual

²⁴ Interview with longtime observer, December 2017.

²⁵ Interview with current official, November 2017. Such personal approaches from senior SPLM officials were not uncommon given their connections to senior administration officials.

²⁶ Interview with current official, December 2017.

²⁷ Interview with former official, November 2017.

²⁸ Interview with former senior official, December 2017.

²⁹ Interview with former official, November 2017.

political party, although [non-US government] people in Juba saw the party structures as the last line of defense against all-out political violence.”³⁰

Alternative Policy Options

Could the United States have done more to mediate the growing tensions within the SPLM? Would the SPLM have been influenced by such outside engagement? Opinions among interviewees differ. In the view of one longtime observer, the SPLM leadership “all knew they were dancing on top of a volcano. They all knew what would happen if the dispute went from the political to the military sphere, so would have been ready for some intra-party process to sort it out.”³¹ Some interviewees point to the senior South Sudanese official’s plea to officials in Washington in the spring as a missed opportunity. “Requests from the inner sanctum are incredibly rare, often much needed, and hard to generate,” said one longtime observer. “That was absolutely a key moment.”³² It is debatable, though, whether the South Sudanese official was speaking for the broader SPLM or South Sudanese government or just on his own behalf.

One option would have been for the United States to be directly involved, leading a mediation effort. “In retrospect, we should have taken them to a workshop and forced them to come up with rules for the party,”³³ said one current official. But there is little evidence of serious consideration of a direct US mediation role at the time—“I don’t know that we really tried to get into the political dynamics in SPLM,”³⁴ according to one former senior official—and some officials were skeptical that the SPLM leadership would have welcomed such external, Western intervention.³⁵

A second option would have been more tangential American involvement, for example, by encouraging other African liberation movements-turned-governments, such as South Africa’s African National Congress or Tanzania’s *Chama Cha Mapinduzi*, which both have longstanding relations with the SPLM, to lead some sort of emergency intervention.³⁶ Alternatively, the United States could have reached out to private organizations that specialize in discreet mediation; in the words of one longtime observer, situations like this are “why we have outfits like Humanitarian Dialogue [one such mediation organization].”³⁷

A third option, as recommended by one South Sudanese expert, would have been to create some sort of “*ad hoc* group of eminent people, people who can communicate certain US sentiments,” because there was “no channel of communications between South Sudan and the US, no check-in on the process.”³⁸ As

³⁰ Interview with longtime observer, April 2018.

³¹ Interview with longtime observer, December 2017.

³² Interview with longtime observer, November 2017.

³³ Interview with current official, December 2017.

³⁴ Interview with former senior official, January 2017.

³⁵ An interesting policy option considered by some in the US government after the war started, but perhaps even more relevant here, was to encourage that the SPLM “brand” be retired, removing it as a prize to be fought over and forcing prominent politicians to create new parties and identities.

³⁶ By some accounts the Ethiopian ruling party said it was trying to mount such a mediation.

³⁷ Interview with longtime observer, December 2017.

³⁸ Interview with longtime observer, December 2017.

with other ideas, whether such a group would have enjoyed access to and genuine responsiveness from the SPLM leadership is uncertain.

Connected to any of those options could have been greater US pressure, in response both to the violence in Jonglei and to Kiir's undemocratic moves throughout the spring and summer. Among the options could have been targeted sanctions and reductions in assistance and training to the SPLA, which continued even into 2014, after the war started. Such pressures, because none were in place and South Sudan was still in the international community's good graces, could have been a shock in Juba. But in the end, in the words of one current official, "We never threatened loss of support or sanctions. It was a discussion between friends."³⁹ That reductions in the substantial American support to the government and SPLA during that period seem not to have been seriously considered is a missed opportunity.

There are valid concerns with any of these approaches, particularly that any effort to mediate within the SPLM could have further entrenched the party's dominance in what is effectively a one-party state. And whether any of it could have helped is uncertain; in the words of one current official,

This was a time when Salva was increasingly adverse to hearing any criticism at all.... The feeling at the embassy was that South Sudanese had to work this out themselves. Telling Salva and Riek to back off may not have worked. You can't continue to look to outsiders to solve problems—that was our message. I don't think we could have helped. Even the constructive advice we were trying to provide was rejected as critical. We couldn't have done anything. They were already on trajectory toward war.⁴⁰

In retrospect, American efforts to respond to what was clearly a rapidly escalating crisis were limited. The warning signs coming from within the SPLM were particularly concerning; the party's dysfunction and inability to manage leadership succession issues were among the central driving causes of the civil war. Even so, there did not seem to be a discernible moment in US policy debates during which there was consideration of changing course. At no point in 2013 was there a concerted effort to step back, assess the accumulating and escalating warning signs, and contemplate substantial policy changes or efforts to mount interventions, as in the three options described earlier.

In the end, in the view of one longtime observer, "There was nobody speaking truth to power," as the war that many saw coming grew closer.⁴¹ The months leading up to the violence that erupted in December 2013 proved to be the last window for conflict prevention. Once the fighting started, the forces unleashed and grievances that quickly accumulated promoted the continuation and expansion of the war. As difficult as prevention may have been in 2013, stopping the ensuing war proved to be harder.

2. Late 2013/Early 2014: The Uganda Question

South Sudan's civil war started on the night of December 15, 2013, when Dinka and Nuer elements of the presidential guards, loyal to Kiir and Machar, respectively, battled each other in Juba (the precise cause of

³⁹ Interview with current official, November 2017.

⁴⁰ Interview with current official, December 2017.

⁴¹ Interview with longtime observer, November 2017.

what started the fighting remains in dispute). In the ensuing days, Juba was the scene of multiple ethnic-based massacres, including “targeted attacks by Dinka members of South Sudan’s armed forces, both the police and army, against Nuer males, including civilians,”⁴² according to Human Rights Watch. Machar fled Juba and on December 18 arrived in the city of Bor, in nearby Jonglei state, where he connected with Peter Gadet, a prominent SPLA commander with a history of defections. Fighting quickly spread to several portions of the eastern half of the country, and a series of prominent defections and splits within the SPLA seemed to significantly strengthen the armed opposition, which became known as the SPLM-In Opposition (SPLM-IO) and led by Machar. An attack on Juba by the growing number of forces declaring their opposition to Kiir seemed increasingly likely.

That threat led to a decisive turn in the war: intervention by the Ugandan People’s Defense Force (UPDF), which gave Uganda—and President Yoweri Museveni—a foothold in the South Sudan conflict that it would never relinquish. By most accounts the UPDF entered South Sudan around December 20, although there is speculation that elements of the UPDF were in South Sudan even before fighting erupted on December 15. Ugandan forces entered at Juba’s request, ostensibly to support the evacuation of Ugandan citizens, and helped to secure Juba following days of chaos and violence. “Uganda did prevent a reverse massacre in Juba” by Machar and Gadet’s forces, according to one longtime observer. “All diplomats in Juba were thrilled that Uganda came in to protect them.”⁴³ So was Kiir, as his government was hanging on by a thread before the intervention.

From the start, Uganda had broader aims than just securing Juba. On December 27, Ugandan fighter jets bombed rebel-controlled areas around Bor⁴⁴, and on December 30, Museveni traveled to Juba to underline his support for Kiir and the remaining government, declaring, “We gave Riek Machar four days to respond (to the ceasefire offer) and if he doesn’t we shall have to go for him, all of us,”⁴⁵ referring to east African nations. In the early days of 2014, when Gadet and Machar’s forces increasingly threatened Juba, Museveni sent in significant reinforcements, with “some of these troops...involved in another attempt at counter-attacking toward Bor, with a series of clashes continuing over several days.”⁴⁶ In mid-January Uganda publicly acknowledged its role in support of the SPLA (it would later come to light that the South Sudanese government paid for much of the UPDF intervention), and its forces were critical to the SPLA recapturing Bor soon after. Although difficult to prove, in the ensuing months there were multiple accusations of the UPDF fighting far beyond Juba and Bor, including in Lakes and Upper Nile States. In addition, the UPDF was accused of using cluster bombs around Bor.⁴⁷

⁴² Human Rights Watch, “South Sudan: Ethnic Targeting, Widespread Killings,” January 16, 2014, <https://www.hrw.org/news/2014/01/16/south-sudan-ethnic-targeting-widespread-killings>.

⁴³ Interview with longtime observer, December 2017.

⁴⁴ Small Arms Survey, “Timeline of Recent Intra-Southern Conflict,” Human Security Baseline Assessment (HSBA) for Sudan and South Sudan, June 27, 2014, <http://www.smallarmssurveysudan.org/fileadmin/docs/documents/HSBA-South-Sudan-Crisis-Timeline.pdf>.

⁴⁵ Aaron Maasho and Carl Odera, “Uganda Says Region Ready to Take on, Defeat South Sudan Rebel Leader,” December 30, 2013, <https://www.reuters.com/article/uk-southsudan-unrest/uganda-says-region-ready-to-take-on-defeat-south-sudan-rebel-leader-idUKBRE9BR04R20131230>.

⁴⁶ Small Arms Survey, “Timeline.”

⁴⁷ Frederic Musisi, “UPDF Used Cluster Bombs in South Sudan, Says UN Report,” *The Daily Monitor*, May 11, 2014, <http://www.monitor.co.ug/News/National/UPDF-used-cluster-bombs-in-South-Sudan--says-UN-report/688334-2311330-picyo2/index.html>.

Ugandan forces began withdrawing from South Sudan in October 2015. While the UPDF was in South Sudan, and to this day, Uganda—and Museveni in particular—grew into an obstacle to peace in South Sudan, for several reasons. First, the UPDF intervention emboldened the SPLA, and UPDF support in pacifying Juba removed some of that burden from the SPLA forces loyal to Kiir, allowing them to engage the SPLM-IO and to target civilians in other parts of the country. Second, Museveni’s unambiguous political support for Kiir and his government emboldened Kiir, making him more belligerent and less willing to negotiate. As one longtime observer put it, “The UPDF intervention allowed the government



The sun rises over the Meri refugee camp, near Aba, Democratic Republic of Congo, on December 28, 2017. Over 30,000 South Sudanese refugees live in the camp after fleeing violence in their home country. *Jason Patinkin/US Holocaust Memorial Museum*

to entrench its position so that it was never interested in peace.”⁴⁸ Third, as negotiations ebbed and flowed in the ensuing years, Museveni was consistently uncooperative with regional partners and the broader international community, an attitude built on his seniority in the region given his now more than 30 years in power and the death in 2012 of his longtime rival for regional influence, Ethiopia’s Prime Minister Meles Zenawi—who would have been one of the few people willing and able to challenge Museveni’s meddling in South Sudan. Museveni sought to expand his regional influence by turning Juba into a Ugandan client. “Museveni wants a second Somalia in South Sudan,” according to a South Sudanese expert. “Museveni is a conflict entrepreneur who wants to be stronger than his resources allow, so he does it by exploiting crises in neighboring countries.”⁴⁹

Uganda’s role as a regional spoiler created policy dilemmas for the United States. By most accounts, the United States quietly accepted the UPDF intervention. “Uganda got a wink from us”⁵⁰ according to one former senior official; another current official said “we acquiesced as opposed to encouraged”⁵¹ the intervention, noting that the deal was cut between Museveni and Kiir. Given the debate over whether to close the US embassy in Juba soon after the war erupted (see sidebar), the UPDF role in securing Juba and keeping its international airport open, as well as helping to prevent an attack on Juba by Machar and Gadet’s forces, was genuinely appreciated. But the downside quickly became apparent. “Without the Uganda intervention this war looks very different,” according to one former senior official. “What we wanted for ourselves was to be safe and secure in Juba.... It was never going to be in anybody’s interests to have Riek and Salva fighting it out in Juba.”⁵² The perception of American support for the Ugandan

⁴⁸ Interview with longtime observer, December 2017.

⁴⁹ Interview with longtime observer, December 2017.

⁵⁰ Interview with former senior official, December 2017.

⁵¹ Interview with current official, December 2017.

⁵² Interview with former senior official, December 2017.

intervention spilled into negotiations; one former US official noted that “there was a period of the negotiations where the entire narrative was that the US asked Uganda to intervene on behalf of the government.”⁵³

Broader regional dynamics were also at play. Uganda has long been viewed as a productive security partner for the United States, largely because of its significant troop contributions to the African Union Mission in Somalia (AMISOM) and its previous partnership with the United States in efforts to end the Lord’s Resistance Army, an initiative that concluded in 2016. Those other strands of engagement, with their links to countering terrorism, have always been higher priorities for the United States than Ugandan involvement in South Sudan, and Museveni is adept at threatening to reduce security cooperation when pushed on other issues. But as one longtime observer noted, “It is within US capability to weigh these things differently.... [This] is a decision the US makes, it’s not up to the whims of fate.”⁵⁴

Alternative Policy Options

Could the United States, while accepting the initial intervention to secure Juba, have responded differently to Uganda and Museveni’s broader role in the war? Although the United States did publicly call for the withdrawal of foreign forces starting in February 2014,⁵⁵ most interviewees think the relationship was mishandled. “We definitely could have played it differently,” according to one former senior official. “We should have called them out publicly and loudly on their [UPDF] movements outside of Juba. Museveni is extraordinarily sensitive to criticism and doesn’t like Salva enough to be tarnished completely.”⁵⁶ Another former senior official echoed that sentiment: “We never called out Uganda for using helicopter gunships and firing on people in another country.”⁵⁷

Two interviewees suggested specific alternatives. One argued that the Ugandan intervention “should have been coupled with a political process that gets activated and Riek comes back in....[The United States] should have said that for us to bless this [Ugandan intervention], Salva has to agree that immediately a unity government is formed [and Uganda] has to be part of a political process.”⁵⁸ Another suggested that the way to handle Uganda “was to involve IGAD [the east African regional organization] in a different manner. IGAD could have provided the forum for neighboring states to resolve their differences—Uganda, Ethiopia, Kenya, Sudan agreement is a necessary condition. But with IGAD a locus of conflict and playing a mediation role that just wasn’t going to work.”⁵⁹

US policy eventually did encourage a UPDF withdrawal, but the evolution was gradual. In the early weeks of the war, amid a slew of principal-level meetings, many concerning embassy security (see sidebar), extracting Uganda from the war was not a top policy priority, nor was there serious

⁵³ Interview with former official, December 2017.

⁵⁴ Interview with longtime observer, December 2017.

⁵⁵ Will Dunham, “U.S. Urges Removal of Foreign Fighters from South Sudan,” *Washington Post*, February 8, 2014, https://www.washingtonpost.com/world/africa/us-urges-removal-of-foreign-fighters-from-south-sudan/2014/02/08/f12bc006-910f-11e3-b46a-5a3d0d2130da_story.html?utm_term=.0356c5302163.

⁵⁶ Interview with former senior official, December 2017.

⁵⁷ Interview with former senior official, January 2017.

⁵⁸ Interview with longtime observer, December 2017.

⁵⁹ Interview with longtime observer, December 2017.

reconsideration of how South Sudan ranked among multiple concerns in the United States–Uganda bilateral relationship. By the time the United States explicitly sought a Ugandan withdrawal, Museveni and the UPDF were deeply entrenched in the civil war, and even then the United States did not prioritize that withdrawal ahead of other bilateral concerns.

The Embassy—To Stay or To Go?

At several points during the civil war, substantial debate took place concerning the status of the US embassy in Juba. In the days after fighting erupted, “We had to spend huge time and energy keeping the embassy on the ground,”⁶⁰ according to a former senior official. Another recalled how “our focus for the first several weeks was on security of the embassy, [we were] focused on how secure Juba will be.”⁶¹ At one stage there was a strong internal push to close the embassy, which the State Department opposed, in part out of the recognition that, in the words of one former senior official, “If we had pulled out, it would have been open season slaughter.”⁶²

Was there an overemphasis on embassy security, to the detriment of broader mediation and conflict prevention efforts? “We talked about our people, we talked about how to secure our people, not about their [South Sudanese] people,” recalled one former senior official. “We were very myopic.”⁶³ According to another, “We had the East African Response Force [a US military emergency response contingent] there, and there was no signal the government was going to attack us. Was it [embassy security] overblown? Probably, but don’t forget that this is post-Benghazi.”⁶⁴

Another former senior official provided a different perspective:

The reason that we met every day during the holiday season [in 2013] was that there was a feeling that we were at the crosshairs of two deep concerns: our own people were exposed and [atrocities] prevention. If we had pulled up stakes everybody would leave and it would have become a killing field. There would be more to criticize if we walked away. All the focus on security stuff was because of the focus on other stuff. If we didn’t care we would have been gone. It was all in service of a prevention agenda, there’s no question about the motivation.⁶⁵

Part of the argument for maintaining the embassy was humanitarian because it serves as a hub for much of the massive humanitarian effort across the country (the United States has spent more than \$3 billion on humanitarian response since the start of the war⁶⁶) and provides a political and security cover that helps humanitarian organizations and other nongovernmental organizations maintain a presence in Juba⁶⁷

⁶⁰ Interview with former senior official, December 2017.

⁶¹ Interview with former senior official, December 2017.

⁶² Interview with former senior official, December 2017.

⁶³ Interview with former senior official, December 2017.

⁶⁴ Interview with former senior official, December 2017.

⁶⁵ Interview with former senior official, December 2017.

⁶⁶ Office of Foreign Disaster Assistance, South Sudan—Crisis, Fact Sheet #6, FY 2018, April 9, 2018, https://www.usaid.gov/sites/default/files/documents/1866/south_sudan_cr_fs06_04-09-2018.pdf.

⁶⁷ The humanitarian crisis in late 2013 and early 2014, however, does not approach the scale of the current crisis.

(although for a period in 2013 and 2014, following the start of the war, all US government humanitarian personnel were moved to Nairobi due to insecurity in Juba). A related argument for maintaining a presence was that if the United States were to shutter its embassy, other governments would almost surely follow suit.

The policy question to be considered, in hindsight, concerns the political cost of maintaining the embassy and the compromises required. In the course of making policy, the anticipated reaction of the South Sudanese government and how that reaction might affect the status and security of the embassy were a constant consideration. “We were victims of our own big-heartedness,” said one former senior official. “We needed to have an embassy in order to do [humanitarian assistance]. To have an embassy, we needed to cultivate good will with the government.”⁶⁸ Some people argue that those considerations constrained US policy making, and that if the embassy were closed, the United States could have been more aggressive in its approach to ending the war and holding to account those most responsible for atrocities. But that may have come at a significant humanitarian cost and would have limited US eyes and ears on the ground.

There is also symbolism in maintaining the embassy. “The fact that we stayed is seen as tacit support” to the South Sudanese government, in the view of one current official. “Would a pullout have emboldened Kiir or pulled the legs out from under him and been the impetus for him to be overthrown? The South Sudanese population really does see the US as its protector. If Salva is seen as driving out the protector, would that have delegitimized him?”⁶⁹

3. Early 2014: Arms Embargo—A Missed Opportunity

As the civil war escalated, diplomats and observers recommended a tool commonly used to try to limit violence. An arms embargo was first contemplated within the US government in the early weeks of the war, with public discussion of it growing in the spring and summer of 2014. Despite what seemed like strong international consensus favoring an embargo, for several years the United States withheld support, and an embargo was not put on the UN Security Council agenda. The United States’ position only changed late in 2016, and in December 2016 the Security Council voted on a draft resolution to impose an arms embargo and targeted sanctions on key government and opposition forces. The resolution failed, and to this day the South Sudanese government is able to legally procure weapons.

Interviewees voiced near unanimity that the United States erred on that issue and that an embargo should be in place. “Symbolically it has been a no-brainer for a long time,” said one longtime observer. “It’s an embarrassment that it’s not implemented.”⁷⁰

There are multiple arguments in favor of an embargo. Although an embargo would not be fully enforceable given porous borders, it (a) could have raised the overall costs of importing arms; (b) could have prevented the purchase of large weapons systems by the government; (c) would have elevated the

⁶⁸ Interview with former senior official, December 2017.

⁶⁹ Interview with current official, December 2017.

⁷⁰ Interview with longtime observer, November 2017.

role and influence of the UN Panel of Experts (PoE) for South Sudan, a collection of experts assembled by the UN who, in many instances, monitor adherence to and implementation of embargoes; and (d) could have sent a strong signal to all parties, particularly to Kiir and his government, concerning international determination to end the war.⁷¹ Instead, the absence of an embargo was symbolic of international disunity and acquiescence, and the United States' opposition to an embargo was likely interpreted by Kiir as a vote of confidence.

The argument that an embargo could have prevented the purchase of large weapons systems is particularly salient. According to the UN PoE, the South Sudanese government began to purchase attack helicopters from a Ukrainian arms company in early 2014. (South Sudan did not have attack helicopters before the war).⁷² The SPLA again purchased attack helicopters in mid-December 2015, from a Ukrainian defense firm, and yet again in mid-September 2015, from a Ugandan government-linked defense firm.⁷³ PoE reports document the SPLA's use of attack helicopters in operations in Upper Nile State, Juba, and Latjoor State, and along the South Sudan–Democratic Republic of the Congo (DRC) border.⁷⁴ Press reports also indicate that the South Sudanese government used attack helicopters in operations in Western Equatoria State, in December 2015; in Upper Nile State, in October and November 2015; and in Western Bahr el Ghazal State, in April 2016.⁷⁵

⁷¹ Academic literature on the efficacy of arms embargoes paints a mixed picture. As Cortright and Lopez observe, the incomplete implementation of multilateral arms embargoes makes their independent effects difficult to measure (David Cortright and George Lopez, *The Sanctions Decade: Assessing UN Strategies in the 1990s* [Boulder, CO: Lynne Rienner Publishers, 2000]). In a study of a sample of 74 US, EU, and UN arms embargoes from 1990 to 2005, Brzoska demonstrates that embargoes are generally effective in reducing arms imports, but that those arms-trade outcomes have little effect on the political decisions or battlefield actions of conflict actors. He also finds that longer embargoes and embargoes coordinated by multilateral institutions are associated with more success in achieving an embargo's political objectives than are shorter-duration embargoes and unilateral embargoes, respectively (Michael Brzoska, "Measuring the Effectiveness of Arms Embargoes," *Peace Economics, Peace Science and Public Policy* 14, no. 2 [2008]). Scholars also observe that embargoes can have indirect or unintended effects on conflict dynamics and international responses to them. For example, an arms embargo may fall short of its narrow attempts to restrict arms flows, but it may achieve broader objectives, such as signaling international resolve against ongoing mass atrocities or increasing the cost of arms purchases (Daniel W. Drezner, "Sanctions Sometimes Smart: Targeted Sanctions in Theory and Practice," *International Studies Review* 13, no. 1 [2011]: 96–108). Tierney finds that impartial arms embargoes can have unintended effects on the balance of an armed conflict: embargoes designed to constrain all conflict actors can reinforce the military strength of actors with larger pre-embargo weapons caches or greater access to grey or black weapons markets (Dominic Tierney, "Irrelevant or Malevolent? UN Arms Embargoes in Civil Wars," *Review of International Studies* 31, no. 4 [2005]: 645–664).

⁷² UN Security Council, *Final Report of the Panel of Experts on South Sudan Established pursuant to Security Council Resolution 2206 (2015)*, January 22, 2016, S/2016/70, 21, http://www.un.org/ga/search/view_doc.asp?symbol=S/2016/70.

⁷³ Ibid.

⁷⁴ Ibid.

⁷⁵ For Western Equatoria State, see Tesfa-Alem Tekle, "South Sudan Army Accused of Fresh Air Attacks on SPLA-IO Positions in Upper Nile," December 9, 2015, <http://www.sudantribune.com/spip.php?article57319>. For Upper Nile State, see Small Arms Survey, "The Conflict in Upper Nile State," <http://www.smallarmssurveysudan.org/facts-figures/south-sudan/conflict-of-2013-14/the-conflict-in-upper-nile.html>, accessed January 6, 2018. For Western Bahr el Ghazal State, see Radio Tamazuj, "Mass Military Buildup in Wau as Clashes Flare in Western Bahr el Ghazal and Western Equatoria," April 8, 2016,

There is also limited documentation of the South Sudanese government purchasing and using amphibious vehicles: one PoE report draws attention to a shipment of amphibious vehicles from China in August 2014, and other reports indicate that the SPLA used amphibious vehicles in anti-rebel operations in Upper Nile and Unity States during the summer of 2015.⁷⁶ Those vehicles “were game changers”⁷⁷ in the words of one former senior official. A United Nations arms embargo almost certainly would have prevented the South Sudanese government from purchasing helicopters and amphibious vehicles.

Several former and current US officials were scathing in their critique of US policy concerning an embargo. One argued that, with an embargo,

You have the moral high ground right away; you have leverage and can put pressure on countries sending in weapons.... [An embargo] would have further constrained South Sudan—sophisticated weapons changed the nature of the war—and would have put more pressure on neighboring countries. By not doing it right away that always opens up to questions of why we’re doing it later. It would have made a large difference.⁷⁸

Another former senior official argued that an embargo “would have had a devastating impact on Salva, would have totally demoralized him. It would have been a good thing—would have made it harder for Uganda to give weapons and for Riek to get weapons.”⁷⁹ Similarly, another former senior official said that an embargo “would have been absolutely pivotal. It would have sent a super strong message. Lots of us recommended it. [An embargo] could have passed [the Security Council] in the early months. The impact of that message coming from their main backer would have been huge.”⁸⁰ A current official characterized the US position as “wrong from the beginning,” adding that “we missed the window and held it up and that was a mistake, specifically because the government was able to rearm and start attacks in the Equatorias.”⁸¹ Finally, another current official added that “by blocking [this] symbolic thing we undermined our role and credibility.... [It was] a win symbolically for the [South Sudanese] government.”⁸²

As these views suggest, there was vigorous internal debate within the Obama administration about an embargo. Several arguments were made to justify the United States withholding support for an embargo, among them that an embargo would be nearly impossible to enforce given porous borders and Uganda’s commitment to supporting Kiir; that South Sudan was a sovereign state, and legitimate government engaged in defense of itself; that an embargo would disproportionately punish the government relative to the armed opposition; that an embargo would be an improper infringement on sovereignty; that, in principle, the United States should not support embargoes on other democratically elected governments;

<https://radiotamazuj.org/en/news/article/mass-military-buildup-in-wau-as-clashes-flare-in-western-bahr-el-ghazal-and-western-equatoria>.

⁷⁶ UN Security Council, *Interim Report of the Panel of Experts on South Sudan Established pursuant to Security Council Resolution 2206 (2015)*, August 21, 2015, S/2015/656,

http://www.un.org/ga/search/view_doc.asp?symbol=S/2015/656.

⁷⁷ Interview with former senior official, December 2017.

⁷⁸ Interview with former senior official, December 2017.

⁷⁹ Interview with former senior official, December 2017.

⁸⁰ Interview with former senior official, January 2017.

⁸¹ Interview with current official, December 2017.

⁸² Interview with current official, November 2017.

and that, in the words of one former senior official, “This was the last hammer that could be dropped and should be used for the kind of concessions we want.”⁸³

Multiple interviewees pointed to flaws in those arguments. Although an embargo may, on the surface, be advantageous to the armed opposition because its weapons often are acquired through less formal and regulated channels, one longtime observer dryly noted, “except the UPDF was there with tanks and planes,”⁸⁴ fighting alongside government troops. A former official argued that “We tilted the battlefield by *not* doing the embargo,”⁸⁵ and another asked rhetorically, “Could we really not have taken parallel efforts to stop the flow of arms to Riek?”⁸⁶

The democratic legitimacy of the government was increasingly in question after its mandate expired in 2015.⁸⁷ “We were treating them like a legitimate government that has a right to win,” argued one former official. “We were pretending that we were neutral when we knew the incumbent has the advantage.”⁸⁸ A longtime observer argued that the United States “should have messaged that no side is legitimate in prosecuting this war. We ended up ensuring that the opposition is as constrained and restricted as possible while allowing the government to continue to prosecute the war. We gave no hard consequences along the way. It’s mind-boggling that we don’t have it [an embargo].”⁸⁹ At the crux of the disagreement are differing views on the fundamental purpose of pressures such as an arms embargo: whether they are purely tools of leverage used to compel behavior change or have an operational value—in this case, preventing the flow of arms—as well.

The point on which some interviewees disagree is the extent to which an embargo could have had a tangible impact on conflict dynamics on the ground. “History will overweight it,” according to one longtime observer. “It’s important symbolically that [the US] blocked it... [but] not as big on the ground.”⁹⁰ A current US official argued that an embargo “wouldn’t have had a major substantive impact. They’re good guerilla fighters and did fine without big arms [during Sudan’s civil wars].”⁹¹ Another argument is that if an embargo, by disproportionately constraining the government, put the fighting forces on more even footing, that could have increased the severity of and prolonged the fighting. One former senior official lamented that “What bothers me about this conversation [on an embargo] is that it was a surrogate for a real hard solution.”⁹²

Alternative Policy Options

The counterfactual scenario is clear: the United States could have supported an arms embargo early in the conflict, before the government was able to purchase some of the large weapons systems that it put to use. Although whether an embargo would have gained the necessary support in the Security Council is not

⁸³ Interview with former senior official, December 2017.

⁸⁴ Interview with longtime observer, November 2017.

⁸⁵ Interview with former senior official, December 2017.

⁸⁶ Interview with former official, December 2017.

⁸⁷ This topic is discussed further in the concluding section.

⁸⁸ Interview with former senior official, December 2017.

⁸⁹ Interview with longtime observer, November 2017.

⁹⁰ Interview with longtime observer, December 2017.

⁹¹ Interview with current official, November 2017.

⁹² Interview with former senior official, December 2017.

certain, the likelihood of passage was highest toward the beginning of the war. The chances of Russia and China blocking an embargo may have been relatively low after the SPLA shot down a UN helicopter in 2012, killing four Russian crew members, and China was embarrassed by media coverage of its arms sales to the South Sudanese government as the war raged, prompting China to voluntarily end those sales. “We could have gotten it through the Council” in 2014, according to one former official closely involved at the time. “The resistance congealed later.”⁹³ When an embargo finally did come up for a vote in December 2016, Russia and China abstained.

Even if passage through the Security Council would have been difficult, the United States could have imposed a unilateral arms embargo and sought to construct an ad hoc coalition, building on the existing European Union (EU) arms embargo. In February 2018 the Trump administration chose to put in place a unilateral embargo. But during the Obama administration, that option never gained traction. A multilateral embargo is surely preferable, but a coalition of influential countries supporting an embargo is better than the total absence of an embargo. An additional option, which may have stood a better chance of gaining Security Council support and was considered at times within the US government, would have been to construct an embargo that allows for the import of small arms but not large weapons such as helicopter gunships. That option, too, was ultimately rejected.

This pivotal period is perhaps the most straightforward of the four considered. Almost every diplomat and expert interviewed agreed that there should be an arms embargo on South Sudan. The impact an embargo would have on overall weapons flows can be genuinely debated. But there is little ground for debate about how the United States’ widely known opposition to an embargo sent a strong message of support to Kiir and his government, and how repeated threats of coercive actions including an embargo—never followed up on—harmed the credibility of the United States and the Security Council, which diminished the ability of the United States and the UN to meaningfully influence both government and rebel behavior.

4. Spring/Summer 2016: Misreading the Moment

Any optimism surrounding the Agreement on the Resolution of the Conflict in South Sudan (ARCSS), signed by Kiir and Machar in August 2015, did not last long.

Only days after the signing, Kiir’s government issued a list of 16 “reservations” concerning the agreement, an early indication that implementation would be highly selective. Then in December, Kiir unilaterally dissolved the country’s 10 states and created 28 new ones, a clear violation of the agreement. All the while, Machar remained outside Juba—first because key security components of the agreement were left to be negotiated after it was signed, and then because of disputes over security concerning his return to Juba to assume the position of first vice president, accorded him in the agreement. Machar engaged in a prolonged debate with the government and the international community, particularly the United States, over how many soldiers and weapons would go with him to Juba; at times the United States was strong in its criticism of Machar, for example by calling out the “willful decision by him not to abide by his commitments to implement the [ARCSS].”⁹⁴ In the same statement, the United States and its

⁹³ Interview with former official, December 2017.

⁹⁴ US Department of State, “Joint Statement on South Sudan Peace Process,” April 22, 2016, <https://2009-2017.state.gov/r/pa/prs/ps/2016/04/256503.htm>.

partners said they “congratulate the government for demonstrating maximum flexibility for the sake of peace by agreeing to the compromise proposal on the return of security forces proposed by regional and international partners.” But any claim of “maximum flexibility” is dubious given that the ARCSS called for Juba to be demilitarized, which was never close to achieved, adding to Machar’s concerns about returning.



Riek Machar arrives in Juba from Gambela, Ethiopia, on April 26, 2016.
UNMISS/Isaac Billy

Machar eventually returned to Juba in April 2016, along with a sizable security force. But he didn’t stay long. On July 8, Kiir and Machar’s bodyguards clashed while the two were meeting at the presidential palace (the origins of that clash remain in dispute). That incident triggered renewed fighting in Juba that quickly escalated, again forcing Machar to flee. This time he headed southwest, embarking on a 40-day trek through the bush that eventually ended for Machar and hundreds of troops loyal to him across the border in the DRC. As Machar fled, the SPLA chief of staff, Lt. Gen. Paul Malong, “made repeated attempts to kill Machar in Juba and during the SPLM-IO flight to the DRC.”⁹⁵ The South Sudanese government reportedly paid Malong \$5 million to kill Machar.⁹⁶ Although Machar was Kiir’s chief rival, he was also South Sudan’s first vice president and the co-signatory to the peace agreement, and the government was clearly trying to assassinate him.

Machar’s expulsion from Juba set off the second phase of the civil war, which saw fighting expand into the Equatoria region through which Machar fled, a region that previously was relatively stable. The second failure of Kiir and Machar to share power left little doubt that the two could not peacefully coexist. Machar’s arrival in the DRC also created a dilemma: where should he go, and what further role should he play in South Sudan? In the end Machar left the DRC for Khartoum, where he recuperated and after much international debate then went to South Africa, which has been his base ever since and where he described himself as being “under house confinement and detention.”⁹⁷

With Machar out of the country, Kiir’s government deemed the position of first vice president to be vacant. It stepped Taban Deng Gai (widely known by his first name), one of Machar’s key lieutenants in

⁹⁵ John Young, “A Fractious Rebellion: Inside the SPLM-IO,” Small Arms Survey, Human Security Baseline Assessment (HSBA) Working Paper 39, September 2015, <http://www.smallarmssurveysudan.org/fileadmin/docs/working-papers/HSBA-WP39-SPLM-IO.pdf>.

⁹⁶ Radio Tanazuj, “Government Reveals a \$5 Million Failed Plot to Kill Machar,” April 10, 2018, <https://radiotamazuj.org/en/news/article/government-reveals-a-5-million-failed-plot-to-kill-machar>.

⁹⁷ Benon Herbert Oluka, “South Sudan: Riek Machar Pleads With Museveni Over House Arrest,” June 19, 2017, <http://allafrica.com/stories/201706190363.html>.

the SPLM-IO and his chief negotiator, who at the time served as the minister of mining in the unity government created by the ARCSS. In Machar's absence, a segment of the SPLM-IO nominated Taban to replace Machar. Kiir's faction of the government claimed that Taban would fill in for Machar only while he was out of the country, a disingenuous argument given Machar's exile and the attempts on his life. Nonetheless, Taban was sworn in as first vice president on July 23, 2016. Although he theoretically represents the SPLM-IO as part of a unity government, Taban's constituency is quite small, he owes his position to Kiir, and he has had a deep rupture with Machar. Since Taban's elevation, South Sudan has had no meaningful government of national unity.

The international response to that change and to questions concerning Machar's future was uncertain at first. But on August 22, 2016, US Secretary of State John Kerry, in Nairobi for a series of meetings on regional issues, effectively endorsed the change in first vice president:

I think it's quite clear that legally, under the agreement, there is allowance for the replacement in a transition of personnel, and that has been effected with the appointment of a new vice president. And what they decide to do is going to be dependent on them in the context of the implementation of the peace agreement.⁹⁸

That policy carried the day. One commentator noted that "the consensus opposed to endorsing Taban Deng as First Vice President followed by a new consensus supporting him makes clear the influence of the United States."⁹⁹ In congressional testimony two weeks later, the US Special Envoy for Sudan and South Sudan affirmed that "given all that has happened, we do not believe it would be wise for Machar to return to his previous position in Juba."¹⁰⁰

This decision to support Machar's exclusion and endorse Taban led to multiple negative consequences and was the culmination of a series of American missteps following the signing of the ARCSS.

After investing significant diplomatic capital, including President Obama's personal involvement,¹⁰¹ in pushing the parties to sign the agreement, the United States' post-agreement follow-up was not robust. "We took witnessing the agreement more seriously than guaranteeing it,"¹⁰² said one former senior official. In the view of another, "If you're going to sign, invest in making it work. We did none of that.

⁹⁸ Secretary Kerry Remarks with Kenyan Foreign Minister Amina Mohamed—South Sudan, Somalia, Syria, August 22, 2016, <https://geneva.usmission.gov/2016/08/23/secretary-kerry-remarks-with-kenyan-foreign-minister-amina-mohamed-south-sudan-somalia-syria/>.

⁹⁹ John Young, "Isolation and Endurance: Riek Machar and the SPLM-IO in 2016–17," Small Arms Survey, October 2017, <http://www.smallarmssurveysudan.org/fileadmin/docs/working-papers/HSBA-SPLM-IO-Update-Oct-2017.pdf>.

¹⁰⁰ Testimony of Special Envoy for Sudan and South Sudan Donald Booth before the House Subcommittee on Africa, Global Health, Global Human Rights, and International Organizations, "The Growing Crisis in South Sudan," September 7, 2016, <http://docs.house.gov/meetings/FA/FA16/20160907/105266/HHRG-114-FA16-Wstate-BoothD-20160907.pdf>.

¹⁰¹ In July 2015 President Obama traveled to Kenya and Ethiopia, and while in Ethiopia, he met with regional heads of state and foreign ministers (but not with Kiir or Machar) to seek to advance negotiations toward what eventually became the ARCSS.

¹⁰² Interview with former senior official, December 2017.

There was process fatigue.... We did not invest.”¹⁰³ High-level American engagement tailed off after the signing, and financial resources, including to help address South Sudan’s dire economic situation, were scarce. The United States was far from the only country to fall short at that stage, but given the American role in pushing through the ARCSS, the world looked to the United States for leadership.

Kiir and his faction of the government faced little resistance when they repeatedly abrogated the agreement, exemplified by the move to create 28 states. “The 28 states should have been a wake-up call for everybody and the lead talking point of the international community,”¹⁰⁴ said one longtime observer. But the response from the region, the United States, and the broader international community was tepid. It was “a policy they undertook that was so obviously about cementing their dominance,” according to a former official. “We didn’t do anything other than telling them to rescind it.”¹⁰⁵ Another former official argued that, in response, “We should have done sanctions swiftly. That would have been greeted with favor by people on the ground. We had blinders on on the agreement.”¹⁰⁶ A current official acknowledged that the move to 28 states “ran roughshod over the agreement... [and] showed the government could get away with anything. We failed to respond.”¹⁰⁷

Having demonstrated their ability to do as they please, Kiir and his faction further entrenched their impunity through the pursuit of Machar in July and August. The exiling of Machar and replacing him with Taban was the final move, but it was only possible with international acquiescence.

Interviewees expressed some disagreement concerning whether Secretary Kerry’s remarks in Nairobi reflected a consensus US policy. “We were shocked [by the comments] at our level”¹⁰⁸ said one current official; another former senior official was “taken by surprise.”¹⁰⁹ But there is little disagreement on the impact of the US position, and on this, interviewees’ critiques are withering. In the words of one longtime observer, the US decision was:

rushed and inconsistent with the role the international community is supposed to play....Processwise, you can’t make that call as a guarantor [of the agreement] amid an outbreak of violence...[It was] a bad decision at the time and bad decision in hindsight....What scenario did people see playing out? What you’ve done is create justification for the next phase of conflict and blown credibility, and now you’re in bed with Taban [Gai] and Salva.¹¹⁰

“Kiir totally ran roughshod over the agreement, and then we penalized Riek, who was literally hunted down,” said one current government official. “Nobody was held accountable for [agreement] violations.”¹¹¹

¹⁰³ Interview with former official, December 2017.

¹⁰⁴ Interview with longtime observer, November 2017.

¹⁰⁵ Interview with former official, November 2017.

¹⁰⁶ Interview with former senior official, December 2017.

¹⁰⁷ Interview with current official, November 2017.

¹⁰⁸ Interview with current official, November 2017.

¹⁰⁹ Interview with former senior official, December 2017.

¹¹⁰ Interview with longtime observer, November 2017.

¹¹¹ Interview with current official, November 2017.

One strand of thinking in the US government seemed to be that finding a way to remove both Kiir and Machar was desirable, and this moment presented an opportunity to do half the job. A former senior official described the strategy this way: “Nobody was a fan of either of those guys, but there was literally no path forward with Riek. The two couldn’t be reconciled. [Machar’s departure] was an opportunity to turn that page. We were not prepared to turn away from the ARCSS, so we did the next best thing.”¹¹² If the plan was to then seek to sideline Kiir as well, however, there was no clear strategy or concerted effort to do so.

Another strand of thinking was that if Machar were marginalized enough, he would lose control of the forces he commanded, and they would be inclined to negotiate. “But he [Machar] doesn’t go away if you do that,” argued one current official. “There is no other figure that represents opposition to Kiir that Machar does.”¹¹³ Another longtime observer echoed that sentiment: “At the end of the day Riek [Machar] had influence with people that can’t be wished away. He’s a killer but he’s influential. Who would people [his followers] move on to? Nobody else challenges his leadership.”¹¹⁴

Machar was criticized for returning to armed rebellion after being forced out of Juba for the second time. But by confining Machar to South Africa and excluding him from any political process, the international community removed any political route to relevance for him. Thus, as Joshua Craze writes, “The only way that the SPLM–IO may be able to imagine returning to the negotiating table is through violence.”¹¹⁵

The decision to exclude Machar was the first part of a flawed policy; supporting Taban as his successor was the second, even more detrimental, part. “Did they [the international community] realize who Taban is?”¹¹⁶ asked one longtime observer. “Did they understand his position in South Sudanese politics? He has no support in [SPLM–IO] at all. This is a pure puppet figment of an opposition figure. The reaction to Taban as vice president in Nuerland is absolute shock. When the US welcomed him there was shock—don’t they know who this man is?”¹¹⁷ Another longtime observer pointed out that Taban “is not an unknown figure....Taban’s career is as a manipulator of international community.”¹¹⁸

The implications of effectively endorsing Taban may not have been considered in great detail by American policy makers. “There was not a ton of thinking on Taban taking his [Machar’s] place,” recalled one former senior official. “I don’t remember looking at this and being told that we have a lot of options here.”¹¹⁹ Even so, others recognize that it was a mistake. “We could have said Riek has to go, but why endorse Taban?” asked another former official. “Taban was the ongoing perpetrator of violence

¹¹² Interview with former senior official, December 2017.

¹¹³ Interview with current official, November 2017.

¹¹⁴ Interview with longtime observer, November 2017.

¹¹⁵ Small Arms Survey, “Conflict in Upper Nile.”

¹¹⁶ On Taban’s place in South Sudanese politics, see Joshua Craze, Jérôme Tubiana, and Claudio Gramizzi, “A State of Disunity: Conflict Dynamics in Unity State, South Sudan, 2013–15,” HSBA Working Paper no. 42, <http://www.smallarmssurveysudan.org/fileadmin/docs/working-papers/HSBA-WP42-Unity-Dec-2016.pdf>. Taban has frequently shifted his alliances with different factions of the SPLM, was “a resolutely unpopular governor” of Unity State among elites and the public, and has stoked intra-Nuer conflict for his personal advantage.

¹¹⁷ Interview with longtime observer, December 2017.

¹¹⁸ Interview with longtime observer, December 2017.

¹¹⁹ Interview with former senior official, December 2017.

against the opposition, and they [Taban's forces] are fighting for their own stature."¹²⁰ A third former official lamented that "We didn't see him [Taban] for what he was.... [We thought] anyone was better than Riek."¹²¹

The consequences of Machar's expulsion and exclusion, and then Taban's elevation, were severe. Machar's trek through Equatoria drew the region further into the war. "If Riek went through a village, the village was dead [attacked by the SPLA]," recalled one former senior official. "That was the beginning of the Equatoria intifada."¹²² Of the more than one million South Sudanese refugees now in Uganda, the majority are from the Equatoria regions.

Farther north, in the former Unity State, Taban's ethnic homeland, he sought to turn his newfound international legitimacy and stature into influence and authority on the ground. Craze writes that Taban "is absolutely detested in his home state of Unity, where the idea that a man quite so unpopular could be anointed as head of the opposition has been met with consternation."¹²³ After Taban's installation, the SPLA embarked on a campaign in the area "to take SPLM-IO territory in which Taban Deng can be installed as a puppet leader; while Taban Deng is not the substantive leader of the SPLM-IO, the GRSS's [Government of the Republic of South Sudan] gamble is that a military campaign might at least make him appear so."¹²⁴ The subsequent fighting was brutal. Clashes in and near Leer, a town in the northern area of the state, caused thousands to flee south to UN protection camps in Bentiu, the state capital.¹²⁵ The violence also led the UN World Food Programme to withdraw nearly 40 humanitarian workers from Unity State in September 2016.¹²⁶

"The US should have known in backing Taban that these things were going to happen," concluded one longtime observer. "It was a stabilization move that was poorly analyzed and destabilizing."¹²⁷

Alternative Policy Options

Publicly endorsing the sidelining of Machar and the elevation of Taban effectively put the United States in the role of choosing sides. Taban's lack of genuine support among the opposition was well known within the US government, so supporting Taban sent a clear signal of US support to Kiir's government.

Supporting Machar's return to Juba to resume his position as first vice president was not a practical option, as the renewed fighting in July proved beyond any doubt that Kiir and Machar cannot peacefully

¹²⁰ Interview with current official, December 2017.

¹²¹ Interview with former senior official, December 2017.

¹²² Interview with former senior official, December 2017.

¹²³ Small Arms Survey, "Legitimacy, Exclusion and Power: Taban Deng Gai and the South Sudan Peace Process," December 2016, <http://www.smallarmssurveysudan.org/fileadmin/docs/issue-briefs/HSBA-IB25-Taban-Deng-Gai-Dec-2016.pdf>.

¹²⁴ Ibid.

¹²⁵ Kate Holt, "Seeking Shelter at the UN's Bentiu Camp in South Sudan—in Pictures," *The Guardian*, November 8, 2016, <https://www.theguardian.com/global-development/gallery/2016/nov/08/seeking-shelter-un-united-nations-bentiu-camp-south-sudan-in-pictures>.

¹²⁶ Emma Batha, "Aid Workers Pulled out of Volatile South Sudan Region," Thomson Reuters Foundation News, September 26, 2016, <http://news.trust.org/item/20160926163921-a5yjd/>.

¹²⁷ Interview with longtime observer, December 2017.

coexist in leadership. One policy option could have been, as suggested previously and discussed in greater detail in the next section, to use that opportunity to seek to sideline both Kiir and Machar. Because two governments under their leadership had failed, each time triggering massive violence, and because the government led by the president sought to assassinate Machar, the first vice president, African leaders may have had sufficient grounds—whether through IGAD or the African Union (AU)—to determine that South Sudan’s best chance at peace was without either of them in leadership positions. Although some argue that South Sudan’s constitution contains no grounds for such a leadership change, it is equally true that the constitutional arguments made to justify the removal of Machar and the elevation of Taban are weak, yet the region and the broader international community supported the move. Because the government’s mandate, derived from elections in 2010, expired in 2015, that may have provided grounds to argue that the government and its leadership were no longer legitimate, which opens the door to sidelining both Kiir and Machar.

Warning signs that the government was not committed to implementation of the ARCSS were apparent soon after signing of the agreement, yet the United States and others chose to minimize them and press ahead with coerced implementation. The policy alternative, particularly after the government unilaterally declared the creation of 28 states, was for the United States, in collaboration with like-minded partners, to seek to pause implementation and ask the parties to recommit to the agreement, in tandem with an effort to clearly define and articulate to the parties the penalties that would be imposed if they missed implementation deadlines. Although the United States has had a sanctions regime in effect for South Sudan since April 2014, with individuals and entities periodically added to the regime, those pressures were not effectively tied to ARCSS implementation, so that when deadlines were ignored or moves made that contradicted the agreement, those responsible faced consequences. It is no wonder that after almost a year of ignoring key components of the agreement and contravening other parts, Kiir and his government assessed—correctly—that they could seek to assassinate Machar and replace him with a figurehead with little legitimacy and face no penalty.

The Costs of a Flawed Deal

Alongside East African countries, the United States pushed hard for the signing of the ARCSS peace agreement in 2015. Undoubtedly, the South Sudanese parties to that agreement are primarily responsible for its failure and the return of war. The question to be asked in hindsight, though, is whether American policy makers properly considered the downside risk of the agreement. By the time it was signed, American enthusiasm had muted. “We all thought the agreement was deeply flawed,” recalled one former official. “But the region was in charge. You can’t say no and not present an alternative. Nobody was willing to wait”¹²⁸ for a better deal. In the words of another former official, “We have no idea how bad it would have been without this deeply flawed thing in place.”¹²⁹

The counterpoint is that the agreement made a bad situation worse; one longtime observer argued the following:

¹²⁸ Interview with former official, December 2017.

¹²⁹ Interview with former official, December 2017.

It is extremely underappreciated how bad the downside of agreement was.... [It was a] Hail Mary with a hand grenade: if you don't catch it, it explodes. This is a real case of do no harm. The narrative of there is no other option than this one.... There needs to be something between there is no option and there's a 90 percent chance of failure [of the agreement]. There should have been a step-back moment, but people embedded in process thought there was no option.¹³⁰

Some key provisions of the agreement are hard to justify, especially bringing Kiir and Machar—and armed forces loyal to each—back together in Juba, asking them to coexist even though they were unable to do so previously, and setting them up to compete against each other in elections several years later. “The idea that elections are the solution here is laughable,” said one longtime observer. “You’re asking them to go back and keep mobilizing in political competition. That upped the stakes again.”¹³¹ To almost nobody’s surprise, that arrangement lasted only months before the war resumed in 2016, and when it did, Machar’s escape through the Equatorias helped drag that region into the war.

“There was probably not enough analysis of second- and third-order consequences” of the agreement, said a current official. “The security provisions were fundamentally flawed and the assumptions on how security would be managed were not supportable—but that’s where the analysis stopped. There was a desire to get in and make it work, but not enough consideration of potential follow-on consequences and what ifs. If the Equatorias get in the game, that could be a problem. We didn’t think through what if the Equatorias got in the game.”¹³²

¹³⁰ Interview with longtime observer, December 2017.

¹³¹ Interview with longtime observer, December 2017.

¹³² Interview with current official, December 2017.

Recurring Critical Questions

Beyond the pivotal periods analyzed above, two sets of questions arose repeatedly through the research, but are not tied to distinct, limited periods of time. Those recurring critical questions are explored below.

1. Should They Both Have Been Forced to Go?

Since early in the civil war, the question of whether both Kiir and Machar should be forced to leave South Sudanese politics—which would include Kiir leaving the presidency—has hung over the international response. South Sudanese civil society and political opposition groups have encouraged their departure, but a policy of seeking to compel them to depart has never been embraced by any government or international organization. Although it would be a drastic step, given the circumstances it was considered at different stages and may be again.

On multiple occasions, a push to sideline Kiir and Machar may have been plausible. One occasion was very early in the conflict, when Machar transitioned to leading a rebellion and forces loyal to Kiir were, by almost all accounts, responsible for ethnically targeted massacres in Juba. Another instance was in 2015, when Kiir’s five-year presidential term expired, but elections were not held because of the ongoing war. Also in 2015, the release of the final report of the AU Commission of Inquiry (CoI) on South Sudan, which was heavily critical of Kiir and Machar, could have been the impetus for a regional- and AU-led effort to sideline Kiir and Machar. The CoI was led by former Nigerian president Olusegun Obasanjo, an African political heavyweight who may have supported such an effort. But the United States, as well as others in the international community, did not place much emphasis on the CoI report and seize the opportunity it presented. Yet another occasion could have been in conjunction with the signing of the ARCSS in 2015: negotiators could have sought to include a glide path to retirement for Kiir and Machar. One more occasion, as discussed previously, could have been after the ARCSS fell apart in 2016 and Machar was, for the second time, forced out of Juba.

Versions of a plan to sideline Kiir or Machar or both were considered by the United States and others. One interviewee recounted that in 2012, before the war began, Ethiopia privately proposed a plan in which Kiir would step down halfway through his new term in 2017 (assuming he was re-elected in 2015), handing the presidency to Machar. Another interviewee recalled an August 2014 meeting of IGAD heads of state in which they discussed a plan that called for Kiir to eventually hand power to Machar, and then both would depart and not run in the next election.

The US government considered pushing for both to go, particularly around the time of President Obama’s meeting with regional heads of state before the signing of the ARCSS. “That was the main point of the president’s July 2015 engagement,” according to one former senior official. Another current official said, “When Obama went, that was the closest we got... [but] we could never get from here to there, both are

too separately powerful. The White House didn't want to get in front of the region."¹³³ Hanging over the internal debate was the administration's experience in Syria. "Obama said Assad must go, and Assad is still here," noted a current official.¹³⁴

Some interviewees thought the United States should have been more aggressive. "We had enough cover with IGAD to do that [forcing both to go] and not be completely tainted by it," according to one former senior official. "We could have been in the background. We had the AU CoI; that was pretty scathing. We had enough there to say both of you should go. It could come from the UN or AU with our support."¹³⁵ A longtime observer argued that it was "clear to a lot of observers that [South Sudan would be] better off if Salva and Riek go off the stage. That conversation took too long. There was a time in 2014 when there was carte blanche for Dinka to execute Nuer soldiers—[the international community] should have said then that both of you have disqualified yourself for leadership, let's start over without you."¹³⁶ A South Sudanese observer makes the case that "The ARCSS could have excluded them completely. That would have reconfigured regional dynamics and would have been supported by South Sudanese.... [It would be] seen as losing our guy but bringing down the evil guy. Let each camp identify the next guy—that might have created a different kind of relationship."¹³⁷ One former official argued that "When you get to the point of delaying elections [in 2015], that's the window to push for a caretaker government. They were in violation of their own constitution."¹³⁸

Others disagree. "I don't share the American assumption that Salva and Riek are the problem," said a longtime observer. "There's always an American urge to find the good third party—in favor of who? Which Nuer leader instead of Machar? What does getting rid of Kiir look like? Who are you going to put in place? Are they [Kiir and Machar] there or not there can't be the question—that makes politics just about personality."¹³⁹ Another observer argued that Kiir and Machar are "not the primary issue. Even if there had been insistence [that they leave], whoever steps in their shoes reproduces something similar. There is a need for an alternative political arrangement that gives leeway to do something new, but there was no formula to do something new in the negotiations."¹⁴⁰

A further argument against their removal concerns regional dynamics. One longtime observer recounted this:

During the first couple of months of the peace process, we were trying to figure out what we were going for, and the former detainees [prominent South Sudanese politicians positioned as a third party in negotiations] suggested that Salva and Riek leave, but there was no candidate waiting in the wings who is neutral to the region. Salva has balanced the region, and nobody else has. The primary motivation of the IGAD [negotiation] process was to prevent regional conflict, then to end war in South Sudan. The region doesn't see who can replace Salva. There was genuine

¹³³ Interview with current official, December 2017.

¹³⁴ Interview with current official, December 2017.

¹³⁵ Interview with former senior official, December 2017.

¹³⁶ Interview with longtime observer, November 2013.

¹³⁷ Interview with longtime observer, December 2017.

¹³⁸ Interview with former senior official, December 2017.

¹³⁹ Interview with longtime observer, December 2017.

¹⁴⁰ Interview with longtime observer, December 2017.

consideration by the mediation that both of them must go, but it's not natural in a region of strongmen to believe that a country can succeed without centralized power.¹⁴¹

Notably, however, after leaving office, former Ethiopian Prime Minister Hailemeriam Desalegn said that Kiir should resign,¹⁴² which suggests that a greater appetite may exist for encouraging Kiir's departure than regional leaders publicly acknowledge.

Ultimately, the United States has never made a concerted effort to force Kiir and Machar to leave the scene. If American support for replacing Machar with Taban in 2016 was a move in that direction, it was a poorly conceived attempt given that no parallel effort was made to remove Kiir. "We need to make the opportunity for Salva to go," argued one longtime observer. "I think Salva wants out, his family wants him to go, but he persists because we continue to recognize him."¹⁴³

2. Is the CPA to Blame?

Is South Sudan's civil war the product of structural factors enshrined by the 2005 CPA? Several critiques of the agreement, how it was implemented, and the United States' role should be interrogated. In the view of one former official, "If you're looking at this from 2011 and after, you've missed the boat. The die was cast."¹⁴⁴

One critique is that the CPA—an agreement between the rebel SPLA/M and the Government of Sudan—cemented the SPLA/M's hegemony in South Sudan for years to come, creating a political context in which it could rule with no opposition and was under no pressure to pursue democratic reform. Ugandan academic Mahmood Mamdani writes the following:

The most alarming consequence of the agreement was that non-militarized political opposition, both in Sudan and the country that was about to come into being, was thoroughly marginalized. The SPLA, which was both an army and a movement, emerged in charge of South Sudan as a precocious double of the entrenched ruling party in Sudan, the National Congress Party (NCP). The CPA perpetuated the worst legacies of the liberation war, including the SPLA's refusal to countenance internal reform, and sowed the seeds of the present crisis. It endorsed the power of the SPLA—the power of the gun—at the expense of the political class, civic associations, and the civilian population, and it put the new state in the hands of an unaccountable clique whose only background, as senior figures in the liberation army, lay in armed struggle. Enthusiastic voices from the rest of the world, in particular the troika [the United States, United Kingdom, and Norway], reinforced the illusion of the new regime, led by Kiir, that all it needed to ensure its continued hold on power was international support.¹⁴⁵

¹⁴¹ Interview with longtime observer, December 2017.

¹⁴² *Sudan Tribune*, "South Sudan Leader Should Resign, Says Former Ethiopian PM," April 29, 2018, <http://www.sudantribune.com/spip.php?article65298>.

¹⁴³ Interview with longtime observer, December 2017.

¹⁴⁴ Interview with former official, December 2017.

¹⁴⁵ Mahmood Mamdani, "Who's to Blame in South Sudan?" *Boston Review*, June 28, 2016, <http://bostonreview.net/world/mahmood-mamdani-south-sudan-failed-transition>.

A key question is whether the United States, in its pursuit of an end to Sudan’s civil war, fully considered what it was supporting and, by extension, who it was backing. A current official recalled that “we papered over the divisiveness on the southern side because we wanted the CPA so much. There was a lot of projection of our thinking on what a best solution would be.”¹⁴⁶

The United States’ strong support for the CPA and the broader South Sudanese cause, and reluctance to criticize the SPLA/M during what were seen as delicate periods negotiating and then implementing the CPA, instilled in the SPLA/M leadership a lack of accountability that continues today. One former official lamented that “we showed them that they could behave with impunity, we showed them that the way to set up a new country was heavy-handed tactics and violence, and they got away with it.”¹⁴⁷ Many interviewees expressed some version of the view that, in the words of one longtime observer, “Juba thinks that at the end of the day, America will always back us up.”¹⁴⁸ By the time the post-independence crises arose, according to one former official, “The sense of impunity and unquestioned [US] backing was already built into their calculations,”¹⁴⁹ said one former official.

Another critique is that the CPA, and its international backers, paid scant attention to the very real possibility that the agreement would lead to South Sudanese independence and the associated challenges of state formation. Interviewees disagreed on how the likelihood of eventual secession was perceived when the agreement was signed in 2005: some noted that Garang was, at least superficially, a supporter of Sudanese unity (although premised perhaps on unity under his leadership), whereas others say it was always clear that South Sudanese would vote overwhelmingly for independence, as they ultimately did. “The CPA was not taken seriously as a secession document because of Garang’s position,” according to one longtime observer, who described the agreement as “the US cosigning South Sudan’s right to independence.”¹⁵⁰ One former official called the CPA “a divorce agreement with the north.”¹⁵¹

If that is the case, the details of that divorce—and, critically, how a new state would be built—were remarkably thin. “The failure of the CPA was that it didn’t envisage what comes after the CPA,”¹⁵² said one South Sudanese expert. A longtime observer argued, “If you’re going to give somebody the right to secession, there needs to be a whole lot more than this is the best we can get [in negotiations]. There has to be more of a cogent state formation plan. If you’re going to do political engineering, there needs to be a better understanding of the gravity of it.”¹⁵³ Another longtime observer cited the “horrendous failure of the international community not to think about nation building”¹⁵⁴—even at a time, in the early 2000s, when the United States was involved in nation-building efforts in Iraq and Afghanistan. South Sudanese leaders had few state-building plans in place; one South Sudanese expert recalled that “the thinking of South Sudanese was we will sort it out ourselves after getting out of Sudan.”¹⁵⁵

¹⁴⁶ Interview with current official, December 2017.

¹⁴⁷ Interview with former senior official, December 2017.

¹⁴⁸ Interview with longtime observer, December 2017.

¹⁴⁹ Interview with former official, December 2017.

¹⁵⁰ Interview with longtime observer, December 2017.

¹⁵¹ Interview with former official, December 2017.

¹⁵² Interview with longtime observer, November 2017.

¹⁵³ Interview with longtime observer, December 2017.

¹⁵⁴ Interview with longtime observer, November 2017.

¹⁵⁵ Interview with longtime observer, December 2017.

Several interviewees lamented the United States' reluctance to use American leverage during the interim period between the CPA signing and the referendum to push for SPLA/M reform and a deeper focus on state formation. That period was "the point of maximum leverage," according to one former official. "The referendum literally doesn't happen without Washington. They are putting all their eggs in our basket and we didn't ask for anything. There was no plan for the day after [independence]."¹⁵⁶ A longtime observer recalled, "We weren't convinced of the need to use independence as leverage. We were not bought into the idea that we were dealing with a big problem."¹⁵⁷ Another longtime observer suggested, "If there was a shift in US policy early on toward the SPLM to hold them accountable, maybe there could have been an opportunity to negotiate different state formation."¹⁵⁸ A third observer suggested that "some conditionalities should have been voiced before they were a government.... There could have been a really strong push between Africans and Westerners on external management of resources."¹⁵⁹

Such external management of South Sudan's plentiful natural resources could have been one consideration—for example, establishment of an oil escrow account that could have added transparency to the oil sector, set aside funds for future state-building activities, and cut back on massive corruption. Another model that could have been considered is a version of the Governance and Economic Management Assistance Program (GEMAP) instituted in Liberia after the conclusion of their civil war, under which international advisors placed in key ministries had cosigning authority over major financial transactions. More radical still, there could have been consideration of a more gradual secession process, possibly along the lines of what occurred in East Timor, where a UN transitional administration provided an interim civil administration from 1999 to 2002. Although some limited revenue management options were explored, none of those options were under serious consideration during CPA negotiations, in part because diplomats involved thought it was unlikely the SPLA/M would have agreed to such invasive requirements. But in hindsight the immediate transition to independence, with no international oversight mechanisms in place, limited the ability of the United States and others to exert influence and gave South Sudanese leaders free rein, with little accountability. In the words of one longtime observer, "South Sudan knew the ballgame was over once they got independence."¹⁶⁰

A related critique is that the United States and its international partners failed to regularly assess progress toward key CPA benchmarks during implementation, including those focused on political transformation, essentially operating on autopilot until the referendum drew close. "There was always a sense that three years into the CPA we would look at the benchmarks," according to one former senior official. "But by that time everybody was doing Darfur."¹⁶¹ Indeed, as violence in Darfur escalated in the 2003–2005 period, and an unprecedented advocacy effort coalesced in the United States and elsewhere, drawing substantial high-level attention to the violence in Sudan's western region, some diplomatic attention was pulled away from monitoring and pushing CPA implementation. As a result, senior American policy makers never took a step back and asked critical questions about the fast-approaching prospect of South Sudanese independence. In the words of one current official:

¹⁵⁶ Interview with former official, December 2017.

¹⁵⁷ Interview with longtime observer, December 2017.

¹⁵⁸ Interview with longtime observer, December 2017.

¹⁵⁹ Interview with longtime observer, November 2017.

¹⁶⁰ Interview with longtime observer, December 2017.

¹⁶¹ Interview with former senior official, December 2017.

I don't ever recall a fundamental reassessment [of the CPA]. We were just on this path to implement the CPA. The fundamentals were not reexamined. We never asked the question of what does an independent South Sudan look like, and is that what we want? I think we avoided that question because we didn't want to tell ourselves the answer.... During that whole period we whistled past the graveyard.¹⁶²

This was despite multiple warning signs of the SPLA/M's increasingly anti-democratic, heavy-handed behavior. In 2008, Kiir and Machar clashed over leadership of the party, ultimately agreeing to maintain the status quo. That exposed continued tensions between them and highlighted the SPLM's chronic inability to discuss and make decisions on the future of the party and country, instead of simply papering over serious differences. Then in 2010, nationwide elections, prescribed by the CPA, resulted in overwhelming victories for Kiir (elected as president of semi-autonomous Southern Sudan) and other SPLM candidates. But in the run-up to elections, the SPLM was opaque and authoritarian in its candidate selection process—including in situations in which proxy candidates for Kiir and Machar sought the same seat—and South Sudanese authorities were excessively heavy-handed in the conduct of the elections, despite being assured of victory even without their unnecessary interventions.

Those developments elicited little American response. “When there were warning signs in 2009–10, nobody wanted to hear it,” according to one former official. “Any perceived weakness, criticism, or toughness on the SPLM was seen to indirectly benefit the NCP [Sudan's ruling party]. That was a miscalculation.”¹⁶³ In the view of another former official, following the flawed 2010 elections, “We should have paused the referendum calendar and called them out about it and had some sort of consequence for the south.”¹⁶⁴ A third former official agreed: “We should have said time out during the interim period—the fact that we didn't gave energy and strength to Salva [Kiir] and his people to do what he was doing.”¹⁶⁵

Instead, the march toward the referendum proceeded, and South Sudanese leaders had little reason to question (a) their standing in the international community or (b) support from Washington. Following secession, the CPA was seen as concluded, but in hindsight the agreement had deep flaws, such as the absence of a state-building vision or external oversight mechanisms, and essential aspects of it, most notably democratic transformation, were too easily overlooked.

¹⁶² Interview with current official, December 2017.

¹⁶³ Interview with former official, December 2017.

¹⁶⁴ Interview with former senior official, December 2017.

¹⁶⁵ Interview with former senior official, December 2017.

Conclusions and Implications

The periods analyzed in this report highlight two instances in which, in hindsight, the United States pursued policies that had significant negative consequences and where opportunities were missed; two periods in which the United States may have done more, but the judgment is less conclusive; and two questions not tied to individual periods that have challenged policy makers over time. The research also identified several broader conclusions and implications that, although arising from the South Sudan context, have wider resonance.

Question Legitimacy, Even of Erstwhile Allies

The inescapable fact of American policy toward South Sudan from the start of the civil war through the end of the Obama administration is that the United States consistently sided with the government of South Sudan and its president. “Over and over and over it was as if we were trying to prove how much we supported Salva Kiir,” said one former senior official. The American response to the widely acknowledged SPLA massacres in Juba early in the war, on Kiir’s watch, was tepid. The United States acquiesced to a Ugandan intervention to prop up Kiir. For years the United States refused to support an arms embargo that would have significantly hamstrung the government, in part based on the argument that it would have disproportionately affected the government relative to the rebels. When Kiir and his government sought to discredit the ARCSS peace agreement before the ink was dry and then unilaterally selected which parts of it to implement while violating other parts, the United States did little. When the SPLA sought to assassinate Machar in 2016—some would say for the second time¹⁶⁶—the American response was muted. In 2014, when the United States hosted a historic gathering of African heads of state in Washington, the Obama administration chose to invite Kiir, in the midst of prosecuting a war, even though other African heads of state were excluded. Individually, each of those policy decisions may be understandable, even justifiable. Considered together, they form a clear pattern and send a clear message.

At times pressures were placed on the South Sudanese government, particularly targeted sanctions on mid- and senior-level military and political officials, and there were periodic public condemnations of Kiir and his government. But beyond words, tangible actions against the government were limited. One former senior official speculated about whether the United States should have pushed harder to sanction Kiir himself, which would have been a forceful move, but it also had the potential to further isolate him and harden his positions.

Undoubtedly, Machar and other rebels are responsible for atrocities and show little interest in peace and accountability. But that fact was used to create a moral equivalence between the sides, translating into a policy that often sought to achieve equal treatment of the government and rebels—or, at times, a policy that was favorable to the government based on a perception of government legitimacy.

¹⁶⁶ The first assassination attempt reportedly occurred soon after fighting started in December 2013.

But the legitimacy of the government and of Kiir personally is dubious. Kiir was elected in 2010 to be the president of the semi-autonomous Government of Southern Sudan; he has never been elected president of the independent South Sudan. His mandate from the 2010 elections expired in 2015, with new elections pushed off by the war and seemingly implausible for years to come. Forces under Kiir’s control are unquestionably responsible for atrocities, as documented through numerous efforts, including the AU CoI, and have never stopped fighting, even with a peace agreement theoretically in place. “Not a day goes by that the Kiir government isn’t trying to win militarily,” said one longtime observer.¹⁶⁷

Those facts should have put Kiir’s legitimacy in doubt. Instead, “We have been amazing to him,” in the view of one former senior official. “We pretended that we were neutral while choosing him. We didn’t get any of the benefits of being on his side. We were yelling at him and in actions protecting him.”¹⁶⁸ Despite that sympathetic treatment, relations between the United States and Kiir rapidly deteriorated after the war began. “Salva [Kiir] thought we will drone him, kill him. I cannot emphasize enough how hostile the relationship was,” said one former official. “He thought we would send him to the ICC [International Criminal Court], call for his removal. Salva had crazy fantasies based on a hostile diplomatic relationship.”¹⁶⁹ Consequently, by the summer of 2016, “We had the worst of both worlds,” according to one former senior official. “Both sides thought we’re not on their side.”¹⁷⁰

Perhaps the favorable treatment of Kiir and the perpetuation of his legitimacy were the products of some officials’ longstanding relations with him, or maybe it was because of a general privileging of state actors, which was evident in Obama administration policy in other contexts as well. But it is precisely because Kiir represents the state that he and his government should assume a greater burden to act responsibly, not just as one of multiple belligerents. American policy encouraged the opposite: consistently going easy on Kiir and his government reinforced some of their worst impulses.

Do Not Overvalue Relationships

Repeatedly throughout the interviews conducted, former officials and others spoke about longstanding relationships between senior officials in both the Obama and George W. Bush administrations and key South Sudanese political leaders. Identifying another African country with which senior US officials had similar depth of relationships would be difficult. Although they are advantageous in important ways and were a key ingredient in negotiating the CPA, the relationships can also be problematic and misunderstood. South Sudan policy making “was personal for too many of us for too long,” said one former senior official. “The problem was our entire [internal] chain was personally involved. That’s not normal.”¹⁷¹ In the words of another former official, “Nearly everybody comes to the table with baggage on South Sudan.”¹⁷²

¹⁶⁷ Interview with longtime observer, November 2017.

¹⁶⁸ Interview with former senior official, December 2017.

¹⁶⁹ Interview with former senior official, December 2017.

¹⁷⁰ Interview with former senior official, December 2017.

¹⁷¹ Interview with former senior official, December 2017.

¹⁷² Interview with former senior official, December 2017.

Individual relationships and long experience—although valuable in the context, history, and access they provide—can create allegiances and blind spots that are not aligned with present-day realities and can color policy making. They can create dependence on certain individuals, and when those individuals lose influence—as they almost inevitably do in volatile political contexts, and as happened in 2013 with some of the United States’ longtime SPLM interlocutors—the dependence means that relationships with a new cast of characters may be underdeveloped. Furthermore, relationships can be mistakenly assumed to translate into leverage and substitute for other efforts to build leverage, such as imposing an arms embargo or targeted sanctions. “All these personal connections do not equate to serious leverage,” said one former official. “You’re good friends because you have leverage. You don’t have leverage because you’re good friends.”¹⁷³

During the CPA negotiations and the run-up to the referendum and independence, the United States enjoyed a degree of leverage because South Sudanese leaders needed American support to achieve their goals. That dynamic changed significantly after independence, when South Sudanese leaders “wanted nothing to do with us,”¹⁷⁴ recalled one former official, even if the individual relationships continued. Another former official spoke about how, after the CPA concluded, “Our so-called good friends didn’t have much to do with the international community.”¹⁷⁵ But within the US government and some other governments, the perception of leverage, based in part on longstanding relationships, continued. “We all had an overinflated sense that we had leverage, based on ‘I know Salva, I know Riek,’” said one longtime observer. “That doesn’t mean you have leverage.”¹⁷⁶ Multiple interviewees noted that relationships can be valuable in the access and information they provide. But without being willing to take additional steps, the utility of the relationships stops there. Longstanding relationships may be a necessary—but not sufficient—component of building leverage.

Challenge Assumptions, Especially When Mass Atrocities Are Involved

Related to the complications that longstanding relationships create are the problems with how slowly a broadly accepted narrative changes. In South Sudan, that narrative was that the SPLA/M were, generally speaking, the good guys, especially relative to the Khartoum regime, and that made them American allies. The extent of the SPLA/M’s altruistic intent over time can be debated¹⁷⁷, but there is broad consensus that South Sudanese political leaders led their country to ruin following independence, and that warning signs of where they were headed were present even before secession. The narrative in Washington, however, was slow to adapt.

For different officials, the point at which their views of the SPLA/M changed came at different times: some cite the flawed 2010 election process as the pivot; others point to the 2012 oil shutdown (“They shut off the oil without talking to us first,” recalled one current official. “That was shocking. That was when

¹⁷³ Interview with former official, December 2017.

¹⁷⁴ Interview with former official, December 2017.

¹⁷⁵ Interview with former senior official, January 2017.

¹⁷⁶ Interview with longtime observer, November 2017.

¹⁷⁷ In the words of one former official closely involved in CPA negotiations, “Everyone knew what the SPLM was like....They never changed, [they were] utterly corrupt and non-transparent. What you see now is what you saw 15 years ago....[They were] a guerilla organization that never changed. People deluded themselves.” (Interview with former official, December 2017)

we first woke up to the government not taking its partnership with us seriously”¹⁷⁸); and for others it was the 2012–13 violence in Jonglei (“That was the wake-up call for a lot of the administration, that these guys are evil,”¹⁷⁹ said one former senior official). Some believe that it wasn’t until after the civil war started in 2013 and the atrocities were committed in the early weeks of the war that perceptions of the SPLA/M in Washington changed for good.

“We bought the narrative and nobody wanted to look inside,” argued one former official. “We treated it as a feel-good narrative. We sacrificed critical distance very early.”¹⁸⁰ The public narrative of the SPLA/M’s virtuous struggle cemented the impression of American support, which South Sudanese leaders took to be permanent. “The US message was that we were a friend and behind them,” said one longtime observer. “We were very clear in how we behaved that we were behind them. The basis of the relationship was clear.”¹⁸¹ That basis was too slow to evolve. In the words of a current official, “We didn’t realize the extent to which their mindset wasn’t anywhere near ours. They were preparing for civil war before they had a civil government. We missed that, or if we saw it we didn’t want to see it and wanted to believe that it could be overcome. We deluded ourselves.”¹⁸² One former senior official said that Obama administration officials “just didn’t want to accept that the people they supported for so long are so bad.”¹⁸³ American policy suffered as a result.

A consistent theme throughout this report is that the United States struggled to sufficiently reorient policy in response to changes in macro-level trends. In several instances, the “step back” moment that was needed to reassess policy and change course accordingly never happened. One of those missed opportunities was in response to warning signs coming from the SPLA/M before the referendum (pg. 13); another was in response to the escalating political crisis in 2013 (pg. 17); a third was in 2015 and 2016, when the government was clearly ignoring and contravening the peace agreement (pg. 22); and another is associated with the accumulation of American actions clearly in support of Kiir and his government (pg. 26). There was no effort, along the lines of a “red team,”¹⁸⁴ to challenge core assumptions and relationships and standard ways of doing business.¹⁸⁵ The presence of mass atrocities is indicative of the dissolution of basic norms and institutions—something fundamental is broken—which makes the need to question core assumptions about a society and its leaders even more urgent.

It is difficult to imagine, in other parts of the world, that policy toward an ostensibly high-priority country would go unchallenged like this. That is partly due to the attention that key countries outside Africa attract, compared with even Africa’s largest countries—attention that influences US government

¹⁷⁸ Interview with current official, November 2017.

¹⁷⁹ Interview with former senior official, January 2017.

¹⁸⁰ Interview with former official, December 2017.

¹⁸¹ Interview with longtime observer, December 2017.

¹⁸² Interview with current official, December 2017.

¹⁸³ Interview with former senior official, January 2018.

¹⁸⁴ For example, see Micah Zenko, “Inside the CIA Red Cell,” *Foreign Policy*, October 30, 2015, <http://foreignpolicy.com/2015/10/30/inside-the-cia-red-cell-micah-zenko-red-team-intelligence/>.

¹⁸⁵ Early in the Obama administration, a formal Sudan policy review took place, but the process was acrimonious and focused more on Darfur, CPA implementation (primarily, getting to the referendum), and counterterrorism (Ty McCormick, “Unmade in the USA,” *Foreign Policy*, <http://foreignpolicy.com/2015/02/25/unmade-in-the-usa-south-sudan-bush-obama/>).

priorities. With that attention come ideas and policy recommendations. Multiple interviewees, inside and outside government, lamented what they saw as a relative lack of new ideas concerning South Sudan.

The absence of any “step back” or “red team” efforts, combined with the relatively modest outside attention and pressure (even if significant by the standards of US–Africa policy), meant that status quo policies, such as muting criticism of the SPLA/M or pushing forward with implementation of the ARCSS peace agreement despite its flaws, prevailed.

Make a Decision on US Investment, and Stick to It

The American officials regularly grappled with the extent to which the United States should lead—or, in diplomatic parlance, “take ownership of”—the response to South Sudan’s civil war. The debate often took place between the poles of deferring to East African regional leadership and the broader notion of “African solutions to African problems” versus asserting more muscular leadership premised on the United States’ global role and particular history with South Sudan and the CPA.

For example, in 2014, as East African mediation efforts floundered, American officials considered starting a new negotiation effort led by the United States and based somewhere in America.¹⁸⁶ As one former official described it, the argument for such an effort, loosely modeled on the negotiations in Dayton that ended the Bosnian war, was that if it was successful,

The agreement and process looks different and so enforcement looks different. We would have been much more invested in its outcome. We would have owned it. Would that have yielded a better process and implementation? Yes. We would have had greater interest and ability to maintain a more inclusive process.¹⁸⁷

Discussion of that option gained some traction but never enough to move beyond the drawing board. “We spent a lot of time trying to figure out if there could be a [Dayton-style] role for us,” said one current official. “Why didn’t that happen? Probably because we didn’t find somebody to own it in the US government.... There was not the appetite to roll up our sleeves on something not ready to be solved.”¹⁸⁸ A former official recalled that the option “was discussed in the summer of 2014. The response was always that if IGAD is not with us [it won’t work]. But the US is the US; these countries do need us more than we need them. There was an allergy to that in the last administration. I wish we’d thrown a few more elbows with Museveni, [Ethiopian Prime Minister] Hailemeriam, and [Kenyan President Uhuru] Kenyatta, but there wasn’t a willingness to do that.”¹⁸⁹

The American response to South Sudan’s civil war speaks to the underresourcing of crisis response in Africa, even given the United States’ large investments of diplomatic capital and foreign assistance in South Sudan. If atrocity prevention is a core American foreign policy objective, too often the United

¹⁸⁶ Similarly, in 2014 officials considered putting forward an American candidate to be the Special Representative of the Secretary General (SRSG) for the UN Peacekeeping Mission in South Sudan, an idea that ran into concerns about the degree of American ownership such a move would imply.

¹⁸⁷ Interview with former official, December 2017.

¹⁸⁸ Interview with current official, December 2017.

¹⁸⁹ Interview with former official, November 2017.

States does not deploy the resources needed to be effective. South Sudan was a top Africa priority for the Obama administration, yet resources remained insufficient. “Bandwidth is a constant theme when talking about management of the Sudans,” said one former senior official. “We were set up for just about as much as we could have been set up for. I thought we had a pretty impressive cast of characters. But we can only focus on so many things at once. We need a deeper Africa bench and people who can do regional diplomacy and are willing to put the US out there on these issues.”¹⁹⁰

The gap between US special envoys during the pivotal summer of 2013 is one example of the underresourcing. Another is found in the heavy regional diplomacy required to find an end to the war; although the United States conducted more regional diplomacy than any other country, at multiple junctures—including when the UPDF intervened—still more was needed to make progress. Notably, even though the Atrocity Prevention Board was established to support responses to just this type of situation, it was only sporadically involved on South Sudan, in part because of a perception that the issue was getting attention from other parts of the bureaucracy.

Finally, questions need to be asked about whether South Sudan received the high-level attention required. “The question is, could the US have entered in with a very senior level diplomatic effort that would have tried to fix things in the region?” asked one former senior official. “I’m not sure we poured a sufficient amount of high level political energy into the region. That would have required the same level of energy that Bush put into the CPA.”¹⁹¹ Similarly, one former official concluded that the “outcomes and expectations that we demanded did not match the political will we put into it.”¹⁹² In the words of a current official, “Nobody stepped up to the plate here. We weren’t going to commit the same way we did in the past.”¹⁹³

¹⁹⁰ Interview with former senior official, December 2017.

¹⁹¹ Interview with former senior official, December 2017.

¹⁹² Interview with former official, December 2017.

¹⁹³ Interview with current official, November 2017.

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The Simon-Skjodt Center for the Prevention of Genocide

of the United States Holocaust Memorial Museum works to prevent genocide and related crimes against humanity. The Simon-Skjodt Center is dedicated to stimulating timely global action to prevent genocide and to catalyze an international response when it occurs. Our goal is to make the prevention of genocide a core foreign policy priority for leaders around the world through a multi-pronged program of research, education, and public outreach. We work to equip decision makers, starting with officials in the United States but also extending to other governments, with the knowledge, tools, and institutional support required to prevent—or, if necessary, halt—genocide and related crimes against humanity.

Cover: SPLA-In Opposition soldiers in rebel-held Magwi county of South Sudan’s Eastern Equatoria state. August 2017. *Jason Patinkin/US Holocaust Memorial Museum*

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