

# **SOUTH SUDAN 2012 HUMAN RIGHTS REPORT**

## **EXECUTIVE SUMMARY**

South Sudan is a republic operating under a transitional constitution signed into law upon declaration of independence from Sudan on July 9, 2011. The country was led by President Salva Kiir Mayardit, whose authority derives from his 2010 election as president of what was then the semiautonomous region of Southern Sudan within the Republic of Sudan. While the 2010 Sudan-wide elections did not wholly meet international standards, international observers believed that Kiir's election reflected the popular will of a large majority of Southern Sudan. International observers considered the January 2011 referendum on South Sudanese self-determination, in which 98 percent of voters chose to break from Sudan, to be free and fair. President Kiir is a founding member of the Sudan People's Liberation Movement (SPLM) political party, whose representatives control all but four of the 29 ministries, 298 of 332 seats in the National Assembly, and nine of 10 state governorships. The parliament was weak and dominated by the ruling party. There were instances throughout the year in which elements of the security forces acted independently of civilian control.

South Sudan gained independence from Sudan after a 20-year civil war. Sudan continued to support some rebel militia groups (RMGs) in South Sudan, which led to conflict and human rights abuses.

The three most serious human rights problems in the country were security force abuses, including extrajudicial killings, torture, rape, intimidation, and other inhumane treatment of civilians; lack of access to justice, including arbitrary arrest, prolonged pretrial detention, and corruption within the justice sector; and conflict-related abuses, including continuing abuse and displacement of civilians as a result of fighting between Sudanese and South Sudanese forces, RMGs opposing the government, and rival ethnic communities. Conflict-related abuses occurred primarily along the border between Sudan and South Sudan and in the states of Upper Nile, Jonglei, Unity, and Warrap.

Other human rights problems included abductions related to intercommunal conflict, harsh prison conditions, and government restriction of freedoms of privacy, speech, press, assembly, and association. Displaced persons were abused and harassed. Corruption among government officials was pervasive. The government restricted the movement of nongovernmental organizations (NGOs), and NGO workers were sometimes attacked and harassed. Violence and

discrimination against women and children by government actors and within communities were widespread. While there were no reports of child soldier recruitment by the security forces, RMGs operating against the government continued the practice throughout the year. Trafficking in persons, discrimination and violence against selected ethnic groups, governmental incitement of tribal violence, and child labor, including forced labor, also occurred.

Security force abuses occurred around the country, especially in areas subject to ethnic conflict, RMG activity, or civil unrest. The government seldom took steps to punish military or civilian officials who committed abuses, and impunity was a major problem.

Attacks in South Sudanese territory by the Sudanese Armed Forces (SAF) resulted in deaths, injuries, property destruction, and civilian displacement in border areas, while attacks by RMGs affected parts of Jonglei, Upper Nile, and Eastern Equatoria states as well as border areas with Sudan. RMGs occasionally obstructed the delivery of humanitarian assistance. While the Lord's Resistance Army (LRA) was not reported to have killed or abducted civilians in South Sudan during the year, displacements resulting from LRA activity in prior years continued to affect communities in Western Equatoria State.

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

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

There were numerous reports that the government or its agents committed arbitrary or unlawful killings. Security forces, RMGs, and ethnically based groups were also responsible for extrajudicial killings in conflict zones during the year (see section 1.g.).

For example, on August 7, police in Torit, Eastern Equatoria State, beat Kenyan doctor George Muya to death following his arrest for allegedly selling counterfeit drugs. Media reported that Muya was tortured while in police custody in Torit and beaten again prior to his transfer to Juba, where he died of his injuries. At year's end the government had not released the results of its investigation.

On June 19, Sudan People's Liberation Army (SPLA) soldiers beat a civilian in Bor, Jonglei State, after responding to an intercommunal dispute. Officials detained the civilian overnight, and he died upon release the next morning, having

received no medical care for his injuries. At year's end NGOs indicated no investigation had been conducted.

### **b. Disappearance**

RMGs and ethnically based groups abducted numerous persons, including women and children, in the intercommunal conflict areas of Jonglei, Unity, Warrap, Upper Nile, and Western Equatoria states during the year (see section 1.g.). Security forces sometimes abducted civil society activists (see section 2.a.). There were no reports of longer-term disappearances during the year, although a number of cases from 2011 remained unsolved.

In 2011 authorities charged SPLA General Mariel Nuor Jok with involvement in the April 2011 disappearance of engineer John Luis Silvio. However, they released General Jok on medical grounds to receive treatment in Nairobi, Kenya, and he was still on medical leave at year's end. No trial took place as a result.

NGOs reported that former RMG leaders David Tang, Telefon Kuku, and Peter Sule were being held at a facility in Juba known to belong to the National Security Service, although government sources claimed Tang and Sule were under SPLA-enforced house arrest. Government sources also reported in July that Kuku returned to his home state of Southern Kordofan in Sudan. By year's end authorities brought no charges against any of the three, and Tang and Sule had not been seen in public since their capture in November 2011.

At year's end the Western Bahr el Ghazal State government continued to claim no involvement in the 2011 disappearance of the secretary general of the South Sudan Islamic Council in Western Bahr el Ghazal, Al-Shayk Foud Richard, and there was no investigation.

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

The transitional constitution prohibits such practices; however, government security forces tortured, beat, and harassed political opponents, journalists, and human rights workers during the year (see sections 2.a. and 5). Government forces, RMGs, and warring ethnic groups committed torture and abuse in conflict zones (see section 1.g.). Beatings, detention, and harassment of foreign or foreign-looking citizens were common, particularly in response to disputes over land or other resources.

For example, on September 8, security forces beat peace activist and entertainer Emmanuel Jal unconscious after he stopped his car to ask for directions. NGOs and Jal speculated that his ethnicity was the primary motivation for the beating. Authorities reportedly arrested some of the responsible individuals; however, at year's end no charges were filed.

On July 31, SPLA soldiers beat and detained Farid Mahdouba in Juba after he delivered a court summons to illegal occupants of land owned by his family. They took him to a military facility, where they beat him further and warned him to abandon his claim on the property. Police responded to the incident but ended their investigation when they learned the SPLA was involved.

The government did not release the results of an investigation into reports of rape and other abuse of female cadets at John Garang Unified Police Academy in Rajaf, despite numerous requests from the international community. There were no known arrests or prosecutions. There have been no additional reports of abuse at the facility since 2010, and authorities added female-only dormitories to the premises.

Authorities did not prosecute any SPLA personnel for the July 2011 arrest, beating, and torture of eight members of the SPLM-Democratic Change (SPLM-DC).

Police and SPLA personnel reportedly tortured and raped women during the year. For example, the UN Mission in South Sudan (UNMISS) received reports that the SPLA committed 12 rapes and six attempted rapes during the disarmament campaign in Jonglei between July 15 and August 20. SPLA officials investigated some but not all accusations of rape during the disarmament campaign and reported that seven accused rapists were awaiting trial in Pibor County. NGOs and UNMISS reported that soldiers accused of abuse were often detained briefly but then released days later to active duty.

Authorities did not prosecute police personnel for the July 2011 assault and rape of a female detainee in Juba's Malakia police station.

### **Prison and Detention Center Conditions**

Prison conditions were harsh, life threatening, and overcrowded, although the Prisons Service Act provides for adherence to the UN Standard Minimum Rules for the Treatment of Prisoners. Unsanitary conditions resulted in illness and death.

While some prisons employed doctors, medical care was rudimentary, and prison physicians with inadequate training sometimes left sick patients to die. There were occasional reports of abuse by prison guards.

Physical Conditions: At year's end state-controlled prisons held approximately 6,100 inmates, although many more were held in municipal or community-controlled jails around the country. For example, Wau Prison in Western Bahr el Ghazal State was designed for 100 inmates but held at least 524. Populations in many prisons tripled over the last three years. Men and women were generally, but not always, held in separate cells. Due to overcrowding, authorities did not always hold juveniles separately from adults and rarely separated pretrial detainees from convicted prisoners. Children, especially infants, were often held with adult female prisoners.

Health care and sanitation were inadequate, and basic medical supplies and equipment were lacking. According to NGOs, prisoners in some states received one meal per day and relied on family or friends for additional food. Potable water was limited, and acute lack of water reportedly led to riots in Juba Prison in August. During the day prisoners usually stayed outside and participated in recreational activity; at night they slept in overcrowded, open hallways lined with bunk beds. Ventilation and lighting were inadequate.

Malnutrition and lack of medical care contributed to inmate deaths, although no statistics were available.

Detention centers were under the control of local tribal or state authorities, and conditions were uniformly harsh and life threatening. Many facilities in rural areas were uncovered spaces where detainees were chained to a wall, fence, or tree, often unsheltered from the sun. As with state-run prisons, sanitary and medical facilities were poor or nonexistent, and potable water was limited. Detainees sometimes spent days outdoors but slept inside in areas that lacked adequate ventilation and lighting.

Conditions in SPLA-run detention facilities were similar, with many detainees held outdoors and with poor access to sanitary or medical facilities. NGOs reported that in Pibor County, SPLA units held civilians in makeshift pens during the disarmament campaign.

The National Security Service (NSS) illegally operated a detention facility at its facility in Juba that housed civilian prisoners (see section 1.d.). Detainees reported

that conditions at the NSS facility were harsher than at Juba Central Prison, with limited access to sanitary facilities or medical treatment. The NSS held detainees in darkened rooms for most of the day.

Administration: Recordkeeping practices were poor, and most of the prison staff was illiterate. The Prisons Service was sometimes unable to produce any records justifying a prisoner's detention. An NGO survey of prisoners in Bentiu Prison, for example, revealed no documentation for 30 of 162 prisoners.

Authorities used alternatives to incarceration for nonviolent offenders more often than in 2011, particularly for juveniles. However, most children in the prisons were held for nonviolent offenses. During the year the government attempted to develop low-cost mechanisms to shorten remand time, such as the creation of remand boards to adjudicate detention of juveniles held past statutory limits. Remand boards commonly considered alternatives to incarceration for those accused of nonviolent crimes. There were no prison ombudsmen.

Authorities allowed prisoners access to visitors and permitted them to take part in religious observances. They allowed prisoners to submit complaints to judicial authorities without censorship and to request investigation of allegations of inhumane conditions. Prison authorities sometimes investigated such allegations, although they seldom took action.

Monitoring: The government permitted visits by independent human rights observers, including UNMISS human rights officers and nongovernmental observers. Although authorities sometimes permitted monitors to visit detention facilities operated by the SPLA, they rarely, if ever, permitted monitors to visit facilities operated by the NSS, which held both military prisoners and illegally detained civilians.

Improvements: The government initiated low-cost reform efforts to lower the number of pretrial detainees (see section 1.d.). During the year the UNMISS Rule of Law and Security Institutions Support Office started a justice sector mapping project to collect data on pretrial detainees, including those held for more than one year. The government also formed a National Prison Service Development Committee to develop strategies for meeting international prison standards. The United Nations Development Program, working with the government, began constructing prisons and jails to help relieve overcrowding in the prison system. The government also developed low cost mechanisms to alleviate overcrowding, such as creating remand boards for juveniles to resolve disputes prior to trial. With

international donor assistance, the government also created a Juvenile Justice Board in Juba to review cases of juveniles on remand, which lowered the number of such detainees in Juba by approximately 85 percent, according to UNMISS.

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

The transitional constitution prohibits arbitrary arrest and detention without charge; however, the government continued to arrest and detain individuals arbitrarily during the year. While not legally vested with the power to arrest or detain civilians, the SPLA and NSS did so often, rarely reporting such arrests to the police, other civilian authorities, or diplomatic missions in the case of foreigners (see sections 1.a., 1.c., and 1.g.).

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

The South Sudan National Police Service (SSNPS), under the Ministry of Interior, is responsible for law enforcement and maintenance of order within the country. The SPLA is responsible for providing security throughout the country and ostensibly operates under the Ministry of Defense and Veteran's Affairs, although military personnel staff the ministry. The SSNPS, which consists largely of former SPLA soldiers, was ineffective, corrupt, and widely distrusted. An illiteracy rate of approximately 90 percent among police meant that reports were often incomplete, and files, if created, were often misplaced. Authorities often based detentions on accusations rather than official investigations. They rarely investigated complaints of police abuse.

The SPLA does not have law enforcement authority, unless acting at the request of civil authorities. Nevertheless, the SPLA regularly detained persons, including in SPLA-run detention facilities to which monitors had no access. During the year the SPLA's approach to internal security and civilian disarmament was often unsystematic and disproportionate, contributing to conflict within and between communities while undermining the government's legitimacy in conflict areas. The law requires that SPLA abuses of civilians be heard in civilian courts, which, according to NGOs, were commonly pressured to decide in favor of the SPLA.

The NSS does not have arrest or detention authority except in extraordinary cases affecting national security. Nevertheless, the NSS frequently arrested and detained opposition leaders, civil society activists, NGO personnel, and journalists. Authorities rarely investigated complaints of excessive force and torture.

SSNPS, SPLA, and NSS impunity was a serious problem.

The government, with the assistance of the international donor community, continued to reform its security sector. In December the Ministry of Defense and Veteran's Affairs hosted training sessions on gender mainstreaming and women's rights in the military. During the year a foreign government trained 36 SPLA judge advocates, who took courses in international humanitarian law, human rights law, and military criminal justice. The SPLA graduated two classes of judge advocates and legal service support personnel in 2012. Judge advocates were assigned to a variety of operations, including the disarmament campaign in Pibor County, Jonglei State. Through UNMISS support, the SPLA developed a portable reference sheet for soldiers outlining rules of engagement.

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

Police must bring arrested persons before a public prosecutor, magistrate, or court within 24 hours; however, there were no available public prosecutors or magistrates below the county level in most of the country. Police may detain individuals for 24 hours without charge; a public prosecutor may authorize an extension up to one week, and a magistrate may authorize up to two weeks' extension. Nevertheless, authorities did not always inform detainees of charges against them and regularly held them past the statutory limit without explanation. Police, prosecutors and defense lawyers, and judges were often unaware of the statutory requirement that detainees appear before a judge as quickly as possible. Police commonly conducted arrests without warrants, and warrants were often nonstandardized, handwritten documents. When warrants were issued, they were commonly drafted in the absence of investigation or evidence.

The Code of Criminal Procedure allows bail, but this provision was commonly unknown or ignored by justice sector authorities, and detainees were rarely informed of this possibility. Because pretrial appearances before judges were commonly delayed far past statutory limits, authorities rarely had the opportunity to adjudicate bail requests before trial. Those arrested had a right to an attorney, but the country had few lawyers, and detainees were not always informed of this right. The transitional constitution mandates access to legal representation without charge for the indigent, but defendants rarely received legal assistance if they did not pay for it. Authorities sometimes held detainees incommunicado. For example, authorities detained a journalist December 25, in Western Bahr el Ghazal, for failing to cover a speech by President Kiir; the journalist's whereabouts were unknown at year's end.

Arbitrary Arrest: Security forces arbitrarily arrested opposition leaders, civil society activists, business persons, and journalists (see sections 1.c., 1.e., 2.a., and 3). Security forces often abused political opponents and others who were detained without charge.

In October the NSS detained two foreigners for nearly two weeks without access to a lawyer. On October 29, the NSS transferred the detainees to police custody. On November 1, they were released on bail, after which they were again detained by the NSS. On November 7, they were transferred back to Juba Central Prison, and on November 22, their trial began. On November 29, both detainees were released after the judge dismissed the charges for lack of evidence.

In 2011 local officials in Juba ordered the arrest of girls and women who wore clothing considered to be revealing (see section 6). In 2012 President Kiir condemned this crackdown, which ended the arrests, and those detained were not charged. The International Organization for Migration (IOM) reported that authorities often arrested girls forced into prostitution, and that trafficking was rarely seen as an offense.

Pretrial Detention: Lengthy pretrial detention was a problem, due largely to the lack of lawyers and judges, difficulties of locating witnesses, and the absence of a strong mechanism to compel witness attendance in court. The length of pretrial detention commonly equaled or exceeded the sentence for the alleged crime. Estimates of the number of pretrial detainees ranged from one-third to two-thirds of the prison population.

Amnesty: Following a blanket amnesty offered to RMG members in 2011, the government extended the same offer to other armed groups during the year. In May the SPLA integrated 210 fighters previously loyal to Gordon Kuong. Remnants of militias led by Peter Gadet Yak and George Athor were also integrated into the SPLA.

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

The transitional constitution provides for an independent judiciary. While the 2008 Judiciary Act requires the government to maintain courts at federal, state, and county levels, lack of infrastructure and trained personnel made this impossible, and few statutory courts existed below the state level. In the majority of communities, customary courts remained the principal providers of justice

services. Through the 2009 Local Government Act, traditional courts maintained primary authority to adjudicate most crimes other than murder. Government courts also heard cases of violent crime and acted as appeals courts for verdicts issued by customary bodies. Legal systems employed by customary courts varied across the country, with most emphasizing restorative dispute resolution and some taking inspiration from elements of Sharia (Islamic law). The UN Office on Drugs and Crime reported that customary courts handled approximately 90 percent of all cases and tried most murder cases due to the absence of statutory courts in most communities.

Both statutory and customary courts were undermined by political pressure, corruption, and the lack of a competent investigative police service. Statutory courts were subject to political pressure when trying anyone with strong associations to the SPLM, SPLA, or NSS. Patronage priorities or political allegiances of traditional elders or chiefs commonly influenced verdicts in customary courts.

### **Trial Procedures**

Under the transitional constitution, defendants enjoy a presumption of innocence, the right to be informed promptly and in detail of charges, the right to free interpretation as necessary, the right to public trials, the right to be present in a criminal trial without undue delay, the right to confront witnesses against them and present witnesses and evidence, and access to legal aid. Free interpretation was rarely if ever offered in practice. The transitional constitution provides no right to trial by jury for civil or criminal trials. Cases were conducted exclusively as bench trials. Prolonged detentions often occurred, and defendants generally did not have adequate access to facilities to prepare a defense. While court dates were set with no regard for adequate time to prepare a defense, long remands often meant that detainees with access to a lawyer had sufficient time to prepare. The transitional constitution provides for the right not to testify or confess guilt, but magistrates often compelled defendants to testify, and the absence of lawyers from many judicial proceedings often left defendants without recourse.

Defendants generally did not have access to government evidence largely due to the government's lack of forensic capability. Despite these protections, suspects were commonly presumed guilty by law enforcement and both statutory and customary court authorities.

Public trials were the norm in customary courts, which usually were held outdoors, but were rare in statutory courts, primarily due to space limitations but occasionally due to government secrecy. The right to be present at trials and to confront witnesses was sometimes respected, but in statutory courts the difficulty of summoning witnesses often precluded exercise of these rights. The Ministry of Justice designed a legal aid strategy in 2011, but there was no government legal aid structure.

Defendants did not necessarily have access to counsel or the right of appeal, and discrimination against women was common. However, some customary courts, particularly those in urban areas, had fairly sophisticated procedures, and verdicts were remarkably consistent. At least one customary court judge in Juba kept records that were equal to or better than those kept in government courts.

### **Political Prisoners and Detainees**

There were reports of political prisoners and detainees, which civil society groups estimated to number in the dozens.

In August the governor of Upper Nile State ordered the arrest of 15 members of the opposition SPLM-DC party, accusing them of being part of a military wing supported by the Sudanese government. SPLM-DC representatives denied the accusation, and NGOs suspected their detention was primarily political. At year's end authorities had not released them nor set a trial date.

Diplomatic sources indicated that nine opposition members arrested in 2011 for inciting antigovernment demonstrations in Northern Bahr el Ghazal State were still in custody, although the government denied holding them.

### **Civil Judicial Procedures and Remedies**

Statutory and customary courts provided the only option for those seeking to bring claims to address human rights violations, and these claims were subject to the same limitations that affected the justice sector in general.

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

The transitional constitution prohibits interference with private life, family, home, and correspondence; however, authorities reportedly violated these prohibitions.

Rural jails and detention centers often held family members in lieu of accused persons who had fled or could not be located to induce the accused to surrender.

The government rarely provided proportionate and timely restitution for governmental takings of property.

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

Conflict-related rights abuses occurred in parts of Jonglei, Unity, Warrap, Upper Nile, and Western Equatoria states. Clashes between the SPLA and RMGs, between ethnic communities, and border clashes between the SPLA and the SAF resulted in civilian deaths, kidnappings, torture, rape, and the displacement of 173,170 persons during the year, according to UN statistics. The SPLA regularly practiced “punishment by association,” abusing members of communities with the same ethnic composition as certain RMGs.

UN and NGO representatives raised particular concern about SPLA abuses of Murle civilians beginning in March. According to an NGO eyewitness, SPLA abuses of Murle during the government’s disarmament campaign that month ranged from indiscriminate killings to rape and torture, encouraging Murle youth to flee urban areas and in some cases join RMGs. NGOs stated that the RMG led by David Yau Yau leveraged SPLA abuses in Pibor County to grow from as few as 19 combatants before disarmament began to an estimated 1,500 to 4,000 members by year’s end.

Pervasive ethnic tensions in many parts of the country often resulted in the theft of cattle, which defined power and wealth in many traditional communities. Intercommunal tensions also regularly led to abductions of women and children. Following decades of civil war, cattle raiding became more deadly due to the widespread availability of firearms. During the year ethnically based conflicts that began with cattle raiding led to violent attacks on civilians in Jonglei, Warrap, and Upper Nile states.

Interethnic violence broke out in Wau between December 19-22 after several Dinka were reportedly found killed in a town outside of Wau. Dinka youth looted and burned homes and the market in retaliation. During the violence a reported 4,000 persons sought refuge at the UNMISS compound in Wau. In addition, inter- and intraethnic violence in the Wunlit Triangle (Warrap, Lakes, and Unity states) continued throughout the year through cattle raids between armed youth.

Killings: The SPLA routinely used indiscriminate and disproportionate force in clashes with RMGs and individual communities, resulting in civilian deaths. While many of these incidents took place within the context of what the government referred to as “civilian protection operations” in RMG-affected areas, the SPLA took few, if any, precautions to protect civilians when targeting combatants. RMGs also killed civilians through indiscriminate force, as did communities engaged in cattle raiding or other intercommunal violence.

In August and September SPLA soldiers killed civilians in Jonglei State during clashes with militias ostensibly loyal to David Yau Yau. UNMISS representatives and NGOs reported that throughout the disarmament campaign in Pibor County, SPLA soldiers came under sporadic firearms attack from small groups of combatants and responded with the indiscriminate use of small arms and mortars. The SPLA targeted anyone in the area from which firing may have originated. The SPLA did not release figures for RMG members or civilians killed, but Murle leaders claimed 90 deaths during this two-month period.

In April, in villages along the Nanaam River in Pibor County, NGOs reported that SPLA soldiers killed at least three civilians, including a 10-year-old boy, and incarcerated 55 civilians without food for a week to compel their families to surrender weapons. The SPLA released them when ordered to do so during a visit by the vice president, but incarcerated another 19 civilians after he departed. No additional information on the status of the civilians was available at the end of the year.

Also in April, in Manymar Village along the Lotilla River in Pibor County, SPLA soldiers reportedly killed four civilians, employed simulated drowning on women to compel their husbands to relinquish weapons, raped women whose husbands ostensibly had not complied, and looted property. In Manyabol Payam, SPLA soldiers reportedly burned 200 to 300 homes.

Community relations with the SPLA varied across Pibor County, and the SPLA sometimes took steps to address abuses. In March, in one village along the Nanaam River where SPLA soldiers killed a civilian, the SPLA shared food and water and transported the sick to a local hospital. In early September authorities arrested 31 SPLA soldiers on several different charges, most of which included drunkenness and indiscipline. The commander of the Jonglei disarmament operation assigned five judge advocates as legal advisors to the disarmament operation headquartered in Bor; these judge advocates held more than 20 general

courts-martial. Nevertheless, according to NGOs, most abuse cases went unreported and unpunished; civilians had little, if any, legal recourse.

In September an Arab militia crossed the border from Sudan's Blue Nile State into South Sudan's Upper Nile State, where it killed six civilians in Renk County and looted farms in the surrounding community. A government official believed the militia received support from the Sudanese government.

In August and September, Murle communities in Jonglei State killed an unknown number of civilians during clashes with the SPLA in response to abuses in the disarmament campaign and during fighting between the SPLA and David Yau Yau's militia.

In June a government official associated with the Jikany Nuer community and three other persons were killed in Upper Nile State when an RMG attacked their boat as the official returned from a peace conference with leadership of the rival Lou Nuer community. Government media attributed the attack to the forces of Prophet Dak Kueth, a Lou Nuer leader.

In January an estimated 8,000 Lou Nuer youth organized into seven columns attacked Murle civilians in Pibor County in response to Murle cattle raids in 2011, which had resulted in the deaths of hundreds of Lou Nuer. According to UNMISS, some Nuer youth wore SPLA uniforms.

Subsequent Murle retaliation against the Lou Nuer resulted in additional deaths in January and February. This combination of incidents represented the most deadly intercommunal violence since 1991. NGOs reported approximately 2,000 Murle deaths; UNMISS reported at least 906 Murle deaths and 370 unaccounted for, in addition to at least 276 Lou Nuer deaths.

Sudanese aerial bombardments and ground incursions following the SPLA invasion of the Heglig and Panthau oil fields in April indiscriminately targeted civilians, killing approximately 14 South Sudanese civilians and wounding 32 around the Sudan-South Sudan border.

Abductions: In May an RMG in Upper Nile State abducted staff of the NGO Tearfund, hijacking their vehicle on the road between Malakal and Kodok. The RMG reportedly used the vehicle and its occupants as shields during a clash with the SPLA, forcing the SPLA to negotiate the civilians' release.

Intertribal and intercommunal clashes, particularly between the Murle and Lou Nuer communities in Jonglei and Upper Nile states, resulted in abductions of women and children. While the Murle have historically perpetrated the majority of abductions during these clashes, UNMISS reported that both tribes engaged in the practice during the year. Civilians reported an estimated 66 children abducted during the Lou Nuer raid on Pibor County in January, some of whom were shot during the journey from Pibor to Akobo County. UNMISS reported at least 25 Murle abductions of Lou Nuer youth during interethnic violence at the beginning of the year.

Physical Abuse, Punishment, and Torture: Government and RMG forces tortured, raped, and otherwise abused civilians in conflict areas during the year.

NGOs reported that since the beginning of the Jonglei disarmament campaign in March, SPLA soldiers tortured and raped civilians in Pibor County to compel them to relinquish weapons. One NGO reported 17 rapes and eight attempted rapes by SPLA personnel in August. NGOs and UNMISS reported that some soldiers employed simulated drowning, which resulted in unconsciousness and sometimes death of the victim.

In March, according to UNMISS, SPLA soldiers beat members of the Sulim ethnic group in Upper Nile State in response to reports that Arab RMGs had crossed the border from Sudan's Southern Kordofan State into South Sudan.

Few rapes were reported stemming from the intercommunal violence in Jonglei State, but UNMISS believed that victims of abduction by both Murle and Lou Nuer were commonly raped repeatedly while in captivity.

Despite international-led efforts to clear mines, they continued to be a threat to local populations in some areas. According to UN statistics, 10 persons were killed in the country by landmines or other unexploded ordnance during the year.

Child Soldiers: In contrast to previous years, there were no reports of new recruitment of child soldiers by security forces during the year. UNICEF reported that in January the SPLA maintained eight child soldiers in active duty forces, and all were demobilized by the end of the year, continuing the progress that led to the release of approximately 20,000 child soldiers in past years. UNICEF reported 250 confirmed cases of SPLA association with children at the end of year, down from 352 in January.

During the year the SPLA began embedding child protection officers in each company with responsibility for monitoring association with children and advising commanders on how to determine the age of recruits. In August an SPLA child protection officer identified eight child soldiers in his unit in Torit, Eastern Equatoria State and worked with UNMISS representatives to demobilize them. Throughout the country SPLA child protection officers screened out 400 applications by children during the year.

UNMISS reported considerable progress during the year, particularly in reducing the practice of using schools as barracks. While the SPLA occupied 13 schools around the country prior to April, as of September it only occupied one. The SPLA's chief of child protection reported that due to continued hostilities in Pibor County he could not confirm whether two schools in Pibor County were still free of SPLA influence at year's end.

The government's Demobilization, Disarmament, and Reintegration Commission continued to track and demobilize children associated with military organizations, monitoring adherence to the 2008 Child Act, which bans the use of child soldiers. The government conducted public relations campaigns to discourage families from sending their children to SPLA military camps to seek shelter, support, and financial compensation.

In March the government adopted the UN's Revised Action Plan to improve accountability for recruitment and harboring children within military units, including units granted amnesty as RMGs and brought into the SPLA. While SPLA training emphasized this accountability, international organizations noted that the mechanisms for enforcing accountability were lacking, and there were no courts martial for violations associated with child soldier issues during the year. The SPLA ordered commanders to end all remaining association with children in November, but at year's end there were no courts martial.

RMGs continued to recruit child soldiers, with some groups relying on youth as their primary fighting force. No estimate of numbers of juveniles in RMGs was available, although as David Yau Yau's militia continued to grow, the total number of child soldiers may have increased. UNMISS reported that families often sent children to join RMGs in the hope that they would either receive funding from a reintegration program or be recruited by the SPLA. Vetting for child soldiers in the process of reintegrating RMGs into the SPLA improved during the year.

Also see the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip](http://www.state.gov/j/tip).

Other Conflict-related Abuses: Security forces and RMGs occasionally restricted the movement of UN personnel and other humanitarian groups. Following the SAF bombing of Bentiu in April, authorities temporarily closed the road from Bentiu to the Nyiel and Pariang refugee camps, preventing humanitarian access. The UN Office for the Coordination of Humanitarian Assistance (OCHA) reported at least 127 incidents when the government harassed humanitarian workers or interfered with humanitarian aid delivery during the year.

Conflict often prevented humanitarian access. In September UNMISS cancelled two fact-finding missions to Pibor County in Jonglei State due to clashes between the SPLA and Murle communities.

The SPLM-North (SPLM-N) and other armed factions fighting the government of Sudan were viewed as having direct ties to the SPLA, and often stationed their forces in and near refugee camps in South Sudan near the Sudan border to protect themselves against SAF attacks. NGOs and UN agencies voiced concerns that the SPLM-N presence in refugee camps endangered civilians and charged that SPLM-N retained child soldiers and maintained sporadic recruitment campaigns in the camps, some forcible and directed at children. The refugee leadership, mostly under orders from the SPLM-N, largely resisted efforts by the UN Office of the High Commissioner on Refugees (UNHCR) and other humanitarian agencies to relocate them to camps farther south of the Sudanese border, which some NGOs attributed to SPLM-N forces benefiting from proximity to Sudan's Southern Kordofan and Blue Nile states.

Elements of the LRA may have been involved in looting in Western Equatoria State near the border with the Central African Republic; however, there was a significant decrease in LRA activity in the country compared with 2011. Displacements due to LRA activity in prior years continued to affect communities in Western Equatoria State.

The government's capacity to assist internally displaced persons (IDPs) and refugees was extremely limited. The international community or host families provided most humanitarian aid. Conflict in disputed and undemarcated border areas, RMG activity, lack of infrastructure and road access, heavy rains, and flooding impeded NGOs and international organizations in delivery of assistance to IDPs, returnees, and refugees throughout the country. UN assessments

concluded that some areas near the country's border with Sudan remained unsafe for the return of IDPs.

According to OCHA, 190,473 South Sudanese were newly displaced during the year due to conflict between the SPLA and RMGs and between ethnic communities. Fighting between the SPLA, David Yau Yau's forces, and Murle communities in Pibor County displaced approximately 7,000 persons from Likuangole town in August and September.

Since 2011 the sporadic fighting between SAF and SPLM-N forces and indiscriminate bombing of civilians in Sudan's Southern Kordofan and Blue Nile states resulted in the displacement of 174,554 refugees from Sudan to South Sudan by the end of 2012. Of these, 56,582 were in Unity State, 5,881 in Central Equatoria and Western Equatoria states, and 112,091 in Upper Nile State. The government was generally supportive of local governments allocating land to the UNHCR for use in the settlement of Sudanese refugees.

According to the IOM, 155,197 persons of South Sudanese origin or descent returned to the country from Sudan during the year. Returnees sometimes were subjected to abuse by security forces and RMGs and faced confrontation from local communities over land, housing, and other limited resources. In Warrap State land provided to returnees by the state government was contested regularly by residents, preventing successful reintegration into communities and occasionally resulting in violence.

There were credible reports that David Yau Yau's militia perpetrated serious human rights abuses in South Sudan during the year.

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

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

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

Freedom of Speech: The government occasionally attempted to impede criticism by arresting or detaining members of civil society who publicly criticized the government.

Between July 4 and 6, while driving from Juba to Bor, civil society activist Deng Athuai was kidnapped and beaten. His assailants were not wearing uniforms, but NGOs believed elements of the intelligence service carried out the attack due to Athuai's campaign against government corruption. By year's end the government had not conducted an investigation of the attack.

Freedom of Press: Independent media in the country included seven newspapers that were printed regularly, two that were printed less frequently, and seven radio stations. Government officials or individuals close to the government occasionally interfered in the publication of articles. In February SPLM Secretary General Pagan Amum sued the *Citizen* and *al-Misier* newspapers for publishing corruption accusations against him by former minister of finance Arthur Akwein. A court tried Amum's case immediately and awarded him damages for defamation.

The country had one television station, South Sudan TV, which was government-owned.

Violence and Harassment: Security forces commonly intimidated or detained journalists whose reporting on security issues was perceived as unfavorable to the military or the government. Police banned photography in many urban areas or charged for photography permits. Security forces confiscated or damaged journalists' cameras and equipment and restricted their movements.

For example, on December 5, a prominent South Sudanese journalist and blogger, Isaiah Diing Abraham Chan Awuol (pen name Isaiah Abraham), was killed at his residence in Juba. Abraham complained to family members, friends, and fellow media practitioners of death threats, supposedly from NSS officials, in the weeks leading up to his death. An investigation continued at year's end.

On June 1, SPLA soldiers detained a journalist in Unity State and confiscated his equipment. SPLA officers said they were unhappy with his reporting of the Heglig and Panthau border conflict and believed he overstated the number of SPLA casualties. The SPLA held him for a day and, upon his release, warned him to cease reporting on military topics.

At year's end there were no investigations or prosecutions surrounding the 2011 arrests and subsequent release of Nhial Bol and Ngor Agout Garang, editors in chief of prominent newspapers.

Members of the media reported engaging in self-censorship out of fear of government retribution.

For example, two politically focused radio shows on Bakhita Radio went off the air in December due to threats against the lives and families of the radio hosts. No other journalists had stepped forward to host the popular radio shows at year's end.

Libel Laws/National Security: Security forces and other authorities accused journalists of espionage or allegiance to rival governments without substantial evidence. For example, in August Minister of Information Barnaba Marial Benjamin accused McClatchy reporter Alan Boswell of being “in the pay of Khartoum” after he published a story connecting the government to SPLM-N rebels in Sudan.

### **Internet Freedom**

There were no government restrictions on access to the Internet or credible reports that the government monitored e-mail or Internet chat rooms without judicial oversight. Individuals and groups could engage in the expression of views via the Internet, including by e-mail, although the Internet was unavailable in most parts of the country due to lack of electricity and communications infrastructure. Less than 5 percent of the population used the Internet.

### **Academic Freedom and Cultural Events**

There were no statutory restrictions on academic freedom or cultural events, and the government generally respected these freedoms. When Juba University banned 100 students for fomenting ethnic conflict and expelled them from dormitories in July, President Kiir forced the university to reinstate the students.

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

### **Freedom of Assembly**

The transitional constitution provides for freedom of peaceful assembly, and the government generally respected these rights, but security officials lacked crowd control capabilities and often fired live ammunition into the air to disperse crowds. There were also unconfirmed reports from opposition political leaders that authorities did not allow them to hold rallies or political events in some states.

For example, on October 31, a security official fired bullets into a crowd of protesters at the Juba Day Secondary School during a protest over a land dispute. Students opposed construction of a private hospital on what they claimed was school-owned property. Police on the scene fired live rounds in the air to disperse protesters, but subsequently a police officer fired into the crowd. One teacher and a student were injured. By year's end the state government had established a committee to investigate the incident, but no report was made public. In response to the incident, the state governor fired the school's director and some teachers.

Protests occurred December 8, in Western Bahr el Ghazal, over government efforts to move the county seat from Wau to Bagari. The UN confirmed that nine civilians were killed and many more injured in clashes between demonstrators and security forces. The UN launched an investigation into the use of force. A committee of parliamentarians was also conducting an investigation at year's end.

### **Freedom of Association**

The transitional constitution provides for freedom of association, and the government generally respected this right in practice. However, some civil society leaders interpreted the Political Parties Act passed in February as an attempt to suppress opposition to the SPLM (see section 3).

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

See the Department of State's *International Religious Freedom Report* at [www.state.gov/j/drl/irf/rpt](http://www.state.gov/j/drl/irf/rpt).

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

The transitional constitution provides for freedom of internal movement, foreign travel, and repatriation, and the government generally respected these rights in practice. The transitional constitution does not address emigration.

In-country Movement: The government cooperated with the UNHCR and other humanitarian organizations in providing protection and assistance to IDPs, refugees, and persons of South Sudanese nationality or descent living in Sudan who returned to the country during the year. However, security forces and RMGs sometimes restricted the movement of UN personnel and the delivery of humanitarian aid. Returnees sometimes faced violence and abuse from local

communities who viewed the returnees as competition for local resources (see section 1.g.).

During the year 155,197 persons of South Sudanese origin living in Sudan returned to South Sudan through government-organized programs coordinated by the UNHCR and IOM. The majority of returnees settled in Northern Bahr el Ghazal, Unity, and Upper Nile states.

Xenophobia among the general population, which stemmed from a perception that foreigners were taking jobs and economic opportunities from South Sudanese citizens, continued. Reports throughout the year of harassment by security forces of Kenyans, Ugandans, Ethiopians, Eritreans, and Somalis working in South Sudan were common.

Emigration and Repatriation: On September 27, the governments of Sudan and South Sudan signed nine agreements on security, economic, and other matters. Included was agreement to protect freedoms of residence, movement, economic activity, and property ownership for citizens of both countries residing in Sudan or South Sudan.

Exile: Lam Akol, the SPLM-DC party's candidate for president in the 2010 elections, continued his self-imposed exile. The government accused the SPLM-DC party of sponsoring militia activity in South Sudan, and while it made no known effort to prevent Akol from returning to the country, he stated that he feared he would be killed if he returned.

Citizenship: While there were no reports that the government revoked citizenship for political reasons, residents of the country whose ancestors emigrated from outside South Sudan were commonly denied citizenship (see section 6).

### **Internally Displaced Persons**

According to OCHA, 190,473 South Sudanese were internally displaced during the year. The government has no laws or policies in place to protect IDPs in accordance with the UN Guiding Principles on Internal Displacement (see section 1.g.).

### **Protection of Refugees**

Access to Asylum: The law does not provide for the granting of asylum or refugee status. While the government had not established a formal system for providing protection to refugees, the government provided protection on an intermittent, case-by-case basis. The government allowed returnees from Sudan and refugees from a variety of countries to settle in the country and generally did not treat refugees differently than other foreigners.

Refugee Abuse: Refugees sometimes suffered abuse, such as armed attacks, killings, gender-based violence, recruitment as child soldiers, and forced labor, according to the UNHCR. Returnees from Sudan faced delayed allocation of land, lack of basic services, inability to obtain transportation to their final destinations, and lack of employment opportunities.

Access to Basic Services: While returnees and refugees lacked basic services, this generally reflected a countrywide problem rather than discriminatory practices by the government. Refugee children had access to elementary education in some refugee camps through programs managed by international NGOs and the UN; some schools were shared with children from the host community. Returnees had access to judiciary services in principle, although a lack of infrastructure and staff meant that these resources were often unavailable in practice.

Host communities commonly discriminated against refugees or returnees. In Northern and Western Bahr el Ghazal states, communities often prevented returnees from accessing boreholes until local residents had enough water. The UNHCR expressed concern that tension between refugees and host communities in Upper Nile State prevented refugees from accessing trees needed for firewood.

Durable Solutions: The government accepted refugees and returnees for resettlement, although it had not published a national strategy for facilitating integration or reintegration into local communities. Austerity measures adopted during the year delayed establishment of national procedures to facilitate the provision of identity documents for returnees and the facilitation of naturalization for refugees. Approaches to returnee reintegration varied by locality, but traditional community leaders were generally empowered to decide which returnees, if any, would be allocated land after reuniting with their families or communities. In practice this meant persons of South Sudanese origin who lacked close community connections at their final destinations were denied access to land.

## **Stateless Persons**

Citizenship is derived through birth if a person has any South Sudanese parent, grandparent, or great-grandparent on either the mother's or the father's side, or if a person is a member of one of South Sudan's indigenous ethnic communities. Citizenship can also be derived through naturalization. Birth in South Sudan was not sufficient to claim citizenship. The UNHCR estimated there were 200,000 stateless persons in the country during the year, most of whom were refugees or returnees from Sudan. The government opened two nationality directorate offices to address the backlog of citizens without nationality documentation.

State authorities continued to deny citizenship to certain ethnic communities lacking state recognition elsewhere, generally due to ethnic discrimination. Reports that members of the Mbororo ethnic group were denied citizenship based on fears of "Arabization" continued during the year.

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

The transitional constitution, which came into effect in July 2011, does not address the right of citizens to change their government peacefully; however, citizens exercised this right in practice through the January 2011 independence referendum, which was regarded as free, fair, and based on universal adult suffrage.

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

Recent Elections: The country has not yet held elections as an independent nation. Prior to independence in July 2011, 98 percent of voters cast their ballots in favor of secession from Sudan during the Self-Determination Referendum for the people of South Sudan. Held between January 9 and 15, 2011, both international and domestic observers characterized the process as generally peaceful and fair, despite some irregularities. The Carter Center reported to the South Sudan Referendum Commission that incidents of assisted voting for illiterate and poorly educated voters occurred in all 10 states and could have undermined the secrecy of ballots, although in most cases it did not influence the will of voters. Security officials reportedly were present in some referendum centers, which could have intimidated some voters. Civic education remained low in South Sudan and contributed to limit public understanding of political processes.

Prior to independence presidential, gubernatorial, and legislative elections were held throughout Sudan in April 2010. In Southern Sudan they resulted in overwhelming majorities for the SPLM. While the presidential election, which

resulted in the election of President Salva Kiir Mayardit, was deemed generally free and fair within the semiautonomous region of Southern Sudan by international observers, the SPLM was believed to have manipulated state elections to ensure the election of SPLM governors in some states. For example, international observers believed that a majority of voters in Unity State voted for the independent candidate, but the incumbent SPLM governor was declared the winner. Public perception of manipulated elections for SPLM governors in Jonglei and Unity states triggered violence, resulting in deaths and injuries in 2010.

In the months preceding the 2010 elections, security forces harassed, arrested, and detained persons thought to oppose the SPLM, including journalists and opposition members.

Political Parties: The SPLM enjoyed a near-monopoly of power and has been the most broadly recognized and supported political entity since the signing of the Comprehensive Peace Agreement in 2005. SPLM membership conferred political and financial advantages. Opposition parties headed four of 29 ministries and suffered from limited financial resources and poor infrastructure. Only a few held regular party conventions or established communication networks. The Political Parties Act, passed in March, mandated new and more rigorous requirements for registering political parties. Opposition parties and some international observers saw the act as an attempt by the SPLM to restrict the growth of existing opposition parties and prevent the formation of new ones. Opposition parties complained the government harassed party members and claimed they were represented insufficiently on the National Constitutional Review Commission (NCRC). Some boycotted the NCRC entirely.

SPLM leaders alleged that some opposition parties were financed by or loyal to the Sudanese government. In practice there was little or no distinction between the political wing of the governing SPLM party and its military wing, the SPLA.

Participation of Women and Minorities: The transitional constitution stipulates at least 25 percent female participation in the legislative and executive branches of government. Women held 90 of the 332 seats in the National Assembly; however, women occupied only five of the 50 seats in the Council of States. Fifteen women, including five ministers and 10 deputy ministers, served in the 56-member cabinet.

The government made efforts to demonstrate representation from a variety of regions and ethnic groups; however, no formal mechanism to achieve such balance

was established by year's end. As a result some ethnicities remained unrepresented in government.

#### **Section 4. Corruption and Lack of Transparency in Government**

The transitional constitution provides for criminal penalties for acts of corruption; however, the government did not implement the law, and officials continued to engage in corrupt practices with impunity. Corruption was endemic in all branches of government and was compounded by poor record keeping, lax accounting procedures, absence of procurement laws, and the pending status of corrective legislation.

The transitional constitution assigns responsibility for investigating and prosecuting corruption to the South Sudan Anti-Corruption Commission (SSACC). In practice the commission had no authority to prosecute because the constitution did not repeal or amend previous laws vesting prosecutorial powers in the Ministry of Justice. Further complicating the prosecution issue was the fact that corruption is not defined in the constitution or criminal code. At year's end the six cases of corruption submitted for prosecution by the SSACC to the Ministry of Justice in 2011 had not been investigated.

In May President Kiir sent letters to more than 75 current and former ministers, some members of parliament (MPs), and prominent businessmen, asking them to return in full or in part approximately four billion dollars in missing government funds by depositing them in a Kenyan bank. In later statements Kiir clarified the letters did not accuse these ministers, MPs, and businessmen of stealing the money but rather that the funds were "lost somewhere." This followed reports from the country's auditor general in January that nearly \$1.5 billion in government funds was unaccounted for from the 2005-06 fiscal year. Several recipients of the letters denied the allegations, and others have argued the four billion dollar figure was inflated or inaccurately calculated. No money was returned, and no further action was taken by year's end. The UN's advisor to President Kiir on anticorruption policy fled the country soon after the letters were released.

In June the Ministry of Finance demanded the return of funds embezzled during the disbursement of food aid as part of a World Bank hunger alleviation program in 2008; however, at year's end none of the businesses in question had been prosecuted.

Government officials of director-general rank and higher are required to submit financial declaration forms annually, although there is no penalty for failure to comply. The assets of spouses and minor children are to be declared as well. The SSACC received these forms and was responsible for monitoring compliance, although at year's end no monitoring had taken place.

No law provides for public access to government information.

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

A variety of domestic and international human rights groups investigated and published information on human rights cases, often under considerable government restriction. During the year the government operated a registration requirement for NGOs, which it used to collect fees for public services provided near NGO locations. NGOs reported security services offered to provide "protection" for registered NGOs beyond what was offered by police.

Government officials were sometimes cooperative and responsive to their views, although this varied by sector and location. Prison officials granted considerable access to international organizations and NGOs, which they saw as important for demonstrating the critical lack of resources affecting the prison system. Conversely, security forces strictly limited access to their facilities, often prohibited monitoring of their activities, and generally regarded NGOs, the UN, and other international observers with suspicion.

NGOs reported that government representatives occasionally entered their properties without judicial authorization and confiscated personal data and equipment. For example, on September 4, assailants broke into the headquarters of the South Sudan Human Rights Society for Advocacy (SSHRS), stealing computers and other communications equipment. While the assailants were not wearing uniforms, SSHRS officials and other NGOs alleged the government implemented the burglary to intimidate the organization.

UN and Other International Bodies: The government sometimes cooperated with representatives of the UN and other international organizations, allowing visits in connection with the investigation of abuses or monitoring of human rights problems. However, the government expelled a UN human rights officer in November. Security forces generally regarded international organizations with suspicion, particularly when they operated near the border with Sudan or in

conflict areas throughout the country. The SPLA sometimes prevented UNMISS from accessing areas of suspected rights abuse, violating the status-of-forces agreement that allows UNMISS access to the entire country. In December SPLA soldiers shot down a clearly marked UNMISS helicopter flying over a conflict area in Pibor County. In August the SPLA accused UNMISS of supplying RMGs with food after claiming to see white helicopters present in Pibor County, in Jonglei State. The government occasionally blocked or restricted the delivery of humanitarian assistance (see section 2.d.).

The Ministry of Interior's investigation into the August 2011 beating of the chief human rights officer for UNMISS yielded no results. No further accountability measures were taken during the year.

Government Human Rights Bodies: The president appoints members of the SSHRC, and its mandate includes education, research, monitoring, and investigation of human rights abuses. International organizations and civil society organizations considered the SSHRC's operations to be generally independent of government influence, and the commission cooperated with international human rights advocates and submitted reports and recommendations to the government. While the SSHRC was generally regarded as a committed and competent advocate of human rights, severe resource constraints prevented the commission from meeting its mandate during the year. More than 90 percent of SSHRC resources were dedicated to salaries and office management, leaving it with essentially no monitoring or investigative capacity. The SSHRC also lacked resources for transportation throughout the country, relying on the government to transport its representatives to sites outside Juba.

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

The transitional constitution prohibits discrimination based on race, gender, disability, language, and social status, but it is silent on the issues of sexual orientation and/or gender identity. The government did not effectively enforce the prohibitions.

### **Women**

Rape and Domestic Violence: Rape is punishable by up to 14 years' imprisonment and a fine; however, the government did not effectively enforce the law, and rape was thought to be widespread. Sexual intercourse within marriage is defined as "not rape" in the law. No information was available on the number of persons who

were prosecuted, convicted, or punished for rape, and convictions of rape were seldom publicized. According to observers, sentences meted out to persons convicted of rape were often less than the maximum. NGOs reported that SPLA forces committed rape as part of a civilian disarmament campaign in Jonglei State. During the year an SPLA soldier was convicted of rape and sentenced to 14 years in prison, but at year's end the verdict was pending "approval" by President Kiir.

Contrary to the previous year's reporting, the law does not prohibit domestic violence. Violence, including spousal abuse, against women was common, although there were no reliable statistics on its prevalence. Women were often reluctant to file formal complaints, and police seldom intervened in domestic disputes. Statistics on the number of abusers prosecuted, convicted, or punished were not available.

Sexual Harassment: Sexual harassment is punishable by up to three years' imprisonment and a fine; however, the government rarely enforced the law. Although no statistics were available, observers noted that sexual harassment was a serious problem throughout the country, particularly by police.

Reproductive Rights: Couples were not subject to coercion or violence in deciding the number, spacing, and timing of children; however, few couples had access to the information and means for responsible birth control methods. Contraception, skilled medical attendance during childbirth, and obstetric and postpartum care were not widely available. Reproductive choices were also limited by dowry, since men who paid dowries to marry believed they should have the final say in domestic decisions. High illiteracy rates among women also limited female access to accurate information concerning the right to birth control. Modern contraceptive prevalence was less than 1.5 percent. The maternal mortality rate was 2,054 deaths per 100,000 live births. The leading cause of maternal death was lack of medical care for treatable conditions such as infection, hemorrhage, and obstructed birth.

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

The government took some steps to empower women in political, economic, and social arenas. For example, the Ministry of Education implemented an alternative education program to help women learn literacy and numeracy skills intended to improve their employability. According to the government, 69,134 women benefited from this program.

## **Children**

Birth Registration: Citizenship is derived through birth if a person has any South Sudanese parent, grandparent, or great-grandparent on either the mother's or the father's side, or if a person is a member of one of South Sudan's indigenous ethnic communities. Citizenship can also be derived through naturalization. Birth in South Sudan was not sufficient to claim citizenship. The government did not register all births immediately, and the public had little knowledge of this requirement. Most births were unregistered, but this had no discernible effect on access to public services.

Education: The law provides for tuition-free basic education up to grade eight, although education was not compulsory, and many children did not attend school. Lack of schools and muddy terrain during the rainy season made it difficult for children to attend school. Schools generally lacked materials, trained teachers, and sufficient facilities. Girls often lacked equal access to education. Many girls did not attend school or dropped out of school due to domestic duties at home and fear of school-related gender-based violence. Teachers were mostly male, and in many communities it was not considered acceptable to send girls into a male-dominated public space.

Child Abuse: Abuse of children included physical violence, abduction, and harmful traditional practices such as "girl compensation." Child abuse, including sexual abuse, was reportedly widespread. Child rape occurred frequently in the context of child marriage. UNICEF reported that incidents of child rape increased during the year, particularly by armed groups and as part of the commercial sex industry in urban centers. Child rape was seldom prosecuted, due to fear among victims and their families of stigmatization and retaliation. Child abduction also was a problem. Rural communities often abducted women and children during cattle raids (see section 1.g.).

Child Marriage: The transitional constitution stipulates a minimum marriage age of 18; however, the law was not enforced, and child marriage was common. Early marriage sometimes reflected efforts by men to avoid rape charges, which could

not be brought by a married woman against her husband. In other cases, families of rape victims encouraged marriage to the rapist to avoid public shaming. No statistics were available on the extent of the practice. Many abducted girls, often subject to repeated rape (see section 1.g.), were forced into marriage.

Harmful Traditional Practices: The practice of girl compensation--compensating the family of a crime victim with a young girl from the perpetrator's family--occurred in three counties of Eastern Equatoria State. Victims were generally between the ages of 11 and 15, were often physically and sexually abused, did not attend school, and often were used as servants by their captors. Local officials complained that efforts to curb the practice were impeded by the absence of security and rule of law in many areas.

Although not a common practice in South Sudan, female genital mutilation/cutting (FGM/C) occurred in parts of the country, particularly along the northern border regions in Muslim communities. The 2010 South Sudan Household Survey stated the prevalence was 1.3 percent, but 4 percent of families intended to submit their daughters to the procedure, although health analysts questioned the quality of these data. Several NGOs worked on FGM/C in South Sudan, and the Ministry of Children, Gender, and Social Welfare raised awareness about the dangers of FGM/C through local radio broadcasts.

Sexual Exploitation of Children: The law designates a minimum age of 18 for consensual sex; however, commercial sexual exploitation of children was reported. The law does not address child pornography. Perpetrators of child prostitution and child trafficking might be punished by up to 14 years' imprisonment, although these laws were rarely enforced. Child prostitution and child trafficking both occurred, particularly in urban areas. In larger cities, girls below the age of 18 were involved in prostitution.

Child Soldiers: Government forces demobilized all active duty child soldiers during the year, though association with children continued. Rebel groups recruited and used child soldiers (see section 1.g.).

Displaced Children: During the year numerous children were displaced as a result of conflict and flooding; few had access to government services, such as education (see section 1.g.).

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

## **Anti-Semitism**

There were no statistics concerning the number of Jews in the country. There were no reports of anti-Semitic acts.

## **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip](http://www.state.gov/j/tip).

## **Persons with Disabilities**

The law does not specifically prohibit discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, air travel and other transportation, access to health care, or the provision of other state services. The government has not implemented programs to ensure access to buildings for persons with disabilities. Nearly 23,000 children with special needs were estimated to be enrolled in primary schools. There were no restrictions on the right of persons with disabilities to vote and otherwise participate in civic affairs. There were no mental health hospitals or institutions, and persons with mental disabilities were held often in prisons. Limited mental health services were available at Juba Teaching Hospital.

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

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

Interethnic clashes occurred throughout the year, including the continuation of a cycle of retaliatory attacks between the Murle and Lou Nuer ethnic groups in Jonglei State (see section 1.g.). Interethnic conflict also continued in Lakes State, with subgroups of the dominant Dinka group, Dinka pastoralists, and Jur Bel agriculturalists fighting for land resources. Interethnic clashes occurred in

northeast Lakes State between Nuer from Unity State and Dinka in Lakes State. As in 2011 tensions in Unity State between nomadic Misseriya, the Nuer, and the Ngok Dinka communities resulted in occasional confrontations. Migrations of northern Arab groups, including Misseriya from Southern Kordofan who traveled through Abyei to reach grazing points further south, increased competition and tension over resources for cattle.

While the transitional constitution provides for equal rights for members of all ethnic groups, members of the government often contributed to interethnic conflict through discriminatory rhetoric. For instance, observers report that high-level government officials referred to the Murle ethnic group as inherently violent, developmentally inferior, and sexually deviant. NGOs and other international observers also questioned the government's commitment to facilitating political settlements to intercommunal conflict throughout the country, particularly in Jonglei State.

While the government released a number of statements encouraging religious tolerance, Christians in the country sometimes discriminated against Arabs and Muslims. A government official reported that Muslims faced subtle acts of discrimination regularly, particularly in applications for citizenship or documentation. Officials sometimes refused passports or other documents for citizens of Arab or Muslim descent.

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

Contrary to the previous year's report, the law does not prohibit sodomy. The law prohibits "unnatural offenses," defined as "carnal intercourse against the order of nature." It is punishable by up to 10 years' imprisonment if committed with consent, and up to 14 years' if without consent.

There were no reports that this law was enforced during the year. Societal discrimination against lesbian, gay, bisexual, or transgender (LGBT) persons was widespread, and the president remarked in 2010 that homosexuality would not be accepted in the country. There were no known LGBT organizations. While there were no reports of specific incidents of discrimination or abuse during the year, stigma was a likely factor in preventing incidents from being reported.

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

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

## **Section 7. Worker Rights**

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

As a new nation, South Sudan continued to operate under select legislation inherited from Sudan. The 1997 Labor Act of Sudan remained in effect during the year. That act permits independent unions. The law is silent on the rights to strike and bargain collectively and does not explicitly prohibit antiunion discrimination or provide for reinstatement of workers fired for union activities. The country has not yet created a national labor law. Government enforcement of preexisting labor laws was little to nonexistent.

According to the most recent census, 84 percent of those employed were in nonwage work. The South Sudan Workers' Trade Union, the country's only trade union, had approximately 65,000 members, mainly in the public sector. The union was independent of the governing political party. There were no cases of antiunion or other forms of employer interference in union functions during the year.

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

The law does not prohibit all forms of forced or compulsory labor. The Penal Code Act of 2008 prohibits abduction or transfer of control over a person for the purpose of unlawful compulsory labor. Selling a minor for the purpose of prostitution is a crime, but the law does not prohibit all forms of trafficking. Government enforcement of the law was weak. The government did not investigate or prosecute any trafficking offenses during the year.

Forced labor occurred in domestic servitude, the commercial sex industry, agricultural labor in family farms and cattle camps, and in prisons. There were reports of forced labor involving men, women, and children, many of whom were victims of trafficking from Kenya, Uganda, Democratic Republic of Congo, Ethiopia, or Eritrea. Women, children, and migrants were subject to forced domestic labor in mines, restaurants, street begging, criminal activities, and sexual exploitation.

In 2012 South Sudan joined the International Labor Organization (ILO) and accepted seven ILO conventions, including the Forced Labor, Abolition of Forced Labor, Minimum Age, and Worst Forms of Child Labor conventions.

Also see the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip](http://www.state.gov/j/tip).

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

The law prohibits child labor and the act of exposing children to economic exploitation. The minimum age for paid employment in strenuous work is 15, while the minimum age for "light work" is 12. Under the law strenuous work includes activities such as mining and quarrying, work in factories, graveyard shift work, or employment in prisons or the military. Light work is defined as work that does not harm the health or development of a child and does not affect the child's school attendance or capacity to benefit from such.

The government established a National Steering Committee on Child Labor, led by the Ministry of Labor, to coordinate efforts across government ministries. The ILO trained committee members about child labor. In addition to the Ministry of Labor, the committee includes the ministries of Agriculture and Forestry; Health; Gender, Child and Social Welfare; General Education; Culture, Youth, and Sports; Animal Resources and Fisheries; and Wildlife Conservation and Tourism; as well as ILO and union representatives. While the committee was established to increase coordination across government, officials reported that information flow and cooperation between ministries was inadequate.

The government did not enforce child labor laws. According to the 2008 Sudan Population Census, which included all of Sudan and South Sudan before its independence, three out of five children joined the labor force by age 10, largely through cattle herding or subsistence farming.

The SPLA retained child soldiers during the year, but according to UNICEF, all child soldiers on active military duty were demobilized by the end of the year. The association of nonenlisted children with the SPLA to provide support functions remained a problem, although UNICEF reported that significant strides were made in this area as well. The SPLM-N and RMGs recruited and retained child soldiers, although the SPLM-N used these soldiers for fighting in Sudan (see section 1.g.).

The Ministry of Labor established the Child Labor Unit, staffed with two investigators specifically trained to address child labor, and a steering committee that coordinates efforts to combat child labor across government ministries. Although investigators were charged with removing children engaged in work,

Ministry of Labor officials indicated they did not have the necessary resources to conduct proper investigations.

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

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

South Sudan continued to operate under select legislation inherited from Sudan. There were no new laws stipulating a national minimum wage, nor was there an official estimate of the poverty income level. The Civil Service Provisional Order applies to the public sector and outlines the rights and obligations of public sector workers, including benefits, salaries, and overtime. The law provides the Ministry of Labor, Public Service, and Human Resources with the right to issue the schedule of salary rates according to which all civil servants, officials, and employees were to be paid. Under the law only unskilled workers were to be paid overtime in excess of 40 hours of work per week. Current law does not provide for a standard workweek. Civil servants, officials, and employees working at higher pay grades were expected to work necessary hours beyond the standard workweek without overtime pay. When exceptional additional hours were demanded, the department head may grant time off instead of reimbursement.

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

The Ministry of Labor, Public Service, and Human Resources is responsible for enforcement of laws on wages and working conditions. It had between seven and 10 labor inspectors. Standards were not effectively enforced, and the Ministry of Justice reported receiving no cases of labor violations. No cases were investigated or prosecuted during the year.

Penalties for violations of laws on wages and working conditions were not sufficient to deter violations.

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

agricultural workers, of which 70 percent were agropastoralists, and 53 percent were engaged in unpaid subsistence family farming.