

# **SOUTH SUDAN 2013 HUMAN RIGHTS REPORT**

## **EXECUTIVE SUMMARY**

South Sudan is a republic operating under a transitional constitution signed into law upon declaration of independence from Sudan in July 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 Sudanese. 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, the political wing of the Sudan People's Liberation Army (SPLA). SPLM representatives controlled 19 of the 21 ministries and 298 of 332 seats in the bicameral legislature, which consists of the National Assembly and the Council of States, and nine of 10 state governorships. The legislature lacked independence and was dominated by the ruling party. Authorities failed at times to maintain effective control over the security forces. Security forces committed human rights violations.

On December 14, a contingent of SPLM political leaders withdrew from the party's National Liberation Council (NLC) to protest party governance. On December 15, violence erupted in Juba within the Presidential Guard Force (PG) of the SPLA. According to witnesses, the violence began when PG members of Dinka ethnicity attempted to disarm PG members of Nuer ethnicity. During the weeks that followed, Dinka members of the PG and other security forces reportedly conducted targeted killings of Nuer civilians across the city. The events led to armed conflict between government forces and newly formed antigovernment forces in several states across the country and ethnic violence by civilians. By the end of the year, at least 1,000 individuals were killed and approximately 180,000 displaced as a result. The violence continued at year's end.

The three most serious human rights problems in the country were conflict-related abuses by government security forces, rebel militia groups (RMGs), and rival ethnic communities, including killing, abuse and displacement of civilians; security force abuses unrelated to conflict, including extrajudicial killings, torture, rape, intimidation, and other inhumane treatment of civilians; and lack of access to

justice, including arbitrary arrest, prolonged pretrial detention, and corruption within the justice sector.

Other human rights problems included abductions related to intercommunal and interethnic conflict, particularly of women and children; harsh prison conditions; and government restriction of freedoms of privacy, speech, press, and association. Displaced persons were often 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. Since the outbreak of conflict on December 15, there have been reports of forced conscription by government forces and recruitment and use of child soldiers by both government and antigovernment forces. 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 took some steps to punish military or civilian officials who committed abuses, but impunity remained a major problem.

Conflicts between government forces, antigovernment forces, and RMGs led to human rights abuses. There were credible reports that the following armed groups perpetrated serious human rights abuses in South Sudan during the year: David Yau Yau's rebel militia group, the Lord's Resistance Army, and antigovernment forces aligned with former vice president Riek Machar. The government of Sudan supported some RMGs in South Sudan. Attacks by RMGs affected parts of Jonglei State and areas that border Sudan. RMGs occasionally obstructed the delivery of humanitarian assistance. RMGs operating against the government also continued the recruitment and use of child soldiers throughout the year. The government of Sudan supported some RMGs in South Sudan. After nearly two years of no reported Lord's Resistance Army (LRA) activity in the country, several suspected LRA attacks occurred late in the year in Western Equatoria State, including abduction of four women and children, killing of one boy, and burning and looting of homes. Investigations into these incidents by the UN Mission in the Republic of South Sudan (UNMISS) and international counter-LRA elements based in Nzara, the African Union Regional Taskforce for counter LRA activities, and the government continued at year's end. Displacements resulting from LRA activity in prior years continued to affect communities in Western Equatoria State.

Conflict in South Kordofan and Blue Nile states in Sudan also resulted in displacements that affected South Sudanese communities in states along the border. Attacks in South Sudanese territory by the Sudanese Armed Forces (SAF) resulted in deaths, injuries, property destruction, and civilian displacement in border areas.

## **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.).

On August 20, an SPLA soldier shot and killed the subchief of Ajak Kuac Payam in Twic County, Warrap State. The case remained under investigation at year's end.

Civil society and government sources attributed an increase in violent crime in Juba during the second half of the year in part to security and police forces. For example, on August 18, nine armed men in police uniforms and believed to be carrying police weapons, stormed a residential home in Juba as part of a robbery, shooting and killing two brothers. The police arrested three suspects following the shooting, and the case continued at the end of the year.

The investigation into the August 2012 beating death of Kenyan doctor George Muya in police custody in Torit, Eastern Equatoria State, continued at year's end. 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.

In June 2012 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. There was no investigation by year's end.

### **b. Disappearance**

Security forces and RMGs abducted an unknown number of persons after armed conflict began on December 15. RMGs and ethnically based groups abducted

numerous persons, including women and children, in the intercommunal conflict areas of Jonglei and Western Bahr el Gazal states during the year (see section 1.g.). Security forces sometimes abducted civil society activists (see section 2.a.).

For example, human rights groups reported that two Murle activists disappeared from Juba in May. After more than five months during which they had no contact with family or the public, the two activists were released in November by order of the president. The activists reported that several other Murle detainees died in the same detention facility while they were there.

In 2011 authorities charged SPLA general Mariel Nuor Jok with involvement in the 2011 disappearance of engineer John Luis Silvio. They released General Jok on medical grounds to receive treatment in Nairobi, Kenya; he had not returned to the country as of year's end. No trial took place as a result, although in August the South Sudan Human Rights Commission (SSHRC) requested a court to proceed with the case.

NGOs reported that three former RMG leaders who disappeared in 2011 were held at a facility in Juba known to belong to the SPLA military intelligence unit. One of the RMG leaders, Telefon Kuku, was reportedly released in April after Sudanese president Omar al-Bashir's visit to Juba. The remaining two, Gabriel Tangiye (David Tang) and Peter Sule, were released in October and pardoned by President Kiir.

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

The transitional constitution prohibits such practices. 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 March 19, a mentally ill detainee died in police custody in Aweil West County, Northern Bahr el Ghazal State, allegedly from abuse. One police officer was arrested and six others were suspended. An investigation continued at year's end.

On August 24 and 25, the SPLA in Cueibet County, Lakes State, detained and beat three county SPLM officials and four others, including one school pupil, reportedly under direction of the county commissioner and SPLM county secretary. The victims filed a petition with the Lakes State SPLM acting secretary, but no investigation had taken place by year's end.

In September 2012 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 dismissed the case because Jal decided not to press charges.

Police did not conclude an investigation into the July 2012 beating and detention by SPLA soldiers of Farid Mahdouba in Juba after he delivered a court summons to illegal occupants of land owned by his family. Police responded to the incident but ended their investigation when they learned the SPLA was involved.

The government's investigation and final written report on allegations of rape and other abuse of cadets at the John Garang Unified Police Academy in Rajaf in 2010 resulted in one dismissal and the suspension of several South Sudan National Police Service (SSNPS) personnel involved in the abuse as well as suspension of duties for high-level leadership for indirect responsibility. No criminal charges were filed, however, and observers reported that one of the victims fled the country in fear.

Police and SPLA personnel reportedly tortured and raped women during the year. For example, on August 16, an SPLA soldier sexually abused a 13-year-old girl in her home in Pibor town, Pibor County. The SPLA arrested the suspect, and the investigation continued at year's end.

UNMISS received reports that the SPLA committed 12 rapes and six attempted rapes during the 2012 disarmament campaign in Jonglei. SPLA officials investigated some, but not all, accusations of rape during the 2012 disarmament campaign and reported that seven accused rapists were sent to trial in Pibor County. The government reported that some of the trials resulted in convictions, although information on the number and length of sentences was not available. The media reported in October that two SPLA officers were convicted of committing rape earlier in the year in Pibor County, but these convictions and sentences could not be confirmed. NGOs and UNMISS reported that soldiers accused of abuse were often detained briefly but then released days later to active duty.

Authorities prosecuted police personnel for the 2011 assault and rape of a female detainee in Juba's Malakia police station, but government sources reported that the court acquitted the suspects based on lack of evidence.

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

Prison conditions were harsh, life threatening, and overcrowded. 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. For example, on May 30, an observer witnessed a prison guard at Juba Central Prison order an inmate to lie on the ground and proceed to strike the inmate repeatedly with what appeared to be a rubber hose or whip. According to the observer, no one in the vicinity reacted and no disciplinary measures resulted.

Physical Conditions: At year's end state-controlled prisons held approximately 7,500 inmates, an increase of more than 20 percent since 2012, and many more were held in municipal or community-controlled jails around the country. Overcrowding remained a problem. For example, Juba Central Prison was designed for 400 inmates but held at least 1,200. Prisons held approximately 400 female inmates. Men and women were generally, but not always, held in separate areas, but male, female, and juvenile inmates often mixed freely during the day due to space constraints. Due to overcrowding, authorities did not always hold juveniles separately from adults and rarely separated pretrial detainees from convicted prisoners. Children, especially infants, often lived with their adult female relative 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, but availability improved markedly at Juba Central Prison, which upgraded its water infrastructure following riots there in August 2012. During the day, prisoners usually stayed outside and participated in recreational activity and, in some prisons, voluntary educational programs. At night, they slept in overcrowded, open hallways and buildings 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, and in some cases worse, with many detainees held outdoors with poor access to sanitary or medical facilities.

The National Security Service (NSS) illegally operated a detention facility in Juba that held civilian prisoners (see section 1.d.). Detainees reported that conditions at the NSS facility were usually harsher than at Juba Central Prison, with limited access to sanitary facilities or medical treatment. The NSS held some detainees in darkened rooms for most of the day.

Administration: Recordkeeping practices were poor, and most of the low-ranking prison staff were illiterate. Although authorities claimed that the prisons held no undocumented inmates, the Prisons Service was sometimes unable to produce any records justifying a prisoner's detention.

Authorities used alternatives to incarceration for nonviolent offenders more often than in 2012, particularly for juveniles, although most children in the prisons were held for nonviolent offenses. Remand boards in areas such as Wau, Malakal, Yambio, and Torit commonly considered alternatives to incarceration for those accused of nonviolent crimes. In May the government suspended remand boards in Juba because it had established mobile courts for Juba prisons to adjudicate juveniles held in detention beyond statutory limits. Remands increased significantly thereafter, however, and the number of juveniles held in detention beyond statutory limits doubled during the year. The average length of stay for juveniles in Juba Central Prison was 119 days. There were no prison ombudsmen.

The National Prison Service allowed prisoners access to visitors and permitted them to take part in religious observances, but NSS and SPLA authorities were less likely to do so. The National Prison Service 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.

Independent Monitoring: The National Prison Service permitted visits by independent human rights observers, including UNMISS human rights officers, nongovernmental observers, international organizations, and journalists. 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 civilians without legal authority.

Improvements: The National Prison Service began a year-long professional development course for new officers to professionalize and institutionalize training. It also produced an annual report surveying the inmate population, achievements, and challenges and further developed its agricultural farming program to help address food deficiencies. The government continued low-cost reform efforts to lower the number of pretrial detainees and alleviate overcrowding (see section 1.d.), although it was not clear if these efforts were effective in reducing numbers during the year.

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

The transitional constitution prohibits arbitrary arrest and detention without charge. The government arrested and detained individuals arbitrarily during the year. While not legally vested with the power to arrest or detain civilians, the SPLA and the NSS did so often, rarely reporting such arrests to police, other civilian authorities, or diplomatic missions in the case of foreigners (see sections 1.a., 1.c., and 1.g.). Police also routinely arrested civilians based on little or no evidence prior to conducting investigations and often held them for weeks or months without charge or trial.

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

The 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 and former 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 70 percent among SSNPS personnel 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 exercised police functions, in part due to the ineffectiveness of law enforcement in many parts of the country. The SPLA routinely detained persons, including in SPLA-run detention facilities to which monitors often had little 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, although some convictions of SPLA personnel based on human rights abuses and other crimes occurred during the year.

The NSS does not have arrest or detention authority except in extraordinary cases affecting national security, and there is no law regulating the NSS. Nevertheless, the NSS frequently detained civil society activists, businesspersons, NGO personnel, journalists, and others to intimidate perceived opposition figures. The NSS also detained international organization representatives, including two UNMISS officers. 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 the security sector. During the year donors trained additional SPLA judge advocates, who took courses in international humanitarian law, human rights law, and military criminal justice, increasing the number of judge advocates from a total of 85 in 2011 to 93 during the year. The SPLA also received legal support and guidance from donor-funded Ministry of Defense legal advisors on human rights cases.

### **Arrest Procedures and Treatment of Detainees**

While police must bring arrested persons before a public prosecutor, magistrate, or court within 24 hours, there were no public prosecutors or magistrates below the county level available 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 sometimes ignored

court orders to bring arrested persons before the court. Police, prosecutors, 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.

Arbitrary Arrest: Security forces arbitrarily arrested opposition leaders, civil society activists, businesspersons, and journalists (see sections 1.c., 1.e., 1.g., 2.a., and 3). Security forces often abused political opponents and others who were detained without charge. Ignorance of the law and proper procedures also led to many arbitrary detentions. Most justice-sector actors, including police and judges, operated under a victim-centric approach that prioritized restitution and satisfaction for victims of crime, rather than following legal procedure. This approach led to many arbitrary arrests of citizens who were simply in the vicinity when crimes were committed or who were relatives of those suspected of committing crimes.

In August the county commissioner in Yei ordered the arrest of bill collectors and the general manager of Yei Electrical Cooperative Organization when power to his residence was shut off because of unpaid bills amounting to more than 10,000 South Sudanese pounds (SSP) (\$3,390). Those arrested were released after a day.

According to reports by an international NGO, the SPLA unlawfully detained and mistreated 130 civilians in Lakes State between February and June in response to armed violence and intercommunal fighting.

Authorities released the journalist detained in December 2012 in Western Bahr el Ghazal for failing to cover a speech by President Kiir, although media reported that he went into hiding for his own safety.

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, a misunderstanding of constitutional and legal requirements by police, prosecutors, and judges, 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.

In August authorities arrested a foreign citizen two days after the individual arrived in Juba on a business trip. The prosecutor ignored orders by the court that the detainee be promptly charged, released, or brought before a judge. The detainee remained in detention for six weeks before being released without charges.

Amnesty: The government extended blanket amnesty to several armed groups during the year. In April the president offered amnesty to David Yau Yau, Gordon Kong, Oyuok Ogot, Bapiny Monytil Wicjang, Johnson Uliny, Munto Abdhalla Munto, and their respective forces. Wicjang, Uliny, Munto, and Ogot accepted the offer during the year; the remaining offers of amnesty remained outstanding at year's end. In October politician Lam Akol also received a presidential pardon for his alleged support for a rebellion in Upper Nile State.

#### **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). Government sources estimated that customary courts handled 80 percent of all cases.

Both statutory and customary courts were undermined by political pressure, corruption, discrimination towards women, 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 a public trial, the right to be present in a criminal trial without undue delay, the right to confront witnesses against them and to present witnesses and evidence, and access to legal aid. Free interpretation was rarely, if ever, offered, legal aid was almost never available, and most detainees were not informed promptly of the charges against them. 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 without regard for providing 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 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 took place outdoors, but were rare in statutory courts, primarily due to space limitations and occasionally due to government secrecy. Some high-level court officials opposed media access to courts and asserted that the media should not comment on ongoing cases. 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. No government legal aid structure existed.

Defendants did not necessarily have access to counsel or the right of appeal, and discrimination against women was common. 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.

The Supreme Court is the only court with original jurisdiction over constitutional cases. On August 7, five lawyers petitioned the Supreme Court in the first constitutional challenge since 2005. The case challenged the constitutionality of an order by President Kiir, in his capacity as chairperson of the SPLM, restricting the freedom of movement and expression of Pa'gan Amum, the SPLM secretary general. The court had not taken action on the petition as of year's end, and one of Amum's lawyers fled to Nairobi after he and another attorney received threats against their lives and their families.

### **Political Prisoners and Detainees**

There were reports of political prisoners and detainees, which civil society groups estimated to number in the dozens at any given time. They were typically held for a few hours to a few days or weeks prior to release, usually without charge, and reportedly in an effort to intimidate or stifle opposition.

On December 15 and 16, security forces detained 11 politically prominent individuals accused by the government of working with former vice president Riek Machar to carry out an alleged coup. At year's end, the detainees remained in custody, and the government had not presented any charges or evidence to support the allegation.

The police released without charge 15 members of the opposition Sudan People's Liberation Movement-Democratic Change (SPLM-DC) party arrested in August 2012 in Upper Nile State.

Observers reported nine opposition members arrested in 2011 for inciting antigovernment demonstrations in Northern Bahr el Ghazal State remained 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, although 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 the government's confiscation of property.

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

During the conflict between the government and antigovernment forces aligned with former vice president Riek Machar that began on December 15, security forces, RMGs, and civilians committed conflict-related abuses in Central Equatoria, Jonglei, Unity, Upper Nile, and Lakes states. At year's end, at least 1,000 individuals had been killed in the conflict and approximately 180,000 displaced.

During the year, conflict-related abuses occurred in parts of Central Equatoria, Eastern Equatoria, Jonglei, Lakes, Northern Bahr el Ghazal, Unity, Upper Nile, Warrap, and Western Bahr el Ghazal states. Ethnic tension and cyclical violence in these states contributed to widespread abuses. Clashes between the SPLA and RMGs, interethnic fighting, and other violent incidents unrelated to the conflict that began on December 15 resulted in at least 561 confirmed civilian deaths and the displacement of 131,990 persons during the first nine months of the year, according to the UN Office for the Coordination of Humanitarian Affairs (OCHA). This represented a reduction from the nearly 168,000 individuals displaced and 1,289 confirmed civilian deaths over a similar period in 2012, although the 2013 figures may not include all deaths and displacement in areas inaccessible to humanitarian actors, particularly in parts of Jonglei State and other areas affected by continuing conflict. 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 throughout the year in Jonglei State. Clashes between the SPLA and an RMG, as well as mobilization of armed Lou Nuer youth groups that entered Murle-occupied areas of Jonglei's Pibor County, may have displaced or otherwise adversely affected an estimated 120,000 civilians across the county during the year. Conflict observers reported that the main cause of displacement was Murle fear that the SPLA targeted civilians as part of its campaign against David Yau Yau's uprising.

During the year SPLA units stationed in town centers looted and destroyed civilian property as well as prepositioned emergency food supplies in order to resupply garrisons and isolate rebels from resources. By August all six main population centers in Jonglei State (Boma, Gumuruk, Likuangole, Manyabol, Mewun, and Pibor) were either partially or completely abandoned due to poor security and civilian fears of SPLA or RMG abuses, according to OCHA.

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 often began with cattle raiding led to violent attacks on civilians in Eastern Equatoria, Jonglei, Lakes, Warrap, Western Bahr el Ghazal, Unity, and Upper Nile states.

The security situation in the contested Kiir Adem area between Northern Bahr el Ghazal State and Sudan's East Darfur State remained unstable since sporadic clashes in April 2012. Fighting resulted in displacement of approximately 26,000 persons from north and south of the Kiir River to Northern Bahr el Ghazal State's Aweil East and Aweil North counties, according to the UN.

**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.

Humanitarian actors and international organizations received many reports of SPLA targeting and killing primarily Murle civilians in Jonglei, particularly in Pibor town.

During May, when David Yau Yau's insurgency threatened Pibor town, the SPLA responded by burning homes, looting NGO and UN assets, and committing other abuses in the area, including killing five women, two men, and one child walking near Gumuruk towards Pibor town and killing a mother, her 14-year-old daughter, and a two-week-old baby outside Pibor town.

Between May 18 and 21, as many as 38 SPLA soldiers were reportedly accused of desertion and summarily executed in front of an SPLA camp in Upper Boma. Reports indicated that all 38 were Murle and targeted based on their ethnicity.

On July 31, a member of an SPLA patrol allegedly attacked a group of nine civilian women and several accompanying children in Lukurnyang village near Pibor town, resulting in two civilian deaths and injury to a six-month-old child. The civilians were reportedly traveling from Kuye village to Pibor town to register for planned food distributions. Authorities arrested the assailant and the patrol's commanding officer. The incident led the UN World Food Program (WFP) to discontinue food distributions for six days to reassess the security situation.

The WFP suspended food distributions in Pibor town again on August 19 due to escalating tensions and increased reports of SPLA violations, including reports of an SPLA soldier attacking three Murle women, an SPLA soldier sexually assaulting a 13-year-old girl, and growing fear of additional violence in the Murle community. UN agencies also reported several instances of SPLA harassment or obstruction of humanitarian personnel and an SPLA soldier stealing food from a WFP facility.

According to NGOs, there were at least 16 separate instances where SPLA soldiers killed civilians in Pibor County, two instances where auxiliary police under SPLA command killed civilians in Gumuruk and Manyabol, and four instances where the SPLA unlawfully killed Murle members of security forces.

Community relations with the SPLA varied across Pibor County, and the SPLA occasionally took steps to address abuses. In response to a series of SPLA human rights abuses over several months and calls for accountability for abuses during the 2012 disarmament campaign in Jonglei, President Kiir ordered an investigation. On August 21, the SPLA arrested General James Otong Riek, SPLA commander in

Pibor County, on charges of command responsibility for the abuses. His trial was pending in military court in Juba at year's end. Some observers believed his arrest was related to violations of the SPLA code of conduct rather than human rights abuses.

During the year the SPLA transferred some cases of SPLA abuse of civilian victims to civilian court as required by law, including one case of attempted rape and three murder cases in Jonglei. Nevertheless, according to NGOs, most abuse cases went unreported and unpunished, and civilians had little, if any, legal recourse.

On February 8, a group of armed men believed to be Murle attacked a Lou Nuer pastoralist group near Walgak, Jonglei State, killing 85, including 65 confirmed civilians.

On April 9, unidentified armed actors attacked a UN convoy escorted by UNMISS in Pibor County, Jonglei. The attack resulted in the death of five UNMISS peacekeepers and seven staff members and injury to at least nine others. The UN conducted a board of inquiry into the incident.

Media and international NGOs reported more than 300 persons died in ethnic violence in Pibor County, Jonglei, during the mobilization of thousands of Lou Nuer youth and their movement into Murle areas in July.

On August 9, eight persons were killed and six injured in a cattle raid in Twic East County, Jonglei, by suspected Murle raiders.

In October suspected Murle raiders killed 79 individuals, injured 78 others, and abducted several women and children in a cattle raid in Twic East County, Jonglei.

Although Jonglei State saw the most extensive violence during the year, particularly in July, conflict-related violence, killings, and displacement affected several other states throughout the year. For example, inter-clan clashes in Lakes State on January 16 left 10 dead and a dozen injured, while continued inter-clan clashes on January 18 left 25 dead and 30 injured. Nineteen persons were killed on February 19 due to ethnic clashes in Warrap State. On March 27, three civilians were killed in Northern Bahr el Ghazal in an attack attributed to the Government of Sudan, and five civilians and one police officer were killed in Warrap on the same day in a cattle raid. On April 15, 13 persons were killed in a cattle raid in Eastern

Equatoria State. On July 16, a cattle raid in Unity State resulted in the deaths of 17 individuals.

From December 15 to 18, PG and other security forces members reportedly conducted targeted killings of several hundred ethnic Nuer civilians within Juba. Witnesses reported that targeted ethnic killings occurred in the city throughout the remainder of the year. On December 16, a survivor and other witnesses reported that approximately 250 Nuer men were gathered on the basis of their ethnicity in the Gudele neighborhood and taken to a police station holding cell, where PG forces shot repeatedly into the cell from the windows, killing all but eight men, who survived by lying under dead bodies for approximately 24 hours. Also on December 16, witnesses reported that the PG went door to door in a Juba neighborhood near the Nile River, collecting approximately 240 Nuer men, whom they bound, blindfolded, shot, and threw into the river.

Targeted killings of ethnic Dinka by civilian and antigovernment forces were reported in other states and were believed to be in reaction to the abuses in Juba that began on December 15. NGOs reported that RMG forces killed all Dinka civilians, including the deputy county commissioner, who remained in Akobo, Jonglei State, after antigovernment forces took control of the area in late December. On December 19, three UN peacekeepers were killed when Nuer youth attacked the UN compound in Akobo, also killing 20 Dinka civilians who had sought refuge in the compound. NGOs also reported killings of Dinka in Malakal, Upper Nile State, when antigovernment forces took control of the city.

On December 27, the media reported antigovernment forces killed approximately 30 women and children in attacks on two villages, Agarak and Aliap, in Unity State.

Abductions: In January the media reported that 14 women and children were abducted during Sudanese army attacks on the SPLA in Kitkit, Western Bahr el Gazal.

Intertribal and intercommunal clashes, particularly between the Murle, Lou Nuer, and Bor Dinka communities in Jonglei State, resulted in abductions of women and children. For example, in the February 8 attack in Walgak, armed men alleged to be Murle attacked a Lou Nuer pastoralist group, and as many as 34 women and children were reported abducted.

While the Murle were often cited as the primary group engaged in abductions, local government representatives and humanitarian actors reported numerous abductions in the July Lou Nuer attack on Pibor County as well. The Pibor County commissioner's report on the July violence stated that the attackers abducted 32 women and children. Some community members asserted that such abductions were for the purpose of retrieving previously abducted family members. In addition, humanitarian groups received reports of abductions between Murle and Jieh, as well as Bor Dinka and Murle during the year, although on a much less frequent basis and smaller scale.

Suspected LRA elements committed several abuses from November 4 to 11 in Western Equatoria State, including abduction of four women and children, killing of one boy, and burning and looting of homes. Investigations into these incidents continued at the end of the year.

From December 16 through the end of the year, an unknown number of Nuer civilians in Juba disappeared. Government security forces reportedly detained them for being potential supporters of the political or military opposition. SPLA forces also reportedly abducted civilians from within the UNMISS compound in Bor during the second half of December.

Physical Abuse, Punishment, and Torture: Government, antigovernment, 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 2012, 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 2012. Very few offenders were held to account. Unconfirmed media reports indicated in October that two SPLA officers were convicted of rape, but the SPLA did not indicate when the offenses occurred or what sentences, if any, were carried out.

UNMISS and NGOs believed that victims of abduction by both Murle and Lou Nuer were commonly raped repeatedly while in captivity, although many rapes went unreported.

Humanitarian actors received several reports of SPLA abducting and raping women and using torture against men to solicit information. In February a new contingent of SPLA soldiers reportedly demanded sexual favors from women

seeking to access water points in Boma, Jonglei State. In March there were reports of the abduction and rape of women and girls in Kondako, near Pibor town, Jonglei State, including girls as young as six.

Despite international-led efforts to clear them, mines were a threat to local populations in some areas.

Humanitarian actors reported remaining in Jonglei State throughout the year, and humanitarian staff treated at least two mine victims in the area, although access to suspected hazardous areas remained difficult. According to the UN, 625 known or suspected hazardous areas existed in the country.

The outbreak of conflict on December 15 exacerbated the conditions of already vulnerable populations, women, and children. The media reported that children were separated from their parents in overcrowded camps. Incidents of conflict-related sexual and gender-based violence were reported. UN personnel received reports of persons raped by uniformed assailants in Malakal in Upper Nile State. During the second half of December, internally displaced persons (IDPs) in the UNMISS compound in Tong Ping, Juba, frequently reported that security forces raped Nuer women who left the camp in search of food and supplies.

Child Soldiers: Since the outbreak of conflict on December 15, there were reports of forced conscription by government forces and recruitment and use of child soldiers by both government and antigovernment forces. There were also reports of seven new recruitments of 64 children by security forces during the year to serve in noncombatant roles, mostly to assist elderly veterans. Half of these boys were reunited with their families by year's end. An SPLA/UN report in August, which tracked demobilization of child soldiers since efforts began in March 2012, stated that the SPLA had identified 254 boys within the armed forces and RMG forces, including 167 associated with the SPLA. During the year the SPLA and RMGs released 174 child soldiers, who were returned to their families, and assisted with reintegration programs. The National Disarmament, Demobilization, and Reintegration (DDR) Commission continued work on the remaining cases. In August the SPLA initiated an investigation into reports of children associated with units in Basilia in Eastern Equatoria State. The SPLA reported 50 boys associated with its troops in Pochalla, Jonglei State. The NGO that reported these numbers reflected increased SPLA sensitivity in reporting such incidents and improved screening mechanisms.

On August 14, General Hoth Mai, SPLA chief of general staff, signed a new directive on the Child Protection Punitive Order, which requires commanders to sign and deliver to him a certification of persons under age 18 within 60 days following completion of unit inspections for underage personnel.

The number of occupied schools rose since September 2012, when the SPLA was present in only one school. As of August, SPLA forces occupied 25 schools. New occupations were reported regularly during the year. For example, the SPLA set up two new bases for military operations against militias allied with David Yau Yau in two schools in Jonglei State. In some instances civilian authorities reportedly offered schools to the SPLA for military operations. This occurred in Jonglei, Lakes, Warrap, and Eastern Equatoria states, according to international observers.

The DDR Commission continued to monitor 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. It also undertook training initiatives for SPLA judge advocates on child protection.

RMGs recruited child soldiers, with some groups relying on youth as their primary fighting force. No estimate of numbers of juveniles in RMGs was available, although observers believed David Yau Yau's militia, numbering in the thousands, included a significant number of child soldiers. 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. The government also harassed humanitarian workers and interfered with aid delivery.

Conflict often prevented humanitarian access. For example, on June 14, the SPLA prevented members of a UN interagency mission from moving freely in Pibor town and accessing their own compounds. Some humanitarian actors reported that during the months of June and July, the SPLA, at times, restricted access and

interfered with relief operations on the ground, particularly in Pibor town, Jonglei State. In July, SPLA leadership instituted a policy to allow humanitarian actors to provide assistance in all areas of need in Jonglei State, including locations outside government control. By August most humanitarian actors stated that the SPLA allowed them access to all areas, but that weather and infrastructure often limited relief operations.

During the conflict between government and antigovernment forces in December, the government prevented humanitarian flights into Bor, Jonglei State, on multiple occasions, leaving the UNMISS compound and IDPs with critically low food, water, and medical supplies, and inhibiting the UN's ability to evacuate injured civilians and vulnerable IDPs.

OCHA reported 128 incidents of interference with humanitarian access from January to June. Violence against humanitarian personnel, destruction of facilities, and the looting of assets remained of the most significant concern. Reports indicated that this violence constituted an estimated 64 percent of recorded incidents between April and June, and robbery constituted approximately 50 percent of the incidents of violence against humanitarian personnel and assets. More than 40 percent of all theft targeted humanitarian storage facilities in Maban County, Upper Nile State, where the largest refugee camp exists for Sudanese fleeing fighting in Sudan.

In April and May, SPLA soldiers prevented civilians from leaving Pibor town, looted supplies from civilian homes and NGO facilities, and used civilians as human shields during rebel attacks on Boma.

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 near the Sudan border to protect themselves against SAF attacks or for recuperation and resupply. NGOs and UN agencies voiced concerns that the SPLM-N presence in refugee camps endangered civilians and charged that the 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, resisted efforts by the UN Office of the High Commissioner on Refugees (UNHCR) and other humanitarian agencies to relocate refugees to camps farther south of the Sudanese border. Some NGOs attributed this to SPLM-N forces benefiting from proximity to Sudan's Southern Kordofan and Blue Nile states.

Displacements due to LRA activity in prior years continued to affect communities in Western Equatoria State.

The government's capacity to assist 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.

Fighting among the SPLA, David Yau Yau's forces, and armed elements of the Murle and Lou Nuer communities in Pibor County may have displaced as many as 120,000 residents of Pibor and Akobo Counties since July 2012.

Continued fighting in multiple states between government and antigovernment forces affiliated with Riek Machar and fear of extrajudicial killings targeting specific ethnic groups displaced 180,000 individuals during the second half of December.

Since 2011 the sporadic fighting between SAF and SPLM-N forces and indiscriminate aerial bombardment of civilians in Sudan's Southern Kordofan and Blue Nile states resulted in the displacement of 203,595 refugees from Sudan to South Sudan by October. Of these, 75,517 were in Unity State, 7,322 in Central Equatoria and Western Equatoria states, and 120,751 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. The country hosted approximately 224,693 refugees from neighboring countries as of October.

According to the IOM, 59,732 persons of South Sudanese origin or descent returned to the country from Sudan between January 1 and July 31, the lowest number for this period since 2007. Returnees sometimes were subjected to abuse by security forces and RMGs and faced confrontation from local communities over land, housing, and other limited resources. According to OCHA, there could be more than 250,000 South Sudanese still in Sudan.

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

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

The transitional constitution provides for freedom of speech and press. The government did not always respect these rights.

Freedom of Speech: The government sometimes attempted to impede criticism by monitoring, intimidating, harassing, arresting, or detaining members of civil society and individual citizens who publicly criticized the government.

On July 25, President Kiir signed a presidential decree ordering Pa'gan Amum, secretary general of the SPLM, not to speak with media or travel outside Juba, pending completion of an investigation on him, which many believed to be politically motivated.

Authorities had not completed an investigation into the July 2012 kidnapping and beating of civil society activist Deng Athuai by year's end. Athuai's 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.

Press Freedoms: Independent media in the country included 11 newspapers and magazines and 11 radio stations. The country had two television stations, one government-owned and one private.

Government officials or individuals close to the government occasionally interfered in the publication of articles, and high-level government officials suggested that press freedom should not extend to government criticism.

On April 23, the acting governor of Lakes State reportedly stated at an event attended by high-level state government officials that those who criticized the state government would be "crucified" if captured.

On November 6, the minister of information stated in a press conference that journalists who "misbehave" would not be "tolerated." Local media interpreted the warning as a threat for those who criticize the government.

In late November the minister of information and broadcasting, Michael Makuei, demanded that all journalists individually register with the ministry and pay \$50 in cash (\$100 for international journalists), and that all media houses reregister and pay \$1,000, although they all held current certificates of operation issued by the ministry as well as other licenses from the government. The minister verbally notified the press of the new requirements rather than through written regulations.

Security forces prevented most journalists from covering a December 6 press conference held by former vice president Riek Machar concerning political tensions and governance issues within the SPLM. Radio stations that covered the conference reportedly received threatening telephone calls the following day. On December 7, security officials confiscated copies of *Al Misr*, an Arabic-language weekly newspaper, from the airport, as well as copies of the *Juba Monitor* for reporting on the press conference.

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.

On May 2, police arrested Michael Koma, the managing editor of the country's *Juba Monitor*, and detained him for four days following the publication of an article critical of the deputy security minister. The editor in chief of the daily was interrogated for eight hours.

In June, John Garang, a journalist working for South Sudan Television, was intimidated by the NSS and eventually dismissed, reportedly for his negative reporting on the government and his position against corruption and nepotism at the television station. An investigation by new Minister of Information and Broadcasting Michael Makuei led to a decision to reinstate him.

On November 30, NSS agents arrested two *Citizen* newspaper journalists and detained them for two hours at the NSS detention facility in Juba. The journalists were interviewing bystanders at the Juba market regarding the demolition of the vendors' stores on November 29. While the journalists were video recording the area, security agents reportedly arrested them, confiscated their camera, and ordered them not to publish any information gathered at the scene as that would undermine the good image of the government. Security forces reportedly contacted the journalists by telephone on December 3, demanding to know why reports on the demolition and their arrest were published.

The investigation into the December 2012 killing of prominent South Sudanese journalist and blogger, Isaiah Diing Abraham Chan Awuol (pen name Isaiah Abraham), had not concluded at the end of the year. Abraham complained of death threats, supposedly from NSS officials, in the weeks leading up to his death.

Members of the media reported engaging in self-censorship due to fear of government retribution. Although some media sources reported that harassment diminished somewhat during the year due to public and diplomatic criticism of and dialogue with security forces, leading figures in the press reported that threats and high-level intimidation by national security forces resulted in self-censorship and, in one case, resignation by media members.

Libel Laws/National Security: In contrast to 2012, there were no high-profile cases of security forces and other authorities accusing journalists of espionage or allegiance to rival governments with little evidence.

### **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 appropriate legal authority. 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.

## **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.

In October 2012 a security official fired bullets into a crowd of protesters at the Juba Day Secondary School during a protest over a land dispute. 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. The state government's committee to investigate the incident had not released its report by year's end. In response to the incident, the state governor fired the school's director and some teachers, although the teachers were later reinstated.

Eight protesters were killed when security forces opened fire on a peaceful demonstration in December 2012 in Western Bahr el Ghazal. An international NGO reported in May that the government failed to carry out an adequate investigation. No one was charged in the protesters' deaths, but 11 community members were sentenced to death for participating in a retaliatory attack that followed in which six protesters were killed.

### **Freedom of Association**

The transitional constitution provides for freedom of association, and the government generally respected this right. Some civil society leaders, however, interpreted the Political Parties Act passed in 2012 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. 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 IDPs, refugees, and persons of South Sudanese nationality or descent living in Sudan who returned to the country during the year. Security forces and RMGs, however, sometimes restricted the movement of UN personnel and the delivery of humanitarian aid. Returnees sometimes faced violence and abuse from local communities, which viewed the returnees as competition for local resources (see section 1.g.).

From January to September, 73,324 persons of South Sudanese origin living in Sudan returned to the country through government-organized programs coordinated by the UNHCR and IOM. Highest returnee rates were to Jonglei, Northern Bahr el Ghazal, Unity, and Lakes states.

Xenophobia among the general population, stemming from a perception that foreigners were taking jobs and economic opportunities from South Sudanese citizens, continued. Reports throughout the year that security forces harassed Kenyans, Ugandans, Ethiopians, Eritreans, and Somalis working in the country were common.

Exile: Lam Akol, the SPLM-DC party's candidate for president in the 2010 elections, ended his self-imposed exile in November after President Kiir pardoned him in October. The government had accused the SPLM-DC party of sponsoring militia activity in the country.

Emigration and Repatriation: The Governments of Sudan and South Sudan signed nine agreements on security, economic, and other matters, including an agreement to protect freedoms of residence, movement, economic activity, and property ownership for citizens of both countries residing in Sudan or South Sudan. Both countries failed to make progress during the year on implementing the agreement with respect to each other's nationals, however.

Citizenship: While there were no reports that the government revoked citizenship for political reasons, some NGOs reported that residents of the country whose ancestors emigrated from other countries or who had Muslim names were sometimes denied citizenship due to subjective application of criteria in the nationality law (see section 6).

### **Internally Displaced Persons (IDPs)**

According to OCHA, 131,990 persons were displaced during the year as of September, with possibly many more displaced in Jonglei, but in areas unreachable to humanitarian actors following violence there during July. The UNHCR estimated 270,000 IDPs were in the country. An additional 180,000 were displaced in several states during fighting between the government and antigovernment forces during the second half of December, according to the UN. The government has no laws or policies in place to protect IDPs in accordance with the UN Guiding Principles on Internal Displacement, although the government signed the Geneva Conventions in 2012, and they entered into effect in January (see section 1.g.).

The military was present in IDP camps, and abuse was often reported. For example, UNMISS reported in August that SPLA troops were present in an IDP compound housing displaced persons from Jonglei State in Kapoeta, Eastern

Equatoria State. A community leader in the compound reported that more than 1,000 soldiers were camped there and arrived on August 24 with three months of rations. The local population reported abusive behavior towards the IDPs, including attempted rape.

### **Protection of Refugees**

Access to Asylum: The South Sudan Refugee Act was made public during the year, which provides for protection of refugees as well as the granting of asylum and refugee status. During the year the government also established by presidential decree the Commission for Refugee Affairs in accordance with the Refugee Act to regulate the presence of refugees and their legal status. The government allowed returnees from Sudan and refugees from a variety of countries to settle and generally did not treat refugees differently from 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. For example, the media reported in January that women and children in refugee camps in Maban, Upper Nile State, faced harassment and abuse, including rape, from local communities. 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.

Host communities commonly discriminated against refugees or returnees and sometimes prevented their access to services and resources.

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. No national procedures were in place to facilitate the provision of identity documents for returnees or the naturalization of refugees beyond procedures that were in place for all citizens and other applicants. 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. This meant persons of South Sudanese origin who lacked close community connections at their final destinations were often 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 the country's indigenous ethnic communities. Citizenship may also be derived through naturalization. Birth in the country was not sufficient to claim citizenship. According to the UNHCR, because the government has not reached an agreement with Sudan on nationality and citizenship issues, clear regulations on citizenship do not exist, so the risk of statelessness in the country remained high, particularly for IDPs, nomadic groups, and returning refugees.

State authorities denied citizenship to certain ethnic communities lacking state recognition elsewhere, generally due to ethnic discrimination.

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

The transitional constitution, which came into effect in July 2011, provides that every citizen has the right to participate in elections in accordance with the constitution and the law.

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

Recent Elections: The country has not held elections since becoming independent in July 2011. Civic education remained low in the country and contributed to limit public understanding of political processes.

Prior to independence, presidential, gubernatorial, and legislative elections took place throughout Sudan in April 2010. In Southern Sudan, elections 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 by international observers within the semiautonomous region of Southern Sudan, observers believed the SPLM manipulated state elections to provide for 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.

During the year citizens did not have an opportunity to exercise the right to vote in state-level elections because President Kiir filled open legislative and gubernatorial seats with caretaker appointments that became de facto permanent ones, in contravention of the transitional constitution's requirement for by-elections within 60 days of a vacancy. Open gubernatorial seats existed because of President Kiir's own actions, including removal of the governors of Unity and Lakes States and appointment of the governor of Jonglei State as defense minister.

The transitional constitution states that national elections are to be held in 2015 and that a national census must be held prior to the elections to determine electoral boundary lines. No progress was made in funding a national census, calling into question the government's ability and will to meet the constitutional prerequisite for elections in 2015. The National Election Commission was unable to establish the state high committees as required to prepare for elections in 2015.

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. In July, President Kiir dissolved his cabinet, including the vice president, all ministers, and all deputy ministers, and reduced the number of ministries from 29 to 21. Although the National Legislative Assembly (NLA) followed constitutional requirements for vetting President Kiir's nominees for most cabinet positions, many politicians and civil society actors reported that the NLA's unanimous endorsement of the president's vice presidential nominee, James Wani Igga, and the speaker and deputy speakers of the NLA, failed to follow constitutional procedures as a result of intimidation by the president.

In a press conference on December 6, former vice president Machar, accompanied by several members of the SPLM Political Bureau, the party's executive body, accused President Kiir of dictatorial tendencies and of paralyzing the party's democratic processes. Several senior SPLM members decided to protest Kiir's

leadership of the party and boycotted the SPLM's NLC deliberations on December 14, one day before violence erupted in Juba.

Opposition parties headed two of 21 ministries and suffered from limited financial resources and poor infrastructure. Only a few held regular party conventions or established communication networks, and they held a small minority of seats in the NLA and Council of States. The Political Parties Act, passed in March 2012, 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 had insufficient representation on the National Constitutional Review Commission (NCRC), the body responsible for developing the country's permanent constitution. Some boycotted the NCRC entirely.

SPLM leaders alleged that some opposition parties were financed by or loyal to the Sudanese government.

Participation of Women and Minorities: The transitional constitution requires at least 25 percent female participation in the legislative and executive branches of government at the national and state levels. Women held 99 of the 332 seats in the NLA but occupied only five of the 50 seats in the Council of States. The government had largely not met the 25 percent representation requirement for women at the state level. Five women served in the 21-member cabinet, while four of 12 deputy ministers were women.

The government made efforts to demonstrate representation from a variety of regions and ethnic groups, although it had not established any formal mechanism to achieve such balance by year's end. As a result, some ethnicities remained unrepresented in government.

Although NCRC consultation sessions throughout the year aimed to include women, traditional leaders, civil society, and youth groups as participants, many complained of a lack of information from the government on the review process. The absence of a translation of the constitution in Arabic or local languages limited the ability of local and minority populations to engage meaningfully in dialogue and caused low turnout for several consultations around the country.

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

The transitional constitution provides for criminal penalties for acts of corruption, but the government did not implement the law, and officials engaged in corrupt practices with impunity.

Corruption: Corruption was endemic in all branches of government and was compounded by poor recordkeeping, lax accounting procedures, absence of strict procurement laws, and the pending status of corrective legislation.

The transitional constitution assigns responsibility for investigating and prosecuting corruption to the South Sudan Anticorruption Commission (SSACC). The commission has no authority to prosecute because the constitution did not repeal or amend previous laws vesting prosecutorial powers in the Ministry of Justice. Further complicating prospects for prosecution was the fact that the constitution and criminal code do not define corruption. Government sources reported that no cases submitted for prosecution by the SSACC were brought to court during the year.

On September 4, the Investigation Committee, established by President Kiir to investigate the transfer of SSP 23.3 million (\$7.9 million) to a Kenyan bank account, recommended the prosecution of former minister of cabinet affairs Deng Alor Kuol for misappropriation.

Government sources reported that no money was recovered and no further action taken following President Kiir's May 2012 letter to more than 75 current and former ministers, some members of parliament, and prominent businessmen asking them to return in full or in part approximately SSP 11.8 billion (four billion dollars) in missing government funds by depositing them in a Kenyan bank.

Whistleblower Protection: The law does not provide protection to public or private employees for making internal disclosures or lawful public disclosures of evidence of illegality, such as the solicitation of bribes or other corrupt acts, gross waste or fraud, gross mismanagement, abuse of power, or substantial and specific dangers to public health and safety.

Financial Disclosure: 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 by year's end no monitoring occurred.

Public Access to Information: No law provides for public access to government information, and the government resisted internal and international pressures for increased transparency, particularly in the financial sector. For example, the Ministry of Finance failed to investigate and report on large discrepancies between planned and actual budget expenditures since 2008. The Central Bank did not publish information on foreign reserve holdings or other commonly available data. The Ministry of Petroleum did not publish information on oil production or revenues. The government did not publicize procurements, and single-source contracting was the norm.

### **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 resistance. 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 documents and equipment. For example, the South Sudan Relief and Rehabilitation Commission, one of the government bodies responsible for registering NGOs, routinely demanded assets legally belonging to donors upon project conclusion. NGOs and donors also reported that work permit and registration requirements were burdensome, time consuming, and costly.

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. UNMISS staff were sometimes harassed or intimidated by the

government. For example, members of the SPLA badly beat a UNMISS representative after a traffic accident in Juba on October 19. 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 2012 SPLA soldiers shot down a clearly marked UNMISS helicopter flying over a conflict area in Pibor County. The government did not release the report from its investigation. The government occasionally blocked or restricted the delivery of humanitarian assistance (see section 2.d.).

On December 30, the African Union's Union Peace and Security Council issued a communique calling for the creation of a commission to investigate human rights violations and other abuses committed during the conflict that began December 15.

Government Human Rights Bodies: The president appoints members of the SSHRC, and its mandate includes education, research, monitoring, and investigation of human rights abuses. The SSHRC investigates allegations of human rights abuses, either on its own initiative or upon request by victims. 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 observers generally regarded the SSHRC as a committed and competent advocate of human rights, severe resource constraints prevented it from meeting its mandate during the year. The SSHRC dedicated more than 90 percent of its resources to salaries and office management, leaving it with essentially no resources for monitoring or investigation. The SSHRC also lacked resources for transportation and relied on UNMISS to transport its representatives to sites outside Juba.

In September, under the auspices of the International Conference of the Great Lakes Region, the government established a National Committee for the Prevention and Punishment of Genocide. The committee was inactive at year's end.

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

The transitional constitution prohibits discrimination based on race, gender, disability, language, and social status but is silent on discrimination based on

sexual orientation 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. 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. A survey during the year indicated that violence against women has increased by 37 percent in rural areas and 47 percent in cities. 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 for persons convicted of rape were often less than the maximum.

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. According to NGOs, some women reported that police tried to charge them 100 SSP (\$34) when they attempted to file criminal complaints of rape or abuse. Statistics on the number of abusers prosecuted, convicted, or punished were not available. Families of rape victims encouraged marriage to the rapist to avoid public shaming.

Sexual Harassment: Sexual harassment is punishable by up to three years' imprisonment and a fine. The government rarely enforced the law, and NGOs reported that most women were unaware that it was a punishable offense. Although no statistics were available, observers noted that sexual harassment, particularly by police, was a serious problem throughout the country.

Reproductive Rights: Couples were not subject to coercion or violence in deciding the number, spacing, and timing of children, but few couples had access to accurate information and modern contraceptive methods. Modern contraception, skilled medical attendants during childbirth, and obstetric and postpartum care were not widely available, and when available such services were not always easily accessible. Dowry also limited some reproductive choices, 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 control their fertility. According to UN

estimates, the modern contraceptive prevalence rate was only 1.5 percent among women of reproductive age. The most recent maternal mortality rate estimate was 2,054 deaths per 100,000 live births, and a woman's lifetime risk of maternal death was one in seven. The leading cause of maternal death and disability was lack of medical care for treatable conditions, such as infection, hemorrhage, and obstructed birth.

Discrimination: While the transitional constitution provides for gender equality and equal rights for women, deep cultural prejudices resulted in widespread discrimination against women. High illiteracy rates also impeded women's ability to understand and defend their rights. Communities often followed customary laws and traditional practices harmful to women. For example, authorities arrested and detained women for adultery.

On December 1, the mayor of Wau, Western Bahr el Ghazal State, ordered security forces to sweep the city and detain women who were not "properly" dressed as required by a new city ordinance on women's attire. Police and SPLA officers detained women dressed in blue jeans, beat some of them, and cut their jeans into pieces. The mayor indicated that the sweeps were designed to identify and arrest prostitutes and "provide awareness" to the community of the new ordinance. Authorities detained 85 women in two days and criminally charged eight.

Despite statutory law to the contrary, under customary law, a divorce is not finalized until the wife and her family return the full dowry to the husband's family. As a result, families often dissuaded women from divorce. Traditional courts usually ruled in favor of the husband's family in most cases of child custody, unless children were between three and seven years of age.

Women also experienced discrimination in employment, pay, credit, education, inheritance, and ownership and management of businesses or land. Although women have the right to own property and land under the transitional constitution, community elders often sought to prevent women from exercising these rights because they contradict customary practice, and land was often usurped by the deceased husband's family. Traditional beliefs tended to discourage women from assuming leadership positions because of the belief that they undermined domestic duties.

## **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 the country's indigenous ethnic communities. Citizenship may also be derived through naturalization. Birth in the country was not sufficient to claim citizenship. The government did not register all births immediately and the public had little knowledge of the requirement to register births. 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, conflict in some areas, and muddy terrain during the rainy season made it difficult for children to receive education. 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 early marriage, domestic duties at home, and fear of school-related, gender-based violence. According to an international NGO, girls made up only 39 percent of primary school students and 30 percent of secondary school students. Most teachers were men, 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 and within the commercial sex industry in urban centers, and it was perpetrated by armed groups. 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.).

Forced and Early Marriage: The law provides that every child has the right to be protected from early marriage but does not explicitly prohibit marriage before the age of 18. Child marriage was common. According to the Ministry of Gender, nearly half of all girls between the ages of 15 and 19 were married, and some brides were as young as 12. 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. Many abducted girls, often subject to repeated rape (see section 1.g.), were forced into marriage. The Ministry of Gender, in collaboration

with the UN Children's Fund (UNICEF), campaigned against child marriage as part of its commemoration of the International Day of the African Child.

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. 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 the absence of security and rule of law in many areas impeded efforts to curb the practice.

Although not a common practice, 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. The law prohibits subjecting children to negative and harmful practices that affect their health, welfare, and dignity, providing legal protection to female children from FGM/C. Several NGOs worked on FGM/C in the country, and the Ministry of Gender 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, although commercial sexual exploitation of children was reported. The law does not address child pornography. Perpetrators of child prostitution and child trafficking may 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 continued to demobilize remaining child soldiers during most of the year, although there were reports of new recruitments after the December 15 crisis began. There were also reports of new recruitment of children associated with the SPLA in noncombatant roles. Most of these children were reunited with families during the year. SPLA occupation of schools continued to be a problem. 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 provide access to buildings for persons with disabilities. NGOs reported that persons with disabilities were routinely subjected to discrimination by community and family as well as in access to public services. Observers estimated that nearly 23,000 children with disabilities were enrolled in primary schools. There were no legal restrictions on the right of persons with disabilities to vote and otherwise participate in civic affairs, although lack of physical accessibility constituted a barrier to effective participation. There were no mental health hospitals or institutions, and persons with mental disabilities were often held in prisons. Limited mental health services were available at Juba Teaching Hospital.

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

Interethnic fighting and violence by government, antigovernment, and RMG forces targeting specific ethnic groups resulted in human rights abuses throughout the year (see section 1.g.). The country had at least 60 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 some 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, Lou Nuer, and Bor Dinka ethnic groups in Jonglei State and during the crisis that started in Juba on December 15 (see section 1.g.). Interethnic conflict occurred 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 2012, tensions in Unity State between nomadic Misseriya, the Nuer, and the Dinka communities resulted in occasional confrontations. Migrations of nomadic northern Arab groups, including Misseriya, who traveled through Abyei to reach grazing points further south, increased tensions. Interethnic clashes also occurred in Eastern Equatoria, Northern Bahr el Ghazal, Warrap, Western Bahr el Ghazal, and Upper Nile states. The migration of nomadic groups, notably the Rezeigat and Misseriya, into northern Bahr el Ghazal State were largely peaceful during the year, as active peace committees worked to encourage dialogue and peaceful conflict resolution.

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 example, observers reported 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. International observers reported that the SPLA failed to act to halt ethnic violence and may have supported Lou Nuer youth by providing water, food, weapons, and ammunition during attacks against Murle militia in Jonglei State.

While the government released a number of statements encouraging religious tolerance, Christians in the country sometimes discriminated against Arabs and Muslims. Community members and government sources 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**

The law does not prohibit sodomy, but it does prohibit “unnatural offenses,” defined as “carnal intercourse against the order of nature.” Unnatural offenses are punishable by up to 10 years’ imprisonment if committed with consent and up to 14 years if without consent. There were no reports that the 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**

The country operated under select legislation inherited from Sudan. The 1997 Labor Act of Sudan remained in effect during the year. While that act permits independent unions, other laws and regulations restrict trade union rights. The 1992 Trade Union Act imposes a single trade union system, thereby allowing a trade union monopoly controlled by the government. The law provides that, in order to register a trade union, one of the trade union’s objectives should be to cooperate with government bodies and community forces to promote national independence and security and the government's international relations.

The government defines the scope of unions’ activity, including their terms of office, elections, organizational structures, and alliances. The auditor general controls trade union funds. The law also provides that the general registrar may abrogate the procedures of the elections in a union if he is convinced of their shortcomings and, in such event, is empowered to order new elections. While labor courts adjudicate labor disputes, the minister of labor may refer them to compulsory arbitration. In order to hold a lawful strike, previous authorization or approval by authorities is required, and workers may be dismissed for taking illegal strike action.

The law is silent on the right to bargain collectively and does not explicitly prohibit antiunion discrimination or provide for reinstatement of workers fired for union activities. The country has not yet passed a national labor law. Government enforcement of preexisting labor laws was slight to nonexistent.

According to the 2008 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 high-profile cases of antiunion or other forms of employer interference in union functions during the year, although international organizations reported that such interference was common.

### **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. Most of those working in cattle camps and agricultural activities were family members. There were reports of forced labor involving men, women, and children, many of whom were victims of trafficking from Kenya, Uganda, the Democratic Republic of the Congo, Ethiopia, or Eritrea. Women, children, and migrants were subject to forced domestic labor in mines, restaurants, street begging, criminal activities, and sexual exploitation. Boys were abducted for forced labor in cattle herding, and girls were abducted for forced labor in domestic service and marriage during intertribal and cattle rustling disputes in the Jonglei, Upper Nile, Lakes, and Warrap states.

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 National Steering Committee on Child Labor, led by the Ministry of Labor, coordinated efforts across government ministries to combat child labor. In addition to the Ministry of Labor, the committee includes the Ministries of Agriculture and Forestry; Health; Gender; General Education; Culture, Youth, and Sports; Animal Resources and Fisheries; and Wildlife Conservation and Tourism; as well as International Labor Organization (ILO) and union representatives.

The government did not enforce child labor laws. Forty-six per cent of children between the ages of 10 and 14 were engaged in some forms of child labor, largely through cattle herding or subsistence farming with family members.

The SPLA recruited children during the year but coordinated with the DDR Commission to process cases to demobilize the remaining child soldiers. UNICEF and donors reported significant progress during the year in removing children from proximity to and presence in SPLA barracks, although school occupations by SPLA forces remained a problem. In addition, there were reports of SPLA recruitment of child soldiers since the December 15 crisis began. The SPLM-N and RMGs recruited and retained child soldiers, although the SPLM-N, a Sudan-based armed movement, used these soldiers for fighting in Sudan (see section 1.g.).

The Ministry of Labor’s Child Labor Unit was staffed with two investigators specifically trained to address child labor. Although the 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**

The country operated under select legislation inherited from Sudan. There were no new laws stipulating a national minimum wage. 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 authority 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. The 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 could 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. Penalties for violations of laws on wages and working conditions were not sufficient to deter violations.

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.

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. The formal sector included security companies, banks, telecommunications companies, a brewery, and other private companies. The majority of workers in the country were agricultural workers, of whom 70 percent were agropastoralists and 53 percent were engaged in unpaid subsistence family farming.