

U4 Helpdesk Answer

U4 Helpdesk Answer 2023:11

South Sudan: Overview of corruption and anti-corruption efforts

After a protracted conflict and a period of self-rule from 2005, South Sudan is now the world's most recent sovereign country. The young state faces considerable governance challenges; it regularly ranks at or near the bottom of international corruption indices.

Corruption is systemic across all levels of government and pervades nearly every economic sector, and perpetrators enjoy widespread impunity. As such, it takes a heavy toll on the populace by diverting the wealth from the country's extensive oil reserves into private pockets instead of public service provision or gross fixed capital formation. This kleptocratic dynamic is embodied in scandals such as the Cash Grab and Dura Saga scandals.

The international community has called on the South Sudanese government to take stronger action to tackle corruption. However, progress has been slow, and corruption remains a major challenge for South Sudan's future development.

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Query

Please provide an overview of the corruption risks, prevalence, and types in South Sudan.

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Background

South Sudan gained independence from neighbouring Sudan in July 2011 following a referendum in which 99% of voters reportedly backed independence (African Development Bank, 2018: 6). After two years of relative stability in several states, the country experienced a devastating civil war that broke out between rival factions in 2013. In 2018, the Revitalised Agreement on the Resolution of the Conflict in the Republic of South Sudan (R-ARCSS) between the main actors involved in the civil war was signed (Craze and Marko 2022). The parties to the R-ARCSS include the Transitional Government of National Unity of the Republic of South Sudan

MAIN POINTS

- Corruption has been a pervasive problem in South Sudan since its independence from Sudan in 2011. The country ranks as one of the countries with the highest level of perceived public sector corruption in the world, according to Transparency International's Corruption Perception Index. Corruption affects all levels of government and economic sectors, with most nominally independent institutions de facto captured by the executive branch.
- The level of violence has not decreased in all regions in the aftermath of the Revitalised Agreement on the Resolution of the Conflict in the Republic of South Sudan (R-ARCSS), and political stability in the country remains precarious.
- The government appears to have limited capacity or willingness to counter corruption and deliver the reforms foreseen in the R-ARCSS.
- South Sudan is one of the world's most oil-dependent countries, and the oil industry remains a major driver of rent-seeking behaviour in the country, exerting considerable influence over political dynamics.

(TGoNU); the Sudan People's Liberation Movement/Army–In Opposition (SPLM/A–IO); the South Sudan Opposition Alliance (SSOA); Former Detainees (FDs) and; Other Political

Parties (OPP) (RJMEC 2018: 3). However, non-signatories included customary authorities and youth forces. The agreement sets out a power sharing arrangement between its signatories as well as a reform package (HORN Institute 2019) although, experts note that the process has since been used to divide the opposition through using its resources to create defections and consolidate authority over military forces (Craze 2019). The R-ARCSS also covers multiple provisions related to anti-corruption and democratic governance, including transparency and accountability for the management of national wealth and resources as well as the establishment of a Public Procurement and Asset Disposal Authority (RJMEC 2018: 4, 13). A new body, the Reconstituted Joint Monitoring and Evaluation Commission (RJMEC), was established to monitor and oversee the implementation of the R-ARCSS by all signatories (RJMEC 2018: 22-23; RJMEC 2023a).

Following the signing of the R-ARCSS in 2018, it took 18 months of negotiations before the formation of the Revitalised Transitional Government of National Unity (RTGoNU) (Accord 2020). Widespread violence has nonetheless continued in many parts of the country (Dumo 2021; Craze and Marko 2022) as competition between rival factions for political power and economic resources spills out into conflict between proxy forces that reportedly seek to “manipulat[e] ethnic and communal tensions” (US Department of State 2023). The RTGoNU is led by President Salva Kiir, while his main long-time political rival Riek Machar serves as first vice president, and another

four vice presidents represent other parties to the R-ARCSS.¹

The R-ARCSS initially was designed for a five-year period, but in August 2022 the country’s leaders announced their intention to prolong the transitional period by another two years until February 2025, with elections scheduled to be held in December 2024 (RJMEC 2023b: 1). This decision by South Sudan’s leaders to extend their time in power was viewed critically by international donors, with the US, along with the UK, Norway and the EU expressing their opposition to the two-year extension of the transitional government (Delegation of the European Union to South Sudan 2022; US Embassy in South Sudan 2022). The country’s largest bilateral donor, the US, lamented “the failure of South Sudanese leaders to implement their commitments to bring peace to South Sudan” and halted financial support to the RJMEC, pointing to “weak governance, pervasive insecurity, fiscal mismanagement and widespread corruption” (US Department of State 2023).

As of April 2023, donors continue to appear concerned about the lack of progress towards commitments made by the country’s leadership as part of the R-ARCSS to improve the public financial management system, with donors reportedly working in early 2023 to tighten oversight mechanisms over IMF loans to the country (US Department of State 2023).²

More broadly, South Sudan faces a multitude of other challenges, with 7.7 million of the country’s approximately 11 million inhabitants facing food insecurity, 2.2 million internally displaced people

¹ President Kiir leads the Sudan People’s Liberation Movement (SPLM), while Machar is the leader of the Sudan People’s Liberation Movement-in-Opposition (SPLM-IO). The other vice-presidents are James Wani Igga (SPLM), Taban Deng Gai (SPLM-IO), Rebecca Nyandeng De Mabior, and Hussein Abdelbagi Akol

Agany (South Sudan Opposition Alliance/SSOA). See Accord (2020).

² The US has stated its official opposition to any lending by international financial institutions beyond that related to supporting basic human needs.

and 1.4 million malnourished children (OCHA 2022a). Despite the ceasefire, there is ongoing unrest in parts of the country, with Unity, Upper Nile and Jonglei states experiencing violence in 2022 that resulted in hundreds of civilian deaths and the displacement of nearly 100,000 people (US Department of State 2023).³ In the southern Unity state, it has been reported that joint government forces and allied militias/groups from Koch and Mayendit Counties have systematically committed human rights violations and abuses through killings and forced displacements (UNMISS/OHCHR 2022).

South Sudan appears to be highly vulnerable to the adverse effects of climate change, including both droughts and flooding, which have serious implications for peace and security in South Sudan (World Bank 2023a). In 2021 alone, unprecedented floods caused the internal displacement of over half a million people, which reportedly exacerbated tensions and contributed to violence in the Equatoria region (International Crisis Group 2022; UN Secretary General 2023: 1-3). According to the World Bank, South Sudan's economic performance has been modest following the resumption of oil production after slumps linked to recent flooding and the COVID-19 pandemic. Adverse climatic events, fluctuations in oil prices and ongoing violence continue to cloud the country's economic outlook (World Bank 2022: 33).

Given these external factors and the low governance capacity of the transitional government, South Sudan is commonly considered to be a fragile state. In fact, it is currently ranked by the Fund for Peace (2022) as one of the five most

fragile polities in the world, alongside Yemen, Syria, Somalia and Central African Republic.

Extent of corruption

South Sudan scored just 13 out of 100 in the 2022 edition of Transparency International's Corruption Perception Index (CPI), making South Sudan the joint second-most poorly performing state, ahead of only Somalia.

A similar picture emerges from Freedom House's (2023a: 31) Freedom in the World report, according to which South Sudan, together with Syria, registered the worst aggregate score (1) for political rights and civil liberties of any country.

The 2022 Bertelsmann Foundation's Transformation Index 2022 ranks the country 132 out of 137 countries, with a score of 2.30 out of 10. On the sub-indicator "anti-corruption policy", the country scores the lowest possible mark, 1 out of 10 (Bertelsmann Foundation 2022). On the 2021 edition of the Mo Ibrahim Index of African Governance (IIAG), South Sudan scores the worst out of all 54 countries assessed with a score of 18.5 out of 100.

Data provided by country experts as part of the Africa Integrity Indicators (AII) award a score of 0 when it comes to the effectiveness of a body investigating allegations of public sector corruption, noting that in the last five years no corruption investigations have taken place in the country. Reportedly, the Anti-Corruption Commission has neither received official instructions to investigate the alleged

³ In 2022 alone, United Nations Mission in South Sudan (UNMISS) documented at least 3,469 civilians affected by violence and

subjected to killing, injury, abduction and conflict-related sexual violence. See UNMISS (2023).

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embezzlement of public funds nor launched its own investigations, creating an environment of almost total impunity (Global Integrity and Mo Ibrahim Foundation, 2023).

The World Bank's Worldwide Governance Indicators (WGI) assess countries according to six aggregate indicators of voice and accountability,

political stability and absence of violence/terrorism, government effectiveness, regulatory quality, rule of law, and control of corruption. South Sudan's results in percentile ranks and absolute scores on a scale of -2.5 to +2.5 are presented in Table 1, taking the year of signing R-ARCSS as a benchmark for comparison.

Table 1: South Sudan's results on the World Bank's Worldwide Governance Indicators (World Bank 2023b)

| Indicators | 2018 | | 2019 | | 2020 | | 2021 | |
|---|-------|-----------------|-------|-----------------|-------|-----------------|-------|-----------------|
| | Score | Percentile rank | Score | Percentile rank | Score | Percentile rank | Score | Percentile rank |
| Voice and accountability | -1.99 | 1.45 | -1.99 | 1.93 | -1.82 | 2.42 | -1.73 | 2.42 |
| Political stability and absence of violence | -2.44 | 2.36 | -2.51 | 2.36 | -2.21 | 3.30 | -2.30 | 3.30 |
| Government effectiveness | -2.33 | 0.00 | -2.38 | 0.00 | -2.31 | 0.48 | -2.38 | 0.00 |
| Regulatory quality | -2.02 | 2.40 | -1.97 | 2.88 | -1.99 | 2.40 | -1.98 | 2.40 |
| Rule of law | -1.98 | 1.44 | -1.99 | 1.44 | -1.94 | 1.44 | -2.05 | 1.44 |
| Control of corruption | -1.73 | 0.48 | -1.78 | 0.00 | -1.92 | 0.00 | -1.82 | 0.00 |

The WGI indicators point to the fact that, while there have been very minor improvements in terms of voice and accountability and political stability and absence of violence, there is little to suggest that the R-ARCSS has so far succeeded in improving the quality of governance or control of corruption.

Against this bleak picture, a recent policy brief based on a household survey conducted in 2021-22 found that people across all regions in South Sudan

care deeply about government accountability and want to see improved mechanisms for citizen participation in public decision-making (Deng et al. 2022: 14). Of the people surveyed across rural and urban areas as well as in internally displaced persons' camps, 63% of the 8,843 agreed that it is important for citizens to be able to hold the government to account.

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Forms of corruption

Corruption in South Sudan is endemic at present at all levels of political and economic life. The economic boom that followed independence, driven by international development assistance and oil revenues, was not accompanied by adequate integrity safeguards or a robust system of monitoring and oversight, which has led to corrupt practices such as embezzlement, clientelism and abuse of office quickly taking root (Bertelsmann Foundation 2022). These methods of corruption have their roots in wartime when strategies of resource capture and kinship networks were formed by the army and other factions to create a “new aristocracy” (Pinaud 2014). Four of the most egregious and widespread forms of corruption are presented in the following section.

State capture

State capture is defined by Transparency International (2009) as “a situation where powerful individuals, institutions, companies or groups within or outside a country use corruption to shape a nation’s policies, legal environment and economy to benefit their own private interests”.

This description seems apt in the case of South Sudan; the Bertelsmann Foundation’s (2022) country report notes that “the blurred lines between political, economic and military power make it nearly impossible to investigate corruption and prosecute powerful actors”.

In South Sudan, the government has not only proved unwilling or unable to prosecute high-level corruption but has also adopted measures to impede the development of a credible opposition or a free press able to act as a check on executive power (Bertelsmann Foundation 2022).

Freedom House (2022) reports that power is mainly exerted by a group of ethnically Dinka leaders and their close allies, who seek to staff key positions with loyalists. Local experts note that other important actors also include members of the Nuer ethnic group. Reportedly, most appointments to senior government positions are based on personal connections rather than merit (Global Integrity and Mo Ibrahim Foundation 2023). Adeb (2019: 21) labels the regime a “violent kleptocracy” and notes the systematic approach to capturing supposedly independent political institutions to neutralise potential sources of opposition. Controlling the judiciary is a key aspect of this strategy, with country experts pointing to close ties between the chief justice and the president (Global Integrity and Mo Ibrahim Foundation, 2023). The Commission on Human Rights in South Sudan (2021: 7) also points to the nexus between business and politics, by which political power is used to establish control of key sources of revenue, while in turn this economic clout is used to consolidate political control. The Chairman of the South Sudan Chamber of Commerce, Industry, and Agriculture, Bol Mel, has close ties to the business community despite a constitutional prohibition on top government officials transacting commercial business or earning income outside the government (Radio Tamazuj 2017).

According to the Organised Crime and Corruption Reporting Project, for example, President Kiir was able to channel US\$1.4 billion worth of public funds and oil revenue towards commercial entities controlled by three businessmen with “close ties to the Office of the President” (Anderson and Gibb 2019). The US Department of Treasury has in recent years sanctioned at least six individuals and eight entities in South Sudan under Executive Order 13818 for their roles in corruption and human rights abuses (US Department of State 2023).

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Grand corruption

The Commission on Human Rights in South Sudan (2021: 5), established by the Human Rights Council of the United Nations, has pointed to “entrenched and systemic grand corruption” in the country.

Transparency International (2023) defines grand corruption as a systematic or well-organised scheme involving high-level public officials that benefits the few at the expense of the many and causes serious and widespread harm to individuals and society. This pattern is evident in many sectors in South Sudan.

Corruption exposés such as “Cash Grab” by The Sentry in October 2022 provide an insight into the audacity of grand corruption schemes in the country.⁴ Between 2012 and 2015, the government of South Sudan received a credit line of nearly US\$1 billion from Qatar National Bank and CFC Stanbic Bank in Kenya, which was used to issue letters of credit to support efforts to import food, fuel and medicine (The Sentry 2022b).

As part of the Cash Grab scheme, the funds were channelled into multimillion-dollar contracts that were awarded to foreign-run, shell companies and inexperienced middlemen and businesses with connections to the ruling political class, reportedly including the president, his family, the-then governor of the Central Bank and military officials. As a result, around US\$1 billion illegally left the country, while essential pharmaceuticals, fuel and food did not materialise, and the country is left with unmanageable debts (The Sentry 2022b).

According to the Commission on Human Rights in South Sudan (2021: 4), the case must be viewed as

“merely illustrative of a much larger scale of grand corruption in the country implicating all levels and sectors of administration”. Other notable scandals in the recent past include the “Dura Saga” case and the misappropriation of public money revealed by the Organised Crime and Corruption Reporting Project (Anderson and Gibb 2019).

In the Dura Saga case, senior public officials are alleged to have embezzled money amounting to millions of US dollars (Awolich 2013: 2-3). The funds had been earmarked to assemble a strategic grain reserve of sorghum (Holland and Fletcher 2012). While public funds were disbursed, few grain stores were ever constructed, and most of the grain never materialised (Holland and Fletcher 2012). Later investigations revealed that 290 (many unregistered) companies were paid without signing any contract with the government and 151 companies were overpaid as a means of misappropriating money (Awolich 2013: 2-3).

The results of an investigation published by The Sentry in 2019 revealed the international dimension of grand corruption in South Sudan and the links to foreign enablers. According to The Sentry (2019), international investors concluded opaque business dealings with powerful South Sudanese politicians during the civil war, including British citizens who established an oil company with a known warlord, with the possible involvement of UK nationals in embezzling South Sudan state assets and the proceeds of corruption being used to acquire real estate in London. The same report alleges that Chinese investors went into business with President Kiir’s daughter to acquire mining licences for regions from which people were shortly afterwards driven out by the military, while a Chinese-led multinational oil

⁴ For more on the exposé, see the Sentry (2022a).

consortium reportedly paid extravagant hotel expenses for the country's oil minister and "provided material support to a pro-government militia" (The Sentry 2019).

Public procurement

Public procurement is a major source of corruption in South Sudan, and military commanders in particular have accumulated significant wealth due to the corrupt manipulation of procurement processes (Freedom House 2023b). The Panel of Experts on South Sudan has concluded that weak procurement procedures result in public resources being diverted towards entities controlled by senior officials or firms linked to the military, even in the face of arms embargos imposed by the UN Security Council (Bertelsmann Foundation 2022). More recently, President Kiir has appointed Abdel-Bagi's brother as head of SSPDF procurement (Hawari 2023).

A 2021 report by The Sentry points to the ease with which individuals and entities sanctioned by the US as part of the Global Magnitsky Act evaded these restrictions. Reportedly, within one month of being sanctioned by the US Department of the Treasury (2019) for "involvement in bribery, kickbacks and procurement fraud with senior government officials in South Sudan", a prominent businessman with ties to President Kiir had established a new commercial entity that was subsequently awarded contracts by the Ministry of Defence to supply food to the country's military (The Sentry 2021). The Sentry (2021) suggests that the contracts, which appear to have totalled more than US\$1 billion, may have been directly awarded on a no-bid basis.

Other businessmen with close ties to politicians and military officials also reportedly continue to

receive lucrative public contracts despite widespread reports of corruption and sanctioning by the US Office of Foreign Assets Control (Commission on Human Rights in South Sudan 2021: 23; The Sentry 2019).

Petty corruption

Rampant corruption at senior levels of government is mirrored by widespread graft at the level of service delivery (Bertelsmann Foundation 2022; US Department of State 2022a: 31). Local experts note that petty corruption (such as extortion by lower-level public officials) is facilitated by the failing economy and higher-level exploitation of oil flows. According to Adeba (2019: 2, 33), this results in the state's failure to deliver basic services to citizens, undermines the legitimacy of the state and generates grievances that can lead to violence.

The Commission on Human Rights in South Sudan (2023: 78) established by the UN Human Rights Council has pointed to a dearth of service provision needed to ensure sufficient "food, clean water, sanitation, adequate healthcare, and basic education". The European Union (2021: 4) notes that basic services are delivered almost entirely through official development assistance rather than provided by the state.

In the private sector, government officials reportedly regularly extract illicit payments from businesses, while security forces are said to impose their own set of additional fees on companies and demand the provision of logistical support (US Department of State 2022c).

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Gendered forms of corruption

South Sudan's performance on the Gender Inequality Index is poor, with the country scoring 0.587 in 2021, ranking it 150 out of the 170 countries and territories measured (GII 2021). There has been some progress on the women's rights, such as an increase in the seats of parliament held by women, but further work still needs to be done to achieve gender equality (UN Women no date). Adolescent birth rates are still high as are rates of women reporting sexual or physical violence by a current or previous intimate partner (UN Women no date).

Conflict-related sexual violence is widespread in the country with women's bodies commodified and used for rewards by the army (Luedke 2019; Human Rights Council 2022). Sexual violence is linked to military and political objectives intended to pressure and expel the civilian population from the area (Human Rights Council 2022). In early 2020, attacks by SSPDF soldiers on Central Equatoria villages included rape and sexual violation of women and girls in an area where the perpetrators regarded them as being supporters of the enemy (Human Rights Council 2022: 27). In the Unity state, between 2013 and 2022, women and girls reported numerous cases of rape, mirroring the changing patterns of violence of the conflict (Human Rights Council 2023). Attackers sought to kill the men, who fled for their lives, leaving behind the women who then became even more vulnerable (Human Rights Council 2023). Women are also used for military gains in a "marriage market", whereby inter-ethnic military ties are often sealed through the patronage of marriage through inter-ethnic marriages (Pinaud 2016).

There are cases of women in the forces exchanging sex for food and other necessities with male officers

(UN Security Council 2023b: 15). This so-called "survival sex" is widespread throughout the country, where women are turning to sex work to support their basic needs (Luedke 2019). Reports have also been made that women and girls have been sexually assaulted while accessing basic services, including a food distribution centre near Bentiu in the former Unity State (Luedke 2019). The abuse of women is also prevalent among humanitarian aid workers, where the sexual exploitation of women has occurred "on a daily basis" (Craze and Mednick 2022). The women interviewed in these cases stated that they feared if they did not have sex with the aid workers, the aid support would stop (Craze and Mednick 2022).

Moreover, survivors of sexual and gender-based violence and conflict-related sexual violence face numerous obstacles in accessing health care and psychological support as health services are chronically underfunded (Human Rights Council 2022: 31). There is also a distrust of medical practitioners among women, a widespread belief that they will not treat consultations confidentially, particularly where health workers are perceived to be aligned to an ethnic or geographic-based group that is different to the victim (Human Rights Council 2022: 32).

Finally, women have largely been excluded from the peace-building processes, including the governance of displacement settlements and strategies on returning home (Human Rights Council 2022: 34). Reports have been made that this lack of participation has impacted the conflict resolution and how these decisions have been made by actors with authority and influence (Human Rights Council 2022: 34).

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Main sectors affected by corruption

Oil industry

While corruption affects virtually every economic sector in South Sudan, it is the extractives sector – and particularly the oil industry – that is a key driver of misgovernance (Abeda 2019: 2).

Observers have suggested that the wealth they can extract from oil makes the ruling elite less reliant on other income streams generated by citizens, such as income tax or VAT (although a national tax system is almost entirely absent in the country) which insulates their source of wealth and makes them less responsive to citizen demands (Abeda 2019: 2).

The national economy is highly dependent on oil revenue, which accounts for more than 90% of projected revenues in the 2021/22 budget (Panel of Experts on South Sudan 2022: 15). Abeda (2019) explains that the rents provided by the oil industry have represented the key prize in South Sudan since independence allowed the political elite to enrich itself at the expense of the public. According to Freedom House (2022) oil revenues have largely been captured by elites associated with the president. However, given the lack of transparency in public finances, considerable uncertainty remains over how oil revenues are managed and spent (Panel of Experts on South Sudan 2022: 15). Relying on oil revenues has considerable implications, as shown in 2012 when the shutdown of oil production bankrupted the system, causing the system to fail and civil war to ensue (de Waal 2014).

In 2019, for instance, the government of South Sudan entered into a loan agreement with a United

Arab Emirates based trader called Nasdec General Trading for a loan facility of up to US\$539 million, to be repaid through the future delivery of crude oil (Panel of Experts on South Sudan 2022: 16).

However, that loan was not reported in any South Sudanese budget documents or expenditure reports until February 2022. It appears that a substantial portion of the loan had been paid into bank accounts with First Abu Dhabi Bank in the United Arab Emirates controlled by South Sudanese government officials, rather than into the designated oil revenue account (Panel of Experts on South Sudan 2022: 16).

Indeed, it appears that the transitional government has not yet fulfilled its commitment under R-ARCSS to establish a single account in the national treasury to manage revenue from the oil industry (UN Security Council 2023a: 10). In the view of the US Department of State (2023), this “facilitates significant revenue leakage and diversion by corrupt actors, undermining the already negligible financing of basic services for South Sudanese people”.

According to International Crisis Group, South Sudan produces 150,000 to 170,000 barrels a day, but because of the share owed to oil companies and fees that South Sudan pays to the government of Sudan, it earns income from 45,000 barrels at most, and little of that money ever reaches the national budget (Boswell 2020).

Public financial management

As the Commission on Human Rights in South Sudan (2023: 78) notes, despite the country’s natural resource wealth, mismanagement and corrupt governance have contributed to a situation in which the state cannot feed its population, pay public servants’ salaries, ensure hospitals have a

reliable supply of electricity and medicines, or maintain basic infrastructure such as roads. The commission (2023: 78) further points out that the failures of economic and public financial management are closely related to the diversion and misappropriation of “public resources from all sectors for private gain and sectarian interests”.

One consequence of this rampant corruption is the government’s reliance on international credit institutions to cover basic recurring costs such as salaries. In March 2021, for instance, South Sudan borrowed US\$174.2 million from the IMF, half of which was used to pay officials’ salaries. Even these funds were not safe from misuse, as South Sudan’s National Audit Chamber’s identified a 29% “non-compliance rate”, implying that more than US\$21 million was unaccounted for or applied to ineligible expenditures (Commission on Human Rights in South Sudan 2023: 81). Official development assistance provided by bilateral donors has also proved to be vulnerable; reportedly 30% of cash provided by the government of Japan was misappropriated after receipt by the Ministry of Interior (Commission on Human Rights in South Sudan 2023: 79).⁵

A recent report by the IMF (2023: 32) likewise points to severe shortcomings in the country’s public financial management system, with particularly glaring vulnerabilities in the areas of public procurement, fiscal reporting, as well as cash and debt management. These weaknesses result in skewed prioritisation and low quality in the acquisition of public goods and services, as well as instances in which the item supposedly acquired through public contracting does not materialise (Panel of Experts on South Sudan 2022: 2). The IMF (2022: 35) notes that there is still uncertainty

in terms of the full extent of South Sudan’s external debts.

The management of non-oil revenues, which account for around 10% of public revenue, is also not free from mismanagement, inefficiencies, and corruption (Commission on Human Rights in South Sudan 2023: 81). The African Development Bank (2017: 22) points to a range of failures, including inadequate procurement safeguards, parallel manual systems, the “accumulation of arrears and inability to close end-year annual accounts”. These flaws complicate oversight while facilitating corrupt practices. According to the Commission on Human Rights in South Sudan (2021: 4), since 2018 unscrupulous officials have exploited these gaps to embezzle funds worth tens of millions of US dollars from both the Ministry of Finance and Economic Planning and the National Revenue Authority.

Audit processes appear to be largely moribund in South Sudan; while the auditor general has submitted reports to parliament, these reports are not in the public domain and the Commission on Human Rights in South Sudan (2021: 21) has expressed concern that the R-TGoNU is attempting to “prevent open discussion” on matters related to public financial management by not publishing the audit findings.

The lack of financial integrity is so pronounced that the US government has sanctioned several highly connected South Sudanese individuals for corruption and even made it official policy in October 2022 to oppose financial institution assistance for South Sudan beyond that needed for basic human needs (US Department of State, 2023).

⁵ As a result, Japan’s aid in 2022 for flood assistance was provided in form of tents, blankets and jerry cans.

More encouragingly, the government recently closed the gap between official and black-market exchange rates, thereby reducing the ability of individuals with access to foreign currency to profiteer (Commission on Human Rights in South Sudan 2023: 81). In 2022, the South Sudanese authorities also committed to improve transparency in the management of oil revenues, including by publishing all oil production agreements with commercial entities, applying to join EITI and conducting quarterly reporting on the oil sector (IMF 2022: 19).

Education

The UN Office for the Coordination of Human Affairs estimates that out of 3.3 million children in the country, up to 2.8 million children are out of school (OCHA, 2022b: 55). This makes South Sudan a country with one of the highest school dropout rates in the world, as well as some of the lowest literacy rates (35% for men and 19% for women) (European Union 2021: 4). Like many basic services, the provision of education is partly run by non-governmental and international organisations (Amnesty International, Human Rights Watch and the South Sudan Human Rights Defenders Network 2022).

The education system has been highly politicised, subjugated to the political interests of state elites (Haider 2021). Access to education has deteriorated since independence in 2011 with links between education and ethnicity, militarism, and displacement continuing to influence the education system (Haider 2021).

Corruption is one of numerous factors for poor educational outcomes (Sida 2022: 4). This includes widespread nepotism, which often takes place along ethnic lines in the education system,

according to which salaried positions are allocated based on past affiliation with the Sudan People's Liberation Movement (SPLM)/Sudan People's Liberation Army (SPLA) (Haider 2021: 14). Focus group discussions held with teachers in South Sudan by Moro and Tolani (2021: 12) confirm that in practice the appointment of teachers is usually the result of ties to government officials.

Another major problem is teacher absenteeism which is partially connected with the need to engage in other livelihoods to survive (Haider 2021: 26). Moreover, students who have received scholarships overseas through recommendations from senior officials, rather than academic merit, were reportedly sent back due to their failure to perform as expected (Wël 2018).

Academic documents such as degree certificates are sold and there are many unregistered private universities illegally operating in South Sudan providing such documents (Wël 2018). Reports have been made of medical certificates being purchased, leading to concerns that medical professionals are inadequately trained for their work (Wël 2018).

Healthcare

Reports of corruption when accessing health services have been widespread. In one study on access to healthcare in South Sudan (Health Pooled Fund 2020: 26-39) respondents were asked about access to health facilities, the availability of drugs, equipment, skills necessary to diagnose, the acceptability of the services rendered, the physical space and the breadth of services available. Significant barriers to access healthcare were observed by citizens in all these areas; while public healthcare is supposed to be free, most respondents reported being required to make informal

payments (Health Pooled Fund 2020: 6). These instances of petty corruption in the health sector likely contributes to the fact that the country experiences some of the highest child mortality rates in the world (CIA no date).

The US Department of State (2022b: 1) asserts that essential sectors such as healthcare are plagued by rampant corruption. Save the Children similarly blames poor governance, accountability systems and weak institutions as having deprived public health services of investment, as well as a lack of long-term donor commitment to build its health systems (Save the Children 2020). Given that only 1% of the national budget is allocated to healthcare, many people rely on NGOs and churches for the provision of healthcare (BTI 2022). However, high levels of corruption and bribery has been reported in the NGO sector in the country, particularly with those providing service delivery (Mednick 2019).

Security

Corruption both threatens peace and security in South Sudan and is used to further generate existing grievances between communities. The implementation of the country's peace agreement is behind schedule, with delays in training and recruitment for the armed forces and the institutions required for the constitution-drafting process lacking resources or payments to function (UN Security Council 2023). Further concerns have been raised about the peace-building process in South Sudan due to the current instability of Sudan, as this could complicate the resolution of issues within South Sudan (UN 2023). The unstable situation has seen the return of South Sudanese refugees hosted by Sudan as well as the potential for increased insecurity and cross-border movements of criminal groups between the two countries (UN 2023).

National authorities in South Sudan continue to prioritise financing of military and security apparatuses over investment in public services and infrastructure (Human Rights Council 2021). Officials have been implicated in the "pillaging of public funds, money laundering, bribery, and tax evasion" to influence decisions for personal gain and advantages (OHCHR 2020). The UN Human Rights Commission has received credible information that members of the government arm local militias with light and heavy weapons so they can carry out attacks against neighbouring communities (OHCHR 2020).

All UN Member States are directed to prevent the supply of arms and related material of all types under resolution 2428 (2018) and 2633 (2022) to South Sudan (UN Security Council 2023b: 26). However, military vehicles have been imported to the country in 2021 and 2022 in violation of the arms embargo (UN Security Council 2023b: 26).

Humanitarian aid

Humanitarian access has long been part of the political economy of war in South Sudan in which the government and non-state actors seek to control of access to the populations, in what amounts to "collective punishment" (Geneva Call 2021 :2-5). The two major access negotiators in the country, WFP and UNICEF, state that the denial of humanitarian access has been tactical and deliberate by the government (Geneva Call 2021: 12). In doing so, its intentions are to protect its own military operations by making them less visible to humanitarian observers or to punish communities it sees as supporting rebel or opposition groups (Geneva Call 2021: 12). Additionally, the taxes paid by humanitarian organisations, whether formally to the government or informally to public officials are checkpoints, go to sustain the political economy

of the war (Geneva Call 2021: 12). It has been reported by NGOs that seeking rents from humanitarian actors is a vital source of foreign currency for the government (Geneva Call 2021).

Matthysen and Schouten conducted a survey of the political economy of checkpoints along the major trade routes and consulted with the humanitarian sector working in the region. The findings were that 139 checkpoints exist in South Sudan, constituting approximately one checkpoint for each 16km (Matthysen and Schouten 2021). The total payment is significant, with average total payments ranging between USD 100 to USD 750, with UN and NGO-contracted vehicles being subject to structural checkpoint taxation of 49% (Matthysen and Schouten 2021). Payments from checkpoints (including from UN and NGO-contracted vehicles) constitute the biggest non-oil source of cash for government agents and security forces, and finances conflict actors (Matthysen and Schouten 2021).

There are other concerns that humanitarian aid funds are being misappropriated by the government. For example, during the Covid-19 crisis, many speculated that the government had pocketed funds from donors (Mednick 2021). There were reports that some Health Ministry officials were charging for the donated Covid-19 tests that were supposed to be free (Mednick 2021).

Legal framework

South Sudan acceded to the UN Convention against Corruption (UNCAC) in 2015, but there is no information on the status of the first or second

review cycles that South Sudan was supposed to undergo (UNODC, 2023). South Sudan has also signed the African Union Convention on Preventing and Combatting Corruption but is yet to ratify the convention (African Union, 2023). South Sudan has observer status in the Eastern and Southern African AML Group (IMF 2022: 52), but is also subject to enhanced FATF Monitoring for anti-money laundering and countering the financing of terrorism (AML/CFT) risks (FATF-GAFO 2023). Moreover, the country is also subject to UN sanctions including arms embargos, travel bans and financial measures (IMF 2022: 35).

The legislative landscape in the field of anti-corruption in South Sudan is somewhat unclear given the absence of either an official database of laws or any other resource that would provide comparatively up-to-date information on the status of legal acts and their texts. Moreover, there is no functioning official website of the Ministry of Justice. As such, the legislation cited in this section may not be the version currently in force as amendments might have been made subsequently to the version located during desk research.⁶

South Sudan is still operating on the basis of the 2011 transitional constitution. The Constitution-Making Process Act, which was enacted by the Transitional National Legislative Assembly (TNLA) and assented to by the president in 2022, is a procedural law that lays out the process of development of new, permanent Constitution. The Constitution-Making Process Act stipulates key principles to guide the constitution-making. These include (Akech and Geng 2023):

⁶ The information found was scattered among various UN Secretary General's reports, UN Security Council resolutions, Commission on Human Rights in South Sudan established by Human Rights

Council of the UN, Panel of Experts on South Sudan established by UN Security Council and RJMEC Evaluations and Reports.

- the supremacy of the people
- initiation of a federal and democratic system of government
- guaranteeing peace, stability, national unity and territorial integrity
- promoting people's participation in governance
- respecting ethnic and regional diversity
- promoting international cooperation and a culture of peaceful resolution of disputes

There are three stages through which the permanent constitution will need to pass before being adopted, the initiation of constitution-making process, constitutional deliberation and adoption, and finally ratification by the Constituent Assembly (Akech and Geng 2023).

Currently, the transitional constitution provides senior government officials in both the executive and legislative branches as well as the armed forces with immunity from prosecution, while the Local Government Act reportedly extends this immunity to local chiefs (Bertelsmann Foundation 2022). In practice, there have been cases in which parliamentarians have voted in favour of lifting this immunity to allow for the prosecution of legislators charged with corruption (Sudans Post 2023).

The process of reformation and harmonisation of legislation is guided by the 2018 Revitalised Peace Agreement. The agreement covers the power sharing arrangement, a permanent ceasefire, the integration of opposition forces into the national army, the formation of a unity government and the establishment of a truth and reconciliation commission. The agreement also provides for the return of refugees and internally displaced persons, the release of political prisoners and the lifting of sanctions.

The main specific law regulating anti-corruption is the 2009 Anti-Corruption Commission Act, which

under the terms of R-ARCSS had to be reviewed within five months of the Revitalised Transitional Government of National Unity (RTGoNU) taking office (RJMEC 2018: 14). It appears that the review is ongoing; a technical workshop was held by the National Constitutional Amendment Committee in October 2022 to finalise revisions to the bill, and the committee is now expected to submit the draft to the Ministry of Justice (UN Secretary General 2022: 7).

The current iteration of the Anti-Corruption Commission Act from 2009 stipulates that the commission has the power to investigate any allegations, facts, conditions, practices or matters, including the search of bank accounts and other assets of spouses, children and others in a domestic relationship, which it considers necessary or proper to determine whether any person is engaged in or about to commit corruption (Government of South Sudan 2009: Section 24). In law, the commission also has power to compel attendance and require the production of evidence (Government of South Sudan 2009: Section 28). Besides, according to the act, the commission is empowered to inspect public premises and at any time to enter and inspect any premises used by a government institution or public official and to inspect documents (Government of South Sudan 2009: Section 31[1]).

However, the act requires that, if the outcome of an investigation is that a prosecution is warranted, the case is to be referred to the Ministry of Legal Affairs and Constitutional Development (Government of South Sudan 2009: Section 31[2]). The commission does not have powers of arrest (Government of South Sudan 2009: Section 45[2]).

Legally, the commission has a mandate to require all referred office holders to provide the commission with declarations on wealth and to protect whistleblowers and witnesses, but the act fails to provide operational mechanisms for that

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(Government of South Sudan 2009: Sections 35, 44). The act also requires any executive or legislative constitutional officer holder, judge or senior civil servant who becomes aware of a corrupt practice to report it to the commission (Government of South Sudan 2009: Section 34[1]).

Two other important laws that together with the Anti-Corruption Commission Act would establish a basic legal framework for integrity and good governance are the 2011 Public Financial Management and Accountability Act and the 2011 Southern Sudan Audit Chamber Act. Although RJMEC (2022a: 16) reports that these two acts have been amended in recent years, they do not appear to be available in the public domain.

Another important piece of legislation is Anti-Money Laundering and Counter Terrorist Financing Act (AML-CTFA) from 2012 (Government of South Sudan 2012). Among other things, this act has led to the establishment of a financial intelligence unit (FIU) that sits within the Ministry of Finance and Economic Planning (IMF 2022: 19). This body is mandated to receive, analyse and disseminate suspicious transaction reports and other information regarding potential money laundering or terrorist financing, as well as to cooperate with foreign FIUs to exchange information on suspects and transactions (Government of South Sudan 2012: Section 6[2]). Section 18 of the act also requires financial institutions in South Sudan to report suspicious transactions to the FIU.

The US Department of State (2023) points out that the country does not yet have a fully operational and independent national elections commission, but notes that according to the South Sudanese authorities, there have been recent legislative amendments to the Political Parties Act and the National Elections Act of 2012.

Overall, the Commission on Human Rights in South Sudan (2021: 41), which has been established by UN Human Rights Council, concludes that the country

“has a significant number of laws and regulations designed to manage public finances and reduce the possibility of corruption and the misappropriation of Government funds. The challenge therefore is neither a policy nor legal gap, but rather the absence of political will to address the extensive and widespread corruption amongst Government institutions at all levels.”

Institutional framework

In South Sudan, the two primary bodies for curbing corruption are the National Audit Chamber and Anti-Corruption Commission. The National Audit Chamber has a mandate to audit and supervise government institutions, agencies, commissions, legislative assemblies, the Bank of South Sudan and universities at national government, state and county level (South Sudan National Audit Chamber no date). The Commission on Human Rights in South Sudan (2021: 42) has stated that the National Audit Chamber lacks the necessary independence, funding and access to carry out its functions. According to RJMEC (2022b: 8-9), laws guaranteeing the independence of the National Audit Chamber have been drafted and resources are being provided to enable it to effectively carry out its functions without political interference. However, an auditor general does not yet appear to have been appointed. On the chamber’s official website, the most recent annual report dates back to 2008, but there are more recent compliance audit reports from 2021 (South Sudan National Audit Chamber no date).

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The Anti-Corruption Commission is composed of five commission members and a chairperson appointed by the president and approved via a simple majority in the parliament. The efficacy of the Anti-Corruption Commission is unclear, not least given that the transparency and openness of the commission is minimal; the commission does not have its own official website, for instance.

According to observers, it is highly dependent on the executive and extremely ineffective. The US Department of State (2022c), for example, notes that the commission “in reality lacks the resources or political support to investigate corruption”. In a similar vein, the Bertelsmann Foundation (2022) observes that the separation of powers in South Sudan is very weak and supposedly independent oversight actors such as the commission do not in practice investigate incidents of corruption.

According to information provided by country experts (Global Integrity and Mo Ibrahim Foundation 2023), despite the fact that senior politicians and high-ranking bureaucrats were accused in 2021 of embezzling approximately US\$36 million dollars’ worth of public funds, the commission did not launch a single investigation.

The apparent ineffectiveness of the commission has led some practitioners to propose the establishment of an international anti-corruption commission to investigate state capture and endemic corruption in South Sudan. Abeda (2019: 20) proposes this could be modelled on the International Commission against Impunity set up in Guatemala in 2006 to confront organised crime and corruption.

The South Sudan National Police Service (SSNPS) is a relatively new force established after independence (GIZ 2014). In 2022, the African Policing Civilian Oversight Forum (APCOF) conducted an assessment of the South Sudan National Police Service’s progress towards meeting the Common Standards

for Policing in Eastern Africa. Some of the findings are concerning, including low levels of literacy in the force, lack of resources to meet law enforcement needs and high levels of corruption and other abuses of power (APCOF 2022: 49). The fact that it is not uncommon for police officers to go unpaid for months at a time is a particular problem, given that it may lead to them seeking other illicit means of earning money, either through collaboration with organised crime groups or through extracting illicit fees and bribes from citizens (Anderson and Gibb 2019).

The US Department of State (2022a) mentions that “police 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”. The police are also reported to ignore court orders and be subject to undue influence by powerful individuals. In one instance, a complainant in a civil case reportedly pressured the police to arrest the other party in the case as a means of applying extra pressure (US Department of State 2022a).

According to the 2011 transitional constitution, the judicial system is organised in a highly centralised manner. There is only a single court of appeal, without functional division into civil, criminal or administrative courts (Bertelsmann Foundation 2022). The Bertelsmann Foundation (2022) reports that the courts are widely perceived by the populace as being controlled by powerful political and military factions, which “abuse their powers to influence court cases and end criminal investigations”.

Freedom House (2022) notes that the lack of judicial independence is compounded by a chronic shortage of judges, which it attributes partly to poor pay and conditions. There are, nonetheless, broader capacity issues given the context of legal pluralism in which common and civil law traditions co-exist with legislation inherited from Sudan on

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independence, as well as the need to establish a new cadre of judicial officials since 2011. The government has struggled to create a justice system that reflects the requirements of the people and include chief's courts and customary laws (Leonardi et al. 2010). The distinctions between customary chief's courts and government courts are blurred, and findings from research show that people tend to express preference for informal negotiated settlements rather than any rigid application written laws (Leonardi et al. 2010). Southern Sudanese have been recorded for viewing the formal courts as corrupted, disadvantaging the poor, and blamed for escalating the conflict (Leonardi et al. 2010).

Reforming the judiciary is a component of R-ARCSS. According to the proposals, a judicial reform committee (JRC) composed of members proportionally representing the parties to the R-ARCSS, would review the Judiciary Act during the transitional period (currently until February 2025). During the same period, a constitutional court is supposed to be established (RJMEC, 2018: 8).

However, according to the latest RJMEC (2023b: 6) report, to date the JRC has been unable to complete its mandate, and the review of the Judiciary Act is long overdue. Establishment of constitutional court has been renegotiated, and the current deadline for its establishment is September 2024 (RJMEC, 2023b: 6). There has also reportedly been limited progress in establishing three other transitional justice mechanisms foreseen in the R-ARCC: the hybrid court for South Sudan, the commission on truth, reconciliation and healing, and a compensation and reparations authority (US Department of State 2023).

Other stakeholders

Since the establishment of the Media Authority in 2017, media shutdowns have become less frequent (Reporters Without Borders 2022). However, South Sudan continues to fare poorly on the Press Freedom Index, being ranked 128 out of 180 countries assessed in the latest edition. Journalists face physical risks and regularly experience threats and intimidation, which in practice leads to self-censorship (US Department of State 2022a).

According to Human Rights Watch (2023), in recent years, authorities have arbitrarily detained critics, human rights defenders and journalists. While the Committee to Protect Journalists (2023) has not reported that any journalists or media workers have been murdered since 2019, the Commission on Human Rights in South Sudan (2023: 108) notes that those journalists who write about the potential criminal activities of powerful public officials are known to receive death threats, as well as abduction and detention threats intended to coerce them into revealing their sources. In January 2023, the US Department of State (2023) reports that employees of the government owned South Sudan Broadcasting Corporation were detained by the security services in relation to a leaked video of President Kiir.

In terms of civic space, the UN High Commissioner for Human Rights (2023) has expressed concern that civic and political space in South Sudan has shrunk dramatically. CIVICUS (2023) considers South Sudan to be essentially closed to civil society organisations (CSOs), pointing out that freedom of association is severely restricted and CSOs are subject to raids by the National Security Service. South Sudanese authorities continue to target civil society activists, journalists, media outlets, protesters, lawyers, and human rights defenders and online activities considered critical of the

government have come under increased scrutiny (UN Security Council 2023b: 28). The Commission on Human Rights in South Sudan (2023: 106) has observed that the People’s Coalition for Civil Action (PCCA) has been subject to repressive tactics, with one CSO representative quoted as saying:

“We are being monitored all the time. In all places and at all levels, speaking out is a problem. We can’t even come together to discuss issues in our community.”

In this setting, many critics of the transitional government are said to have fled the country (US Department of State 2023).

Overall, the Bertelsmann Foundation (2022) concludes that “public space for the freedom of expression, deliberations over policies and laws, and investigative journalism has been steadily eroded in recent years”. The US Department of State (2023) concurs, concluding that participation by civil society in the implementation of the R-ARCSS has drastically declined in the past two years. In this context, the prospects for genuine political competition and democratic participation in the elections scheduled for December 2024 seem doubtful.

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The U4 Anti-Corruption Resource Centre shares research and evidence to help international development actors get sustainable results. The centre is part of Chr. Michelsen Institute (CMI) in Bergen, Norway – a research institute on global development and human rights.

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