



**Australian Government**  
**Department of Foreign Affairs and Trade**



# **DFAT COUNTRY INFORMATION REPORT SOUTH SUDAN**

5 October 2016

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## ACRONYMS

ARC	Agreement on the Resolution of the Conflict in the Republic of South Sudan
CPA	Comprehensive Peace Agreement
DFAT	Department of Foreign Affairs and Trade
NGO	Non-Government Organisation
NPS	National Police Service
NSS	National Security Service
SPLA	Sudan People's Liberation Army
SPLA-IO	Sudan People's Liberation Army-in-Opposition
SPLM	Sudan People's Liberation Movement
SPLM-IO	Sudan People's Liberation Movement-in-Opposition
TGNU	Transitional Government of National Unity

# 1. PURPOSE AND SCOPE

1.1 This Country Information Report has been prepared by the Department of Foreign Affairs and Trade (DFAT) for protection status determination purposes only. It provides DFAT's best judgment and assessment at time of writing and is distinct from Australian Government policy with respect to South Sudan.

1.2 The report provides a general, rather than an exhaustive country overview. It has been prepared with regard to the current caseload for decision makers in Australia without reference to individual applications for protection visas. The report does not contain policy guidance for decision makers.

1.3 Ministerial Direction Number 56 of 21 June 2013 under s 499 of the *Migration Act 1958* states that:

Where the Department of Foreign Affairs and Trade has prepared a country information assessment expressly for protection status determination processes, and that assessment is available to the decision maker, the decision maker must take into account that assessment, where relevant, in making their decision. The decision maker is not precluded from considering other relevant information about the country.

1.4 This report is based on DFAT's on-the-ground knowledge and discussions with a range of sources in South Sudan and other parts of Africa including the UN, civil society organisations and representatives from the international community. It takes into account relevant and credible open source reports, including those produced by the African Union, Amnesty International, Human Rights Watch, International Centre for Not-for-Profit Law, UN Office for the Coordination of Humanitarian Affairs, UN Office of the High Commissioner for Human Rights, UN Security Council, US Department of State, World Bank and World Health Organization. Where DFAT does not refer to a specific source of a report or allegation, this may be to protect the source.

1.5 Up-to-date data and open-source reports of the situation in South Sudan are hard to obtain, given the current security situation. Where DFAT has provided data or examples from open-source reports, it deems these to be the most recent and credible information available and illustrative of the current situation.

1.6 Information on the contested region of Abyei is available in DFAT's Country Information Report on Sudan, 27 April 2016.

## 2. BACKGROUND INFORMATION

### RECENT HISTORY

2.1 The new nation of South Sudan was established in 2011 following two protracted conflicts between the northern and southern regions of Sudan, which had itself gained independence from the United Kingdom and Egypt in 1956. The First Civil War (1955 – 1972) and Second Civil War (1983 – 2005) were rooted in the North's economic, political and social domination of the South and led to the deaths of more than 1.5 million people. The 2002 Machakos Protocol between the northern dominated Government of Sudan and its main opposition, the southern dominated Sudan People's Liberation Movement (SPLM) / Sudan People's Liberation Army, outlined the process for negotiations that culminated in the 2005 Comprehensive Peace Agreement (CPA), which ended the Second Civil War. The CPA included a commitment to hold a referendum on the sovereignty of the southern provinces. Following this referendum, South Sudan became the world's youngest nation on 9 July 2011.

2.2 On 23 July 2013, President Salva Kiir (a Dinka) dismissed Vice President Riek Machar (a Nuer) and the entire Council of Ministers after accusing Machar of leading a failed coup. Tensions within the ruling SPLM continued to build in the lead up to a meeting of the SPLM's National Liberation Council on 13 December 2013, which was partially boycotted by Machar and his supporters. On 15 December 2013, conflict erupted and quickly assumed ethnic dimensions when Dinka elements of the Presidential Guard violently targeted Nuer civilians in Juba. Conflict continued to intensify, largely between the Government led by Kiir who is the leader of the SPLM and the Sudan People's Liberation Movement-In-Opposition (SPLM-IO), led by Machar.

2.3 Despite both outlining their reservations, the Government and SPLM-IO bowed to significant pressure from the international community and signed the ambitious Agreement on the Resolution of the Conflict in the Republic of South Sudan (ARC) on 26 August 2015. The ARC called for a cessation of hostilities and positioning of forces in cantonments in conflict-affected areas, the return of Machar as First Vice President and the establishment of a Transitional Government of National Unity (TGNU), followed by open elections.

2.4 While Machar was re-appointed as First Vice President on 26 April 2016 and the TGNU was formed on 29 April 2016, Kiir undermined the ARC and the TGNU both before and after Machar's re-appointment. For example, in October 2015, Kiir announced that South Sudan would move from a federation of 10 states to 28 states, which in most observers' view would largely ensure that the Dinka population would not be outnumbered by any other ethnic group in most states. Contacts suggest that this announcement was made to appease powerful individuals (mainly the Dinka Council of Elders) who disagreed with Kiir's signing of the ARC. Kiir also announced in May 2016 the appointment of 10 'Presidential Advisors' (who are all considered loyal to Kiir) which effectively created a de-facto Cabinet and side-lined the newly formed TGNU.

2.5 On 7 July 2016, isolated fighting broke out between forces linked to Kiir and Machar in Juba. Fighting intensified and continued for approximately six days, leading to the deaths of several hundred people, including civilians, and the displacement of many more. Reports also suggested that there was an increase in conflict outside of Juba. Machar and the Sudan People's Liberation Movement-In-Opposition withdrew from Juba, providing the Government with largely unfettered control over Juba. On 25 July 2016, Kiir again

dismissed Machar as First Vice President. The SPLM-IO's Taban Deng was sworn in as Machar's replacement on 26 July 2016, after he was temporarily approved by an internal SPLM-IO meeting. Media reports suggested that Government-linked forces coerced some of the remaining SPLM-IO representatives in Juba to endorse Deng's appointment. Deng has since stated that he will remain First Vice President until the next elections (see [2.25](#)).

2.6 The humanitarian situation in South Sudan is dire and has been aggravated by the recent escalation in conflict. As of August 2016, 1.6 million people were internally displaced, including 190,000 people in Protection of Civilian camps run by the UN Mission in South Sudan, and a further 818,950 South Sudanese people seeking refuge in surrounding countries. The Government accepted the deployment of a 4,000 'Regional Protection Force' in early September 2016, in addition to the roughly 12,000 UN Mission in South Sudan personnel already serving in South Sudan.

## DEMOGRAPHY

2.7 South Sudan is a landlocked country that shares borders with the Central African Republic, Democratic Republic of Congo, Ethiopia, Kenya, Sudan and Uganda.

2.8 South Sudan has an estimated population of 12.04 million people and a high growth rate of 4.02 per cent per year. The majority of the population live in rural areas, with an estimated 18.8 per cent of the population living in urban areas.

2.9 Following independence, it was estimated that the population was approximately 35.8 per cent Dinka and 15.6 per cent Nuer, with the remainder belonging to smaller ethnic and sub-ethnic groups including Acholi, Anuak, Azande, Bari, Bongo, Bviri, Didinga, Dungotona, Kakwa, Kuku, Lango, Lndi, Mandari, Murle, Ndogo and Shilluk.

2.10 The majority of the population is Christian although a substantial number of people, particularly in more isolated areas, follow traditional tribal beliefs. There are a number of prominent Christian denominations in South Sudan, including the African Inland Church, Episcopal, Presbyterian, Presbyterian Evangelical, Roman Catholic, Sudan Pentecostal and Sudan Interior. Coptic Orthodox, Ethiopian Orthodox and Greek Orthodox are also present, although in smaller numbers. Many Muslims migrated to Sudan following South Sudan's independence, although some still remain.

2.11 English is the official language, although Arabic (including the local dialect often referred to as Juba-Arabic) is widely spoken, given that Arabic was the official language until South Sudan's independence. Other regional and tribal languages are also very common, particularly outside of Juba.

## ECONOMIC OVERVIEW

2.12 South Sudan's formal economy is extremely weak and underdeveloped. Juba is the only enclave in South Sudan that operates with something resembling a formal economy. In 2015, South Sudan had an estimated GDP of USD19.05billion and per capita income of approximately USD790. Widespread dollarization and the sharp depreciation of the South Sudanese Pound on the parallel exchange rate led to rapid inflation. The South Sudanese Pound depreciated by 84 per cent immediately after it was floated in December 2015. South Sudan has few foreign-exchange reserves and is running a government deficit of more than USD200 million per month.

2.13 Oil production accounts for approximately 60 per cent of GDP and 98 per cent of exports, however poor quality oil, declining oil prices, disagreements with Sudan over oil production and transshipment fees

and internal conflict have led to a net loss of USD7 per barrel produced. Since the outbreak of conflict in December 2013, it is estimated that oil production has decreased by around 20 per cent and, on current estimates, oil production is expected to reduce steadily and be negligible by 2035.

2.14 Eighty-five per cent of the population undertake unpaid work, mainly in agriculture which has been adversely affected by ongoing conflict and drought (an estimated 2.8 million people are now considered severely food insecure). Poverty has noticeably and statistically increased, from 44.7 per cent of the population in 2011 to 57.2 per cent in 2015, contributing to increasing levels of crime.

2.15 Corruption significantly affects South Sudan's economic performance. South Sudan ranked 163<sup>rd</sup> out of 168 countries on Transparency International's Corruption Perceptions Index in 2015 and 187<sup>th</sup> out of 189 countries on the World Bank's 'Doing Business: Measuring Regulatory Quality and Efficiency'.

2.16 Overall, DFAT considers that low levels of economic opportunity may act as a push factor for external migration, but that this should be viewed in the context of the current conflict and broader humanitarian situation.

## Health

2.17 South Sudan's population has extremely poor access to health care. Accurate data prepared by the Government on health indicators is often non-existent or outdated. According to data collected prior to the outbreak of conflict in December 2013, South Sudan ranked 169<sup>th</sup> out of a total of 187 countries on the UN Development Programme's 2015 Human Development Index. South Sudan has an average life expectancy at birth of 56.7 years for women and 54.7 years for men. The infant mortality rate is 105 deaths per 1,000 live births and the maternal mortality rate is 2,054 per 100,000 live births, meaning that women have a one in seven chance of dying during pregnancy or childbirth. Only 55 per cent of the population has access to improved sources of drinking water (ie. a drinking-water source that is protected from outside contamination) and around 38 per cent of the population walk more than 30 minutes one way to collect drinking water. Eighty per cent of the population do not have access to toilet facilities. DFAT understands that the health situation has deteriorated further as a result of the worsening conflict and economic situation.

## Education

2.18 In January 2016, the UN Children's Fund reported that South Sudan had the highest proportion of out of school children in the world. Fifty-one per cent of primary and lower secondary age children are not accessing education and the education of 1.04 million children aged between three and 18 years is currently affected, predominantly in Unity State, Upper Nile State, Jonglei State, Central Equatoria State and Lakes State. Armed conflict has exacerbated the situation, with 95 schools being occupied by armed groups, being used as shelters or damaged. DFAT understands that the situation has deteriorated further as a result of the worsening conflict and economic situation. According to data collected prior to the outbreak of conflict in December 2013, South Sudan's literacy rate was low – with only 27 per cent of the adult population literate. Gender equality remained an issue, with only 33 per cent of girls enrolled in schools. On average, girls received 4.5 years of education while boys received 5.8 years.

## Employment

2.19 Data collected prior to the outbreak of conflict in December 2013 found that 76 per cent of households in South Sudan survive on subsistence activities and informal trade. While the African Development Bank estimated in 2012 that South Sudan had a very high unemployment rate with only 12 per cent of the population being actively employed, this does not reflect the significant reliance on the informal economy. It is therefore difficult to accurately quantify the employment situation in South Sudan. However, as at 2016, DFAT assesses that as the security and economic situation has deteriorated, employment opportunities (both in the formal and informal sectors) have also worsened.

## POLITICAL SYSTEM

2.20 The Transitional Constitution of the Republic of South Sudan was adopted in 2011 and was intended to be the basis for governance during a four-year transitional period while a permanent constitution was drafted. However, a permanent constitution has not been drafted due to the outbreak of conflict in December 2013.

2.21 The Agreement on the Resolution of the Conflict in the Republic of South Sudan (ARC), signed in August 2015, stipulates that its contents will be fully incorporated into the Transitional Constitution of the Republic of South Sudan and, in the event that the ARC conflicts with the terms of the Transitional Constitution of the Republic of South Sudan, the ARC will prevail.

2.22 The ARC specified the process for forming a Transitional Government of National Unity (TGNU), tasked with governing South Sudan during the Transitional Period which commenced 90 days after the signing of the ARC and is due to last for 30 months. According to the ARC, the Executive of the TGNU comprises the President, First Vice President, Vice President, Council of Ministers (consisting of the President, First Vice President and Ministers) and Deputy Ministers. The ARC states that for the Transitional Period, the incumbent President will serve as the President and Executive Head of State, the First Vice President will be selected by the Sudan People's Liberation Movement-In-Opposition (SPLM-IO) and the incumbent Vice President will serve as Vice President. The Council of Ministers comprises of 30 ministers, selected through a power-sharing ratio of 53 per cent Government, 33 per cent SPLM-IO, seven per cent former detainees and seven per cent other political parties who participated in the Intergovernmental Authority on Development led peace talks.

2.23 The ARC expanded the existing National Legislative Assembly for the duration of the Transitional Period. The expanded Transitional National Legislative Assembly comprises 400 members, including 332 former members of the National Legislative Assembly, (even those unseated following the outbreak of conflict in December 2013), as well as a further 68 representatives – made up of 50 members of the SPLM-IO, one former detainee and 17 members of other political parties.

2.24 The ARC also provided for a reconstitution of state governments, with a power-sharing ratio of 46 per cent Government, 40 per cent SPLM-IO, seven per cent former detainees and seven per cent other political parties in Unity State, Upper Nile State and Jonglei State. In other states, the power-sharing ratio is 85 per cent Government and 15 per cent SPLM-IO. This has not been implemented, with Kiir announcing in October 2015 that South Sudan would move from a federation of 10 states to 28 states (see [2.4](#)). Kiir has unilaterally appointed Governors to the 28 states without regard to the provisions of the ARC.

2.25 According to the ARC, elections to establish a democratically elected government are due to be held 60 days prior to the expiry of the Transitional Period.

2.26 Continuing and escalating instability within South Sudan has meant that both the Transitional Constitution of the Republic of South Sudan and the ARC have had little tangible impact on the day-to-day lives of the population of South Sudan. Following the escalation of conflict in July 2016, it is difficult to ascertain to what extent the TGNU is functioning as per the specifications of the ARC.

## HUMAN RIGHTS FRAMEWORK

### National Human Rights Institution

2.27 The Transitional Constitution of the Republic of South Sudan provided for the establishment of the Human Rights Commission. The Transitional Constitution of the Republic of South Sudan stipulates that the Chairperson, Deputy Chairperson and Members will have proven integrity and be competent, non-partisan, impartial and appointed by the President, with the approval of the National Legislative Assembly. The Human Rights Commission is tasked with monitoring and investigating human rights abuses as well as educating the community about the importance of human rights.

2.28 In-country contacts have highlighted that while the Human Rights Commission is generally considered independent and has published a number of reports concerning human rights abuses by both the Government and Sudan People's Liberation Movement-In-Opposition, significant resource constraints have severely limited its ability to operate effectively and meet its mandate.

## SECURITY SITUATION

2.29 The Ceasefire Transitional Security Arrangements Monitoring Mechanism, established by the Agreement on the Resolution of the Conflict in the Republic of South Sudan (ARC), has been largely prevented from monitoring compliance of the permanent ceasefire committed to under the ARC. Coupled with the fluid nature of the conflict in South Sudan and the frequency of inter-tribal conflict throughout the country, it is difficult to provide an accurate overview of the current security situation. Overall, DFAT assesses that the security situation in South Sudan remains extremely volatile.

2.30 Conflict continues between the Government's Sudan People's Liberation Army and the Sudan People's Liberation Movement-in-Opposition's SPLA-IO in Upper Nile State, Unity State and Jonglei State. Incidents of conflict in Central Equatoria State and Eastern Equatoria State are also rising, particularly following the recent escalation of conflict in Juba in July 2016. As a result, there are significant numbers of internally displaced people throughout South Sudan.

2.31 While the Government now has almost unfettered control over Juba, the relative stability within Juba is extremely fragile. Criminality is rampant and exacerbated by the severe levels of poverty in Juba (and South Sudan more broadly). Particular ethnic groups continue to face a higher risk in Juba (see '[Race/Nationality](#)'). Foreigners, non-government organisations (NGOs) and the UN have also reported that the increasing number of incidents targeted at them is limiting their ability to provide assistance within South Sudan (see '[Civil Society Organisations](#)').

## 3. REFUGEE CONVENTION CLAIMS

### RACE/NATIONALITY

3.1 The Transitional Constitution of the Republic of South Sudan states that all ethnic and cultural communities have the right to freely enjoy and develop their cultures and practice their beliefs and customs. South Sudan, however, remains a highly traditional society, founded on familial and genealogical ties where ethnicity is a common cause of societal and official discrimination and violence. Credible in-country sources, including human rights contacts, suggest that there is a significant correlation between ethnicity and an individual's risk of discrimination and violence. DFAT assesses that ethnicity is the most significant determinant of an individual's risk of experiencing official and societal discrimination and violence in South Sudan, and that this intensified following the outbreak of conflict in December 2013 which intertwined both ethnicity and political opinion.

3.2 Official and societal discrimination and violence linked to an individual's ethnicity occurs in two distinct ways – as a result of the formal conflict between the Government and Sudan People's Liberation Movement-In-Opposition (SPLM-IO) and due to informal inter-tribal conflict. Tensions between the Dinka and Nuer ethnic groups have been historically common in South Sudan, with relations between them being punctuated by informal inter-tribal conflict, and now direct and open conflict. The dynamics within the Dinka and Nuer ethnic groups, however, are also complex – for example, a number of Nuer sub-ethnic groups remained loyal to the Dinka-linked Government following the outbreak of conflict in December 2013. While no ethnicity is exempt from experiencing official or societal discrimination or violence, DFAT assesses that there are three prominent ethnic groups (Dinka, Nuer and Shilluk) who are most at risk, owing to their active involvement in the conflict between the Government and SPLM-IO.

3.3 Outside of the Dinka, Nuer and Shilluk ethnic groups, there are credible examples of other ethnic groups facing risk, mostly from inter-tribal conflict. However, this risk can be further complicated by an individual or ethnic group's actual or perceived political opinion (see ['Political Opinion'](#)). For example:

- » The Murle, Nuer and Dinka ethnic groups in Jonglei State have traditionally engaged in cycles of cattle raiding and child abduction, which has been exacerbated by the proliferation of weapons and worsening humanitarian situation in South Sudan. While incidents of clashes between the Murle, Nuer and Dinka have decreased, tensions between the three groups remain. The Murle have also recently been responsible for attacks against villages across the border in Ethiopia, where they have reportedly stolen large numbers of cattle and taken hundreds of hostages.
- » The Azande ethnic group in Western Equatoria formed their own self defence force called the Arrow Boys in 2009/2010 in response to an increase in attacks by the Lord's Resistance Army (an armed group that originated in Uganda in the mid-1980s before moving to the Democratic Republic of Congo, the Central African Republic and South Sudan in the mid-2000s). As the threat from the Lord's Resistance Army reduced, clashes between the Arrow Boys and local Dinka militias (with support from Dinka-linked Sudan People's Liberation Army) increased. In November 2015, the South Sudan People's Patriotic Front, drawn largely from the Arrow Boys was formed, and has indicated that it is ready to merge with the SPLM-IO.

3.4 An individual's ethnicity can often be identified by facial scarification, appearance, language, accent or name. While facial scarification is common among males, some women also have facial scarification.

## Dinka

3.5 The Dinka are a large group of several closely related sub-ethnic groups. Dinka are a branch of Nilotic people, who are indigenous to the Nile Valley and speak Nilotic languages. Nilotics are the majority of the population in South Sudan and are also present in northern Uganda and western Kenya. Dinka are the largest ethnic group in South Sudan accounting for an estimated 35.8 per cent of the population, and have traditionally dominated South Sudanese society. Dinka are predominantly pastoralists located in the central and northern areas of South Sudan. There are a number of sub-ethnic groups, including the Abiliang, Agar, Aliab, Atwot, Bor, Ciec, Gok, Hol, Malual, Nyarweng, Padang, Rek, Ruweng, Twic-JS and Twic-WS. Dinka males are often distinguishable by facial scarification consisting of three parallel lines across the forehead, although different Dinka sub-ethnic groups use different patterns.

3.6 Dinkas have been targeted by the Sudan People's Liberation Army-In-Opposition (SPLA-IO) on the basis of their ethnicity, particularly in conflict-affected areas. In January 2014, witnesses in the SPLA-IO-controlled town of Bor in Jonglei State reported large-scale targeting of Dinka civilians, including attacks against the local hospital where 14 bodies were found including two pregnant women. During the same period, the SPLA-IO killed at least 13 civilians hiding in a church in Bor, including several women. Witnesses reported that the SPLA-IO also raped women seeking refuge in the church. DFAT is aware of reports that incidents of violence directed at Dinkas continue, mainly in conflict-affected areas although the Sudan People's Liberation Movement-In-Opposition's capacity has been weakened following the recent escalation of conflict in Juba in July 2016.

3.7 Overall, DFAT assesses that Dinkas living in conflict-affected areas face a high risk of societal discrimination and violence, given the significant ethnic-dimensions of the current conflict as well as their geographic proximity to the conflict. In Juba, Dinkas face a low risk of being targeted on the basis of their ethnicity because the Dinka-dominated Government currently has almost unencumbered control over Juba.

## Nuer

3.8 The Nuer are a group of several closely related sub-ethnic groups living in South Sudan. Like Dinka, the Nuer are considered to be a branch of the Nilotic people. The Nuer are the second largest ethnic group in South Sudan accounting for an estimated 15.6 per cent of the population. They are predominantly pastoralists located in northern and north-eastern South Sudan. There are a number of sub-ethnic groups, including the Adok, Ador, Bul, Jegai, Jikany, Lek, Lou, Gawaar and Nyong. Nuer males are often distinguishable by facial scarification consisting of six lines across the forehead with the lines slightly dipping in the middle, although different Nuer sub-ethnic groups use different patterns.

3.9 Following the outbreak of conflict in December 2013, the Government conducted a violent crackdown on the Nuer population in Juba. Human Rights Watch reported that this included targeted killings, house-to-house searches, mass arrests, the unlawful detention of hundreds of men and torture. Human Rights Watch documented more than 60 incidents of extra-judicial killings of one or more individuals. In one of the worst incidents, Government forces rounded up between 200 and 400 Nuer men and killed all but 13 the following day. Nuer have continued to be targeted by the Sudan People's Liberation Movement, Sudan People's Liberation Army and other groups aligned to the Government. A significant number of the Nuer remain in Protection of Civilian camps run by the UN Mission in South Sudan for their own safety.

3.10 Overall, DFAT assesses that Nuer residing in areas under the control of the Government, including Juba, face a high risk of official and societal discrimination and violence. Nuer living in conflict-affected areas under the control of the Sudan People's Liberation Movement-In-Opposition face a low risk of official or societal discrimination or violence, but may still be at risk given their proximity to the conflict (and the fact that the boundaries of the conflict frequently shift) as well as their limited ability to internally relocate.

## Shilluk

3.11 The Shilluk are a branch of the Nilotic people. They are a relatively small ethnic group in South Sudan. The traditional Shilluk Kingdom is located on both sides of the South Sudan / Sudan border, where the majority of the Shilluk population (who are committed to defending their traditional territory) remain. Unlike the Dinka and Nuer, the Shilluk are predominantly agriculturalists. Shilluk males are often distinguishable by facial scarification consisting of dots either on the forehead above the eyes or over the entirety of the face, although different Shilluk sub-ethnic groups use different patterns.

3.12 Shilluk have been targeted on the basis of their ethnicity by both the Sudan People's Liberation Movement (SPLM) and Sudan People's Liberation Movement-In-Opposition (SPLM-IO), depending on who they were aligned with at the time (the allegiance of the Shilluk community-based forces shifted from the SPLM to the SPLM-IO in July 2015). For example, in February 2015, a Dinka militia reportedly affiliated with the SPLM attacked Shilluk civilians sheltering at the Malakal Protection of Civilian Camp. Medicins Sans Frontieres reported that at least 18 civilians died. The Shilluk are currently aligned with the SPLM-IO, abating the risk of being targeted by the SPLM-IO.

3.13 Overall, DFAT assesses that Shilluk in areas under the control of the Government, including Juba, face a high risk of official and societal discrimination and violence. Shilluk living in conflict-affected areas under the control of the SPLM-IO face a low risk of official or societal discrimination or violence, but may still be at risk given their proximity to the conflict (and the fact that the boundaries of the conflict frequently shift) as well as their limited ability to internally relocate.

## RELIGION

3.14 The Transitional Constitution of the Republic of South Sudan states that all religions will be treated equally, and that religion or religious beliefs will not be used for divisive purposes. The Transitional Constitution of the Republic of South Sudan provides the right to worship or assemble freely in connection with any religion or belief and to establish places for these purposes. The Transitional Constitution of the Republic of South Sudan allows for religious groups to solicit and receive financial contributions, own property for religious purposes, write, issue and disseminate religious publications, teach religion or beliefs and observe religious holidays.

3.15 Christianity is the dominant religion in South Sudan and there are a number of different Christian churches (see [2.10](#)). Under the former colonial administration, different Christian churches were allowed to establish themselves in different areas of South Sudan. The prominence of particular Christian Churches in particular areas, coupled with societal discrimination as result of an individual's ethnicity, has led to some individuals being unwelcome at Christian churches associated with opposing ethnic groups. DFAT assesses that this is more likely due to someone's ethnicity, rather than their religious affiliation.

3.16 A substantial proportion of the population also follow traditional tribal beliefs, or a combination of Christian and traditional tribal beliefs. A small minority of the population are Muslim, although there are no reliable statistics on the actual number.

3.17 Different religious groups are represented at most public events, including the opening of the National Assembly and Independence Day ceremonies. At such events, prayers are often read by both a Christian and Muslim representative and translated from English into Arabic. While cooperation between different religious groups is common, the outbreak of conflict in December 2013 caused some divisions. For example, the Council of Churches which was tasked with promoting religious harmony in South Sudan has splintered, mainly along ethnic lines.

3.18 Overall, based on in-depth discussions with in-country contacts, DFAT assesses that individuals are unlikely to experience official or societal discrimination or violence on the basis of their religious identity alone. DFAT acknowledges that there are some limited examples of Muslims experiencing official or societal discrimination, as outlined below.

## Muslims

3.19 A small minority of the population of South Sudan is Muslim. Studies from the early 2000s (and prior to South Sudan's independence) estimated that approximately 18 to 35 per cent of the population was Muslim. This significantly declined following South Sudan's independence. Muslims have held some prominent positions in South Sudan, including as Governors and Ministers. DFAT is not aware of any current Muslim Governors or Muslim representatives in the Transitional Government of National Unity.

3.20 The US Department of State's 2014 International Religious Freedom Report stated that some Muslims face official discrimination, particularly in relation to obtaining nationality or identity documents. Muslims claimed that their nationality and passport applications were sometimes refused, often without explanation. Muslims reported that the Government occasionally expropriated their land. DFAT contacts advised that while these reports are credible, the motivations behind these incidents may be more complex than an individual's religious identity alone.

3.21 Muslims have reported low-level discrimination in employment (although high rates of unemployment are an issue throughout South Sudan). These incidents may have been exacerbated by the difficulty Muslims experience in obtaining identification documentation and a lack of English language skills.

## POLITICAL OPINION (ACTUAL OR IMPUTED)

3.22 The Transitional Constitution of the Republic of South Sudan recognises and guarantees a number of political freedoms including peaceful assembly; freedom of association; freedom to form or join political parties; and to take part in any level of government. The Transitional Constitution of the Republic of South Sudan states that the formation and regulation of political parties will be regulated by law. Further, it states that all political parties must not contradict the Transitional Constitution of the Republic of South Sudan, have a democratically elected leadership, disclosed and transparent sources of funding and be open to any citizen regardless of their gender, ethnicity or place of birth.

3.23 There was a proliferation of political parties in South Sudan following the signing of the Comprehensive Peace Agreement. The African Union Commission of Inquiry on South Sudan lists a number of political parties outside of the ruling Sudan People's Liberation Movement (SPLM) and the Sudan People's Liberation Movement-In-Opposition (SPLM-IO), including the Sudan People's Liberation Movement Democratic Change (which is considered the largest outside of the SPLM and SPLM-IO), the Sudan African National Union, the United Democratic Front and the United Democratic Sudan Forum. Both the African Union Commission of Inquiry on South Sudan and in-country contacts suggest that political parties outside of

the ruling SPLM and the SPLM-IO are extremely weak. Following the outbreak of conflict in December 2013, many individuals no longer identify themselves along political lines, but along ethnic lines.

## Sudan People's Liberation Movement

3.24 The current leader of the Sudan People's Liberation Movement (SPLM) is President Salva Kiir who assumed the position of First Vice President of Sudan in July 2005 following the death of John Garang. Kiir was re-elected as First Vice President of Sudan in 2010 and became President of South Sudan at independence.

3.25 Individuals associated with the SPLM are unlikely to be targeted on the basis of their political opinion in areas controlled by the Government, given the Government is dominated by the SPLM. However, the SPLM is extremely fractious internally, and individuals associated with the SPLM who express alternate political opinions may be targeted. DFAT assesses that within areas controlled by the Sudan People's Liberation Movement-In-Opposition, individuals associated with or perceived to be associated with the SPLM, face a high risk of discrimination and violence.

## Sudan People's Liberation Movement-In-Opposition

3.26 In December 2013, Riek Machar, who had been removed from his position as First Vice President in mid-2013, announced that he would form the splinter Sudan People's Liberation Movement-In-Opposition (SPLM-IO). The SPLM-IO is dominated by Nuer and includes a number of interconnected groups such as the formal SPLM-IO, the wider Nuer political class in exile and parts of the Sudan People's Liberation Army who pledged allegiance to the SPLM-IO. The Shilluk community-based forces (often referred to as the Aguelek), commanded by Johnson Olony, declared their support for the SPLM-IO in July 2015, after denouncing their support for the Sudan People's Liberation Movement in April 2015. Sources suggest that the SPLM-IO remains weak and disorganised and that there are continued disagreements among individuals associated with the SPLM-IO over its military and political objectives, negotiating positions and structure.

3.27 Many individuals associated with the SPLM-IO, including Machar, fled from Juba to other areas of South Sudan and surrounding countries following the outbreak of violence in late-2013. Given this, it is difficult to objectively assess the specific risk an individual associated with the SPLM-IO would face. Credible sources suggest that individuals associated with the SPLM-IO fear returning to South Sudan and, in particular Juba, and that the only safe way to do so would be to publically denounce support for the SPLM-IO (although an individual would need to be a senior figure within the SPLM-IO for the denouncement to be understood and accepted).

3.28 The implementation of the Agreement on the Resolution of the Conflict in the Republic of South Sudan did lead to the re-appointment of Machar as First Vice President and the return of the SPLM-IO's military forces to Juba (with significant security measures and monitoring by the international community). However, following the escalation of violence within Juba in July 2016, Machar fled Juba along with some other members of the SPLM-IO. During this time, there were reports that members of the SPLM-IO were arrested, beaten (including a Minister who was badly beaten and then fled overseas) and summarily executed. Machar was subsequently dismissed and Taban Deng was sworn in as First Vice President (see [2.5](#)).

3.29 Overall, DFAT assesses that an individual who is aligned with, or perceived to be aligned with, the SPLM-IO would face a high risk of both official and societal discrimination and violence in areas under the control of the Government, including Juba. In reality, some areas under the control of the Government are

likely to be safer than others due to the Government's weak capacity to monitor its security and law enforcement forces behaviour over South Sudan's entire territory. Within areas under the control of the SPLM-IO, DFAT assesses that individuals face a lower risk of being targeted on the basis of their political opinion, but would still be at risk of violence given their geographic proximity to the conflict.

## GROUPS OF INTEREST

### Civil Society Organisations

3.30 The Government tries to maintain strict control over the activities of civil society organisations and seeks to limit actions that may be perceived to threaten its authority. In May 2015, the National Legislative Assembly passed the controversial NGO Bill, which gave the Government extensive oversight of NGO activities and introduced burdensome registration and re-registration requirements; a requirement that no more than one-fifth of an organisation's staff be foreigners and substantial criminal penalties for non-compliance. The NGO Bill also created a regulatory body called the NGO Board which has been widely criticised as having the potential to impede rather than facilitate the work of NGOs. The President refused to sign the NGO Bill and it was returned to the National Legislative Assembly for further consideration. The President's comments on the draft NGO Bill were not made public but a revised NGO Bill that incorporated more restrictive provisions than previous versions was passed by the National Legislative Assembly and signed by the President in early 2016.

3.31 High inflation has made it extremely expensive for NGOs to operate in South Sudan. In addition, in-country contacts report that the Government receives significant revenue from predominantly international NGOs (including from rent and taxes on staff).

3.32 Credible civil society contacts have told DFAT that should a civil society organisation or individual associated with a civil society organisation actively criticise the Government, they would likely find it very difficult to continue operating. For example, if an individual actively disagrees with the Government, pressure may be put on the civil society organisation to terminate the individual's contract. This has effectively led to self-censoring, particularly on sensitive issues such as human rights. The Government restricts the movement of NGOs, particularly within conflict-affected areas.

3.33 Attacks and harassment against civil society organisations have increased. This increase is corroborated by the South Sudan NGO Forum's Humanitarian Access Report which states that, between January and June 2015, 46 per cent of NGOs surveyed reported having staff threatened with violence or harassed and 30 per cent had been direct victims of violence. Since December 2013, 59 aid workers have been killed in South Sudan.

3.34 Overall, DFAT assesses that civil society organisations and individuals associated with civil society organisations that have a human rights or humanitarian focus, face a high risk of official and societal discrimination and violence. DFAT further assesses that this risk is heightened when a civil society organisation or associated individual actively criticise the Government.

### Media

3.35 The Transitional Constitution of the Republic of South Sudan states that every citizen has the right to freedom of expression, reception and dissemination without prejudice. Further, it states that the Government shall guarantee freedom of the press and other media as regulated by law. There is a widening

gap between the protections as described in the Transitional Constitution of the Republic of South Sudan and practice. South Sudan ranked 140<sup>th</sup> out of 180 countries on the 2016 World Press Freedom Index, indicating a significant lack of freedom of the press.

3.36 The situation for media is fraught, with journalists experiencing harassment and intimidation, being summoned for questioning by the National Security Service (NSS) and being told to leave South Sudan. In February 2015, the NSS seized the print run of the daily independent newspaper, the Nation Mirror, after previously prohibiting its publication. Despite apologising, the publication remained closed and the Editor fled South Sudan after he was harassed and threatened. He subsequently returned and the publication was reopened in October 2015. In the past, the Government has publically stated (through the Minister for Information and Broadcasting) that the publication of interviews with the Sudan People's Liberation Movement-In-Opposition (SPLM-IO) or reporting on the activities of the SPLM-IO would be considered as colluding with rebels. In August 2015, three independent media outlets were closed, allegedly in response to claims they were supporting the SPLM-IO.

3.37 Seven journalists were killed in 2015, including the Corporate Weekly's Peter Moi who was shot twice by unidentified gunmen on the outskirts of Juba shortly after the President had publically stated that 'Freedom of the press does not mean you work against the country'.

3.38 Overall, DFAT assesses that there is little freedom of the press in South Sudan and journalists regularly self-censor in order to avoid overt attention from authorities. Journalists who do voice anti-Government sentiments face a high risk of official discrimination and violence.

## Women

3.39 The Transitional Constitution of the Republic of South Sudan states that women will be accorded full and equal dignity of the person and have the right to equal pay for equal work and to participate equally with men in public life. Further, it states that all levels of government will promote women's participation through reserving 25 per cent of seats in the legislature and executive for women, that laws will be enacted to combat harmful customs and traditions and that all levels of government will provide maternity and child care. The Transitional Constitution of the Republic of South Sudan also states that women have the right to own property and share in the estates of their deceased husbands together with any surviving legal heir.

3.40 Prior to the outbreak of conflict in December 2013, women held 27 per cent of seats in the National Legislative Assembly and 10 per cent of seats in the Council of States. Only six out of 30 members of the Transitional Government of National Unity Cabinet announced in April 2016 were women, which is below the number stipulated in the Agreement on the Resolution of the Conflict in the Republic of South Sudan. DFAT is not aware of any data on the number of women in legislative and executive organs at the sub-national level but, anecdotally, understands that it is limited.

3.41 Accurate data on the prevalence of violence against women does not exist but credible sources have told DFAT that it is common and generally accepted – including the widespread use of rape and the abduction of women for sex slavery in conflict-affected areas. This has been corroborated by extensive open-source reporting, including from the Office of the Special Representative of the Secretary-General for Sexual Violence in Conflict who stated that sexual violence was prevalent, and exacerbated by impunity and a militarised society. The 2008 Penal Code Act (which the Comprehensive Peace Agreement stipulated would continue to be used following South Sudan's independence) states that an individual convicted of rape can be sentenced to up to 14 years imprisonment and a fine. Sources suggest that the Government does not effectively enforce the law and that incidents of rape often go unreported. The 2008 Penal Code Act does not criminalise domestic violence and marital rape. Authorities sometimes try to charge women a fee to

make a formal complaint regarding violence they have experienced, and women were often told a formal complaint was required prior to seeking medical attention.

3.42 The 2008 Penal Code Act makes the performance of female genital mutilation an offence which is punishable by up to 10 years imprisonment, a fine or both. The 2015 US Human Rights Report states that female genital mutilation was not common although it did occur in some regions, particularly those with links to surrounding Muslim countries.

3.43 Despite some legislative protections, the widespread use of traditional authority and customary law, coupled with deep cultural prejudices, often results in discrimination against women. The 2015 US Human Rights Report states that authorities occasionally arrested women for adultery, despite adultery not being criminalised under the 2008 Penal Code Act. Dowries are common and under customary law, women are often required to return the dowry in the event of divorce, leading to many women being dissuaded from seeking divorce. Despite the Transitional Constitution of the Republic of South Sudan stating that women have the right to own land, the community often sought to prevent this given it contradicts customary practices.

3.44 Overall, DFAT assesses that women in South Sudan face a high risk of official and societal discrimination and violence. DFAT notes that this risk is often exacerbated by other factors such as a woman's ethnicity or perceived political affiliation.

## Sexual Orientation and Gender Identity

3.45 The President has said publicly that homosexuality is not in South Sudan's character and should always be condemned. The 2008 Penal Code Act does not explicitly prohibit homosexuality, but does prohibit unnatural offences defined as carnal intercourse against the order of nature with any person. It states that an individual convicted of unnatural offences faces up to 10 years imprisonment and a fine.

3.46 Given the substantial official and societal stigma associated with sexual orientation and gender identity, it is difficult to assess and quantify the actual risk a lesbian, gay, bisexual, transgender or intersex person in South Sudan faces as very few, if any, would publicly identify. In-country contacts report that there are no known organisations providing support to the lesbian, gay, bisexual, transgender or intersex community.

3.47 Overall, DFAT assesses that lesbian, gay, bisexual, transgender or intersex people face a high level of official and societal discrimination and violence on the basis of their sexual orientation or gender identity. Further, DFAT assesses that an individual would be unlikely to be able to lead an open life (including in Juba) and, given this, many individuals do not identify publicly or within their own communities.

## Children

3.48 The Transitional Constitution of the Republic of South Sudan states that every child has the right to life, survival and development and to be free from any form of discrimination. Further, it states that children shall not be subjected to any exploitative practices or abuse, nor be required to serve in the army or perform work which may be hazardous or harmful to his or her education, health or well-being. The Transitional Constitution of the Republic of South Sudan also states that children have the right to be free from corporal punishment and cruel and inhuman treatment, negative and harmful cultural practices and to be protected from abduction and trafficking.

3.49 NGOs advise that legislative protections remain inadequate and that gaps remain in the 2008 Child Act and 2008 Penal Code Act. For example, legislation states that every child has the right to protection from

early marriage but does not explicitly prohibit it. Child marriage remains widespread, with the Ministry of Gender estimating that nearly half of young women between the ages of 15 and 19 are married.

3.50 Child abuse, including sexual abuse, is reportedly pervasive. In conflict-affected areas, children have been abducted and exposed to what the UN Special Representative to the Secretary-General on Sexual Violence described as rampant sexual violence. There are also reports that families sometimes compensated the victim of a crime with a young girl from the perpetrators family, in line with customary law.

3.51 The Sudan People's Liberation Army (SPLA) and Sudan People's Liberation Army-In-Opposition (SPLA-IO) continue to forcibly recruit children, despite committing to stop the recruitment and use of children. It is estimated that the SPLA currently has between 300 and 400 child soldiers and the SPLA-IO has 15,000.

3.52 Overall, DFAT assesses that children in South Sudan are vulnerable and face a high risk of official and societal discrimination and violence, including sexual violence. While unable to comment on the risk of violence in different areas of South Sudan, DFAT assesses that the likelihood of violence is higher in conflict-affected areas.

## 4. COMPLEMENTARY PROTECTION CLAIMS

### ARBITRARY DEPRIVATION OF LIFE

#### Extra-Judicial Killings

4.1 While it is difficult to obtain accurate data to quantify extra-judicial killings in South Sudan, DFAT assesses that such killings continue to occur, particularly in conflict-affected areas. Human Rights Watch reported that during an April 2015 attack led by the Sudan People's Liberation Army (and the aligned Bul Nuer sub-ethnic group) in Unity State, at least 60 unlawful killings of women, men and children occurred. Witnesses reported that victims were hung, shot and burned alive. The December 2015 State of Human Rights in the Protracted Conflict in South Sudan report by UN Mission in South Sudan and the UN Office of the High Commissioner for Human Rights indicated that at least eight men were extra-judicially killed in October 2014 by the Sudan People's Liberation Movement-In-Opposition / Sudan People's Liberation Army-In-Opposition after being captured from a church in Bentiu where civilians were sheltering. Reports also suggest that local militias have participated in extra-judicial killings; the December 2015 State of Human Rights in the Protracted Conflict in South Sudan stated that an unknown number of civilians were stopped and killed in May 2015 at a checkpoint outside the Malakal Protection of Civilian Camp by Shilluk militia.

#### Enforced or Involuntary Disappearances

4.2 Human Rights Watch has documented a number of examples of enforced or involuntary disappearances in South Sudan. In October 2014, two members of the Lake State Parliament were arrested on orders from the Governor of Lake State. The two individuals were held at a police station overnight and then taken away to an unknown location. In-country contacts report that individuals are often arrested by the National Security Service and then disappear. DFAT assesses as credible reports that the Government continues to abduct individuals perceived to threaten its authority.

#### Deaths in Custody

4.3 While there is no accurate information available on the cause of deaths in custody in South Sudan, DFAT understands that deaths in custody are more likely attributable to negligence, rather than intentional mistreatment by authorities (see '[Detention and Prison](#)'). For example, the US Department of State's 2014 Human Rights Report states that several prisoners died in Western Bahr El Ghazal due to the lack of medical supplies and timely treatment. Despite this, there are some examples of deaths in custody due to abuse, particularly in situations where the individual has been arbitrarily arrested and detained (see '[Arbitrary Arrest and Detention](#)'). In March 2013, a mentally ill detainee in police custody died reportedly from abuse according to the US Department of State.

## DEATH PENALTY

4.4 The Transitional Constitution of the Republic of South Sudan states that the death penalty will only be imposed for extremely serious offences and cannot be imposed on an individual under the age of 18, over the age of 70 or on pregnant or lactating women. DFAT understands that cases of murder or offences against the State could be considered serious offences and therefore attract the death penalty.

4.5 Amnesty International reported that at least five people were executed in 2015, 17 people were sentenced to death and 305 people remain on death row.

## TORTURE

4.6 The Transitional Constitution of the Republic of South Sudan states that no person shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

4.7 The African Union Commission of Inquiry on South Sudan documented witness accounts of the Sudan People's Liberation Army (SPLA) forcing Nuer civilians to drink human blood, eat human flesh and jump into lit bonfires. It also highlighted numerous examples of women experiencing sexual violence at the hands of both the SPLA and Sudan People's Liberation Army-In-Opposition. Human Rights Watch has also documented numerous examples of detainees being beaten or tortured by the SPLA or National Security Service, often during interrogations about the Sudan People's Liberation Movement-In-Opposition (SPLM-IO). Former detainees reported being tied up, beaten, pinched with pliers on their limbs and ears and having plastic bags put over their heads while being kept in hot, dark and airless cells.

4.8 DFAT assesses that individuals who are perceived to threaten the authority of or be associated with the Sudan People's Liberation Movement or SPLM-IO are at risk of torture. DFAT is unable to prescribe a particular risk to an individual's potential to experience torture or comment on the general incidence of torture, but agrees with the views of in-country contacts that it remains widespread.

## CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

### Arbitrary Arrest and Detention

4.9 While the Transitional Constitution of the Republic of South Sudan established the National Police Service as the only law enforcement authority in South Sudan, the controversial National Security Service (NSS) Law provided the NSS with increased powers to arbitrarily arrest and detain individuals.

4.10 DFAT assesses as credible reports that individuals have been arbitrarily arrested and detained. The December 2015 State of Human Rights in the Protracted Conflict in South Sudan report by UN Mission in South Sudan and the UN Office of the High Commissioner for Human Rights confirmed that both the Sudan People's Liberation Army (SPLA) and NSS continue to arbitrarily arrest and detain individuals, often for long periods of time, and without judicial oversight. This includes the NSS's August 2014 arrest of a UN Mission in South Sudan radio staff member and a UN security guard in Western Bahr el Ghazal after they were accused of supporting the Sudan People's Liberation Movement-In-Opposition (SPLM-IO). Both remained in NSS detention as of December 2015 (DFAT is unaware whether they have now been released). Following an April 2015 mission to South Sudan, Human Rights Watch documented numerous examples of civilians being arbitrarily arrested and detained, including the detention of 16 individuals by the SPLA and 20 individuals by



the NSS. Detainees reported being held without charge for up to 10 months, being kept in poor conditions and, in some cases, brutally beaten and tortured. DFAT understands that the cases documented by Human Rights Watch, the UN Mission in South Sudan and the UN Office for the High Commissioner for Human Rights likely represent a small proportion of the total number of individuals who have been arbitrarily arrested and detained in South Sudan. DFAT further assesses as credible reports that the SPLM-IO and associated forces have been responsible for arbitrarily arresting and detaining individuals who are or are perceived to be associated with the Sudan People's Liberation Movement.

## Corporal Punishment

4.11 The 2008 Penal Code Act states that persons who act contrary to the provisions of the 2008 Penal Code Act may be subject to sentences including death, imprisonment, forfeiture of property, detention in a reformatory or a fine. DFAT therefore understands that corporal punishment is not used as a sentence in the formal justice system in South Sudan, but cannot confirm whether it is used as a sentence in the traditional justice system.

## 5. OTHER CONSIDERATIONS

### STATE PROTECTION

5.1 Several areas in South Sudan are not under effective state control, owing to the broader security situation. These include areas under the control of the Sudan People's Liberation Movement-In-Opposition (SPLM-IO) and Shilluk forces, particularly in Upper Nile State and Unity State. DFAT is unable to comment on the ability of the SPLM-IO to provide effective protection, but anecdotally understands that its authority on the ground is very limited.

5.2 DFAT also understands that the Government's ability to maintain effective control and provide adequate state protection is weak. The Government's control over the Sudan People's Liberation Army, National Police Service and National Security Service is limited with these groups often acting with impunity and without adequate oversight.

### Sudan People's Liberation Army

5.3 At independence, the Sudan People's Liberation Army (SPLA) became the armed forces of South Sudan. The Transitional Constitution of the Republic of South Sudan stated that the SPLA would be transformed into the South Sudan Armed Forces and be non-partisan, national in character, patriotic, regular, professional, disciplined, productive and subordinate to civilian authority. Despite these commitments, the African Union Commission of Inquiry on South Sudan found, in October 2014, that the process of transforming the SPLA into the South Sudan Armed Forces remained incomplete and this remains the case in 2016. The strong link between the Sudan People's Liberation Movement (SPLM) and SPLA, which has been described as the armed-wing of the SPLM, remains highly politicised and problematic. The 2014 African Union Commission of Inquiry on South Sudan reports that the SPLA consists of 200,000 people, and a further 45,000 veterans.

5.4 The SPLA has been accused of perpetrating significant abuses of power both as part of the broader conflict and at a more localised level. In conflict-affected areas, the SPLA has been accused of significant human rights abuses. In April 2015, the SPLA began an offensive in Greater Upper Nile State. Human rights organisations reported rampant human rights violations by the SPLA including torture, rape, burning of victims alive, crushing victims under tanks and destroying whole villages. In non-conflict-affected areas, SPLA soldiers beat to death a Nuer civilian in May 2014 who refused to give them cattle. In October 2014, six men including two SPLA soldiers reportedly gang-raped a 15 year old girl in Central Equatoria. DFAT is also aware of unconfirmed reports of the SPLA committing human rights abuses against civilians following the escalation of violence in Juba in July 2016.

5.5 The poor economic situation has led to soldiers not receiving their salaries and to an increase in abuses of power by the SPLA. DFAT understands that the SPLA is often able to act with impunity and without adequate oversight.

## National Police Service

5.6 The National Police Service (NPS) was established in 2005. The Transitional Constitution of the Republic of South Sudan states that the NPS will be a decentralised professional service with the mission of preventing, combating and investigating crime, maintaining law and public order, protecting people and their properties and upholding the Transitional Constitution of the Republic of South Sudan. The African Union Commission of Inquiry on South Sudan reports that the NPS planned to consist of a force of 36,000 pre-independence, although the current size is unclear. While the NPS has increased in size and capacity since independence, the African Union Commission of Inquiry on South Sudan reported that in some areas the Sudan People's Liberation Army (SPLA), rather than the NPS, carries out policing operations. DFAT understands that the majority of the NPS consists of former SPLA members.

5.7 DFAT understands that the NPS has been neglected by the Government and, as a result, the capacity of the NPS remains low. In-country contacts report that the NPS is ineffective, corrupt and widely distrusted. A survey undertaken in 2011 found that 40 per cent of individuals seeking help from the NPS were required to pay a fee for services. DFAT understands that corruption remains a significant issue.

5.8 The NPS has been accused of perpetrating human rights violations including the abuse of civilians. According to the US Department of State, in November 2014 two juvenile suspects were exposed to 100 lashes by the NPS reportedly in an attempt to obtain further information about stolen goods.

5.9 Overall, DFAT assesses that the capacity of the NPS is extremely poor and that the Government's pre-occupation with the current conflict means that the NPS is able to act without adequate oversight, potentially leading to substantial abuses of power.

## Judiciary

5.10 The Transitional Constitution of the Republic of South Sudan provides for a judiciary independent of the Executive and Legislature with the power to adjudicate on disputes and render judgements in accordance with the Transitional Constitution of the Republic of South Sudan and associated legislation. The Transitional Constitution of the Republic of South Sudan established a number of judicial organs including the Supreme Court, Courts of Appeal, High Courts and other courts or tribunals deemed necessary to be established.

5.11 Due to a lack of capacity, infrastructure and trained personnel, few statutory courts exist below the state level and in-country contacts suggest the judicial system within South Sudan is barely functioning. Where the judicial system is functioning, political pressure, discrimination towards women and the lack of competent investigations by the National Police Service continues to undermine its authority. In practice, a culture of independence within the judiciary is not yet in place and the Government continues to apply undue pressure and illegitimate interference.

5.12 Customary courts or 'Chief's Courts' (which are not linked to the formal judicial system) play a central role in the delivery of justice. The African Union Commission of Inquiry on South Sudan estimated that customary courts handled over 90 per cent of all cases. Citizens seek recourse through customary courts due to their familiarity with customary law, the fact that the people who preside over the customary courts live in the community and they include both retributive and restorative remedies. Customary courts have been criticised for adjudicating on the basis of custom, which often disregards human rights and leads to discrimination, particularly against women (see [3.43](#)).

## Detention and Prison

5.13 Conditions in detention and prison are harsh with significant overcrowding, inadequate sanitary conditions and a lack of medical care. The US Department of State's 2015 Human Rights Report states that at the end of 2015, 6,500 individuals were in state-controlled prisons with many more in detention centres under the control of local or state authorities. Approximately 400 women remain in prisons and are generally, but not always, held separately to male prisoners. Children often live with their mothers in prisons. Due to overcrowding, juveniles are not always held separately to the general prison population and pre-trial detainees are rarely held separately to convicted prisoners. Overcrowding is a major issue at the Juba Prison, which was designed to hold 400 prisoners, but holds at least 1,500. Health care and sanitation are inadequate and some prisoners only receive one meal per day and rely on family and friends for additional food.

## INTERNAL RELOCATION

5.14 The Transitional Constitution of the Republic of South Sudan states that every citizen has the right to freedom of movement and the liberty to choose where they reside, except for reasons of public health and safety as regulated by law. According to the UN Office for the Coordination of Humanitarian Affairs, there are approximately 1.6 million internally displaced people in South Sudan, and a further 818,000 South Sudanese refugees in neighbouring countries as of August 2016.

5.15 Given the majority of displaced people within South Sudan has been caused by the continuing conflict that started in December 2013, it is difficult to objectively comment on the ability of individuals to safely relocate internally. Anecdotally, DFAT understands that an individual would likely face difficulty in internally relocating given the significant ethnic dimensions of the current conflict, the omnipresence of illegal armed checkpoints on the roads (where roads exist) and the impact of the dry and wet seasons. Should an individual be able to internally relocate, it would likely be to an area in which their ethnic or sub-ethnic group predominates in order to ensure their safety.

5.16 Livelihood challenges could also hamper opportunities for internal relocation to non-conflict affected areas, particularly given the conspicuous non-monetary economy. Cattle is the main currency for the majority of the pastoralist populations (including Nuer, Dinka, and Murle) and internally relocating with cattle would be difficult and may lead to informal conflict with surrounding communities. The lack of transport infrastructure in South Sudan poses additional challenges to internal relocation. The African Development Bank estimates that there was approximately 35 metres of paved road per 1,000 residents in South Sudan in 2011, compared to an average of 128 metres in Sub-Saharan Africa's cities and 700 metres in developing low-income countries.

5.17 As a result of the current conflict and the Dinka-dominated Government's unfettered control over Juba, DFAT assesses that should a Nuer or Shilluk attempt to relocate to Juba they would face an elevated risk. Nuer civilians currently sheltering in Protection of Civilian camps in Juba reported that they would not leave the Protection of Civilian camps for fear of being exposed to discrimination or violence. Other Nuer reported that they leave the Protection of Civilian camps during the day to work and then return in the evening due to safety concerns.

## TREATMENT OF RETURNEES

### Exit and Entry Procedures

5.18 There are credible reports that the authorities have attempted to prevent individuals from exiting South Sudan, or traveling to particular areas of South Sudan. In March 2014, an Sudan People's Liberation Army (SPLA) member approached humanitarian workers at Bor Airport and stated that they could not take two internally displaced people because they were Nuer and, if they did, the two internally displaced people would be killed on the spot.

5.19 Juba International Airport suffers from a significant lack of infrastructure and exit and entry procedures are unsophisticated. The SPLA has a visible presence at the airport and in-country contacts suggest that an individual who is of interest to the Government may come to the attention of authorities and be picked up trying to exit or enter South Sudan via Juba International Airport.

### Conditions for Returnees

5.20 Conditions for returnees differ depending on the individual's ethnic or sub-ethnic linkages and whether the individual has or has been perceived to question the authority of the Government. Given the supremacy of the Dinka ethnic group in Juba, Dinkas would likely be able to return to Juba without facing discrimination or violence. In-country contacts suggest that an ordinary Nuer or Shilluk who had not threatened the authority of the Government, such as by being perceived to support of the Sudan People's Liberation Movement-In-Opposition (SPLM-IO), would potentially be able to return to Juba without facing discrimination or violence. However, other in-country contacts suggest it would be difficult to guarantee the safety of any Nuer or Shilluk individuals in Juba given the current situation. The continued presence of substantial Protection of Civilian camps in Juba demonstrate the real risk that still exists within South Sudan, particularly for individuals who are or are perceived to be associated with the SPLM-IO (or the linked Nuer and Shilluk ethnic groups).

## DOCUMENTATION

### Birth and Death Certificates

5.21 South Sudan does not require births to be registered. As a result, there are no official procedures for the issuance of birth certificates. DFAT understands that several government departments issue birth certificates, but it is difficult to ascertain which are officially recognised. Birth certificates are often issued on the basis of the information provided, with no checks to confirm the accuracy of the information. Hospitals are also known to issue a range of different birth certificates, often featuring Government stamps. Individuals are able to obtain birth certificates from hospitals even if the birth did not occur at the hospital. Individuals who are not in possession of a birth certificate are often required to undergo an age assessment, which can be imprecise.

## Death Certificates

5.22 DFAT understands that death certificates in South Sudan follow no specific format, and are therefore extremely unreliable.

## National Identity Cards

5.23 The Government has started to issue certificates of nationality which are often in the form of a national identity card. Certificates of nationality can be issued to an individual of any age and are issued on the basis of information provided, with no supporting documentation required at the time of application.

5.24 DFAT understands that some South Sudanese Embassies have issued 'Sudan People's Liberation Movement (SPLM) Identity Cards'. SPLM Identity Cards are issued on the basis of information provided and DFAT understands that authorities rarely test the accuracy of this information.

## Passports

5.25 From 8 April 2012, Sudanese passports were no longer valid for travel for South Sudanese nationals.

5.26 In August 2011, the Government commenced issuing passports to citizens. At the time, South Sudan had not been allocated a country code with passports issued between August and December 2011, showing 'XXX' as the country code. Due to a lack of materials, issuance of passports ceased in late-2011. As materials dwindled, some ordinary citizens were issued with diplomatic or services passports.

5.27 Passport issuance re-commenced in January 2012, with a new format and the country code of 'SSD'. DFAT understands that due to the ongoing conflict within South Sudan, the issuance of passports has ceased again.

5.28 DFAT understands that passports are required to feature four names, which has meant some individuals have additional names on their passport, compared to other forms of documentation.

## Prevalence of Fraud

5.29 DFAT understands that there is a high prevalence of fraudulent and fraudulently obtained documentation in South Sudan. Given that legislation does not require the registration of events such as births, deaths and marriages there are limited official procedures for the issuance of documentation. DFAT assesses that there are a number of high-risk documents including age assessments, birth certificates, death certificates, marriage certificates and family composition claims.

5.30 Documentation is often provided on the basis of information provided. DFAT understands that authorities rarely seek to confirm the accuracy of information provided and supporting documentation is often not required.

5.31 Overall, DFAT assesses that the capacity of the Government to issue reliable documentation is extremely low.