

NO CONFIDENCE

DISPLACED SOUTH SUDANESE AWAIT 'REAL PEACE'

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FIELD REPORT | OCTOBER 2019



Cover Photo: A woman carrying her baby in Juba PoC. Photo Credit: Refugees International.

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SUMMARY

Less than a decade after South Sudan's creation, a devastating civil war has left one-third of its population displaced. One year after the September 12, 2018 signing of a peace agreement, few have chosen to return home, and the humanitarian situation remains dire. After South Sudan's leaders missed their first deadline under the agreement to form a transitional government, a new deadline of November 12, 2019 now looms. Displaced people, seeing little tangible progress, remain skeptical of peace taking hold and continue to fear a resurgence of the ethnic violence that caused them to flee in the first place.

Key provisions of the peace agreement, including cantonment (consolidation of soldiers into agreed-upon sites), the reduction and integration of forces, and the definition of state borders, have not been addressed. Displaced people from minority groups fear returning to areas now controlled by soldiers of the dominant Dinka ethnicity, and several policies appear aimed at re-drawing the boundaries of land and political influence along ethnic lines. Opposition leader and former Vice President Riek Machar, who fled the country in 2016, has yet to return permanently. On the other hand, many displaced people are concerned that should he do so, it could lead to another round of violence similar to the one triggered soon after he last tried to return in 2016.

With the November deadline for government formation fast approaching, a team from Refugees International traveled to South Sudan to assess the prospects for peace and ongoing challenges for the return of the very large portion of the population who remain forcibly displaced. The team visited Juba and Malakal, interviewing dozens of UN, government, and nongovernmental organization (NGO) officials, as well as displaced people living in the UN-sponsored Protection of Civilian sites (PoCs) there.

Almost every displaced person with whom Refugees International spoke lacked confidence in the peace agreement. They also cited several barriers to return beyond the continued threat of conflict. These included a lack of safety, services, and livelihood opportunities in areas of return; the destruction or occupation of their former homes; and a failure to hold perpetrators accountable for atrocities committed during the war, including widespread sexual violence.

The Refugees International team's interviews also revealed unique challenges for those displaced in the Malakal PoC, including policies that appear aimed at reengineering demographics in those areas to which people would be returned based on ethnicity. If returns are to take place, it will thus be important for UN and humanitarian actors to account for the unique contexts in each area of return. An understanding of ethnic dynamics and assessments of conflict sensitivity will be needed to avoid any manipulation of returns or the risk that premature returns may fuel further violence.

Ultimately, the prospects for returns will depend on building the confidence of displaced communities in the peace agreement. A year after its signing, there have been some improvements in conditions for the displaced, including increased humanitarian access, greater freedom of movement, and, to a limited extent, returns of refugees and internally displaced people (IDPs). This progress is fragile, however. Failure to move forward on implementation will quickly erode what little confidence is beginning to take hold.

The weeks leading up to the November 2019 deadline for forming a transitional government are likely to be tense. The international community must support the process and apply diplomatic pressure to hold South Sudan's leaders, particularly President Salva Kiir and opposition leader Machar, to the terms of the peace agreement. Yet regional engagement has been challenged, particularly with the toppling of the Sudanese regime to South Sudan's north, which had been a key player in peace negotiations. The United States has an especially important role to play in light of its historical ties to the formation of South Sudan and its leverage with the country's leaders. Without such engagement, those leaders, and the country's elites more broadly, are unlikely to change course. This, in turn, will increase the risk of a return to the mass violence that has ravaged the country.

RECOMMENDATIONS

To the UN, Intergovernmental Authority on Development (IGAD), and Donor Countries:

- Pursue a robust, coordinated, diplomatic effort to engage South Sudan's leaders toward creation of a transitional government by the new deadline of November 12, 2019 and further implementation of the Revitalized Agreement on the Resolution of the Conflict in South Sudan (R-ARCSS). This implementation should include the following:
 - Engaging Salva Kiir and Riek Machar directly, including facilitating the safe permanent return of Machar to South Sudan and prioritizing efforts at cantonment, integration of forces, and political settlement of the issue of states and borders within South Sudan.
 - Establishing clear consequences for failure to implement key elements of the peace agreement, such as targeted sanctions aimed at South Sudan's leaders, including travel bans and asset freezes.
 - Pressuring the current government to make good on its pledge to provide \$100 million to implement the peace process, with priority given to funding for cantonment and integration of forces.
 - Conditioning further funding of measures of importance to the parties, such as cantonment and demobilization of some troops and training of others, on the demonstrated commitment and tangible progress in the peace agreement made by the Sudan People's Liberation Army (SPLA) and the opposition.
 - Pushing the current government to accept external assistance on housing, land, and property (HLP) issues.
- Continue to expand services in areas of return, but in a manner that does not force IDPs in PoCs to choose between protection and services.
- Support further analysis by UN and NGO actors on the issues of population movements, intentions, and barriers to returns to better plan for returns and avoid manipulation of those returns for political purposes.
- Fully fund the efforts laid out in the 2019 Humanitarian Response Plan (calling for \$1.5 billion in aid and currently funded at just 46 percent) and sustain high levels of humanitarian aid.

- Call on the Commission of Human Rights on South Sudan, mandated by the UN Human Rights Council, to investigate the ethnic dislocation taking place in the country.
- Specifically, the United States should reappoint a special envoy for South Sudan, with experience and stature in the region and who enjoys White House backing. The envoy should prioritize support for the peace process and combatting aid manipulation and ethnic dislocation.

To the Government of South Sudan and Opposition Leaders:

- Implement unfulfilled aspects of the peace agreement, including use of the \$100 million pledged by the current government, with a priority for the following:
 - Cantonment of soldiers in agreed-upon sites and initiation of disarmament, demobilization, and reintegration programs.
 - Integration of forces to reflect ethnic diversity and reduce the overall number of soldiers in a new unified army.
 - Settlement of the number and boundaries of states in a manner that avoids disenfranchisement of ethnic minorities.
- Meet at the highest levels, including regular in-person meetings between President Salva Kiir and former Vice President Riek Machar, to reach a political agreement on Machar's permanent return to Juba.
- Establish a special court for adjudicating HLP issues arising in the context of ethnic dislocation taking place in towns like Malakal and Wau.
- Promote accountability for atrocities committed during the civil war by establishing the hybrid African Union-South Sudanese court that the peace agreement called for to try those responsible for crimes against humanity and war crimes.

BACKGROUND

In September 2018, a peace agreement nominally ended a civil war that had ravaged South Sudan for most of its brief existence. Less than two years after South Sudan became the world's newest nation in 2011, an elite political power struggle had spiraled into widespread violence that caused the death of an estimated 380,000 South Sudanese and the forced displacement of millions more.¹ Although initially not an ethnic conflict, the leaders on each side quickly drew on their support bases and mobilized more starkly along ethnic lines.

An African Union Commission of Inquiry into the civil war documented horrific human rights violations and found reasonable grounds to conclude that crimes against

humanity had taken place, including “a state or organizational policy to launch attacks against civilians based on their ethnicity.”² A peace agreement signed in 2015 was short lived—fighting broke out between the elite guards of President Salva Kiir and then-Vice President Riek Machar in 2016, forcing Machar to flee the country a second time.

A regional diplomatic push, led by Sudan and Uganda, helped pressure the main parties to the conflict to sign a new agreement in September 2018. The Revitalized Agreement on the Resolution of the Conflict in South Sudan (R-ARCSS) was reached between the Sudan People's Liberation Army (SPLA), led by Kiir, and a coalition of opposition parties led by Machar. It is being overseen by the regional bloc of African countries known as the Intergovernmental Authority on Development (IGAD). The agreement laid out a



1. Checchi, Francesco, Adrienne Testa, Abdihamid Warsame, Le Quach, and Rachel Burns. “Estimates of Crisis-Attributable Mortality in South Sudan, December 2013 – April 2018: A Statistical Analysis,” London School of Hygiene and Tropical Medicine, September 2018, <https://crises.lshtm.ac.uk/2018/09/25/south-sudan/>.

2. “Final Report of the African Union Commission of Inquiry on South Sudan,” African Union Commission of Inquiry on South Sudan, October 15, 2014, <http://www.peaceau.org/uploads/auciss.final.report.pdf>.

series of provisions to be implemented over a transition period, including the formation of a transitional government by May 2019 and the return of Machar as one of five vice presidents.

Little of the peace agreement has been implemented, however. The deadline to form a transitional government has been postponed to November 12, 2019, and Machar has yet to return permanently. Fully one-third of the pre-war population of South Sudan remains displaced—about 1.5 million South Sudanese are internally displaced in the country, and 2.2 million are refugees elsewhere.³ Approximately 180,000 internally displaced people (IDPs) remain in six Protection of Civilian (PoC) sites, distinct in their UN (as opposed to government) oversight and location in or adjacent to UN peacekeeping bases.⁴ The violence and displacement have also contributed to an ongoing humanitarian crisis that has periodically reached famine levels. As of August 2019, the date of the most recent comprehensive food security assessment, more than half of the population (6.35 million people) was projected to be severely food insecure, with at least 10,000 close to famine.⁵

Since the signing of the peace agreement, there has been a notable reduction in armed conflict between the parties to the accord. However, the SPLA continues to clash with non-signatories to the agreement, particularly in the Central Equatoria region. At the same time, there has been a troubling uptick in more intense localized communal violence, driven by new factors and involving more weapons and significantly higher casualties. These dynamics have triggered new displacements even as some South Sudanese

begin to return to the country. Tracking the numbers of people displaced or returning is difficult, and the numbers are often contested. The International Organization for Migration (IOM) estimates that to date, some 500,000 people have returned since the signing of the peace agreement, but many humanitarian actors insist the numbers are far lower. By any estimate, the vast majority of the nearly 4 million South Sudanese displaced during the civil war remain displaced.

‘IT ALL DEPENDS ON PERCEPTIONS OF PEACE’

Individual decisions by refugees and IDPs about whether to return are based on various complex factors and often tied to specific regional dynamics. However, in interviews with displaced people, Refugees International repeatedly heard one overriding concern—a lack of confidence in the peace agreement. This finding corroborated those of broader intention surveys, which cite skepticism regarding the peace agreement and a fear of violence as the primary reasons for IDPs’ reluctance to return home. As one long-time humanitarian worker in South Sudan told Refugees International, “It all depends on the perception of peace.”

Unfortunately, key elements of the peace agreement remain stalled or ignored, including cantonment and force integration, determination of the number and boundaries of states within South Sudan, and Machar’s return there. These issues are consequential

3. “South Sudan Situation Report,” United Nations Office of the Coordination of Humanitarian Affairs, September 16, 2019, <https://reliefweb.int/sites/reliefweb.int/files/resources/Situation%20Report%20-%20South%20Sudan%20-%2014%20Aug%202019.pdf>; “Operational Portal Refugee Situations – South Sudan,” UN Refugee Agency, accessed September 19, 2019, <https://data2.unhcr.org/en/situations/southsudan>.

4. “PoC Update,” United Nations Mission in South Sudan (UNMISS) Media & Spokesperson Unit, Communications & Public Information Section, September 9, 2019, <https://unmiss.unmissions.org/unmiss-protection-civilian-poc-sites-update-no-247-5-september-2019>.

5. “South Sudan: Acute Food Insecurity and Acute Malnutrition Situation for August 2019–April 2020,” Integrated Food Security Phase Classification, n.d., <http://www.ipcinfo.org/ipc-country-analysis/details-map/en/c/1152135/?iso3=SSD>.

RESEARCH OVERVIEW

A team from Refugees International traveled to South Sudan in July 2019 and interviewed dozens of UN, government, and nongovernmental organization (NGO) officials, as well as displaced persons living in PoCs in Juba and Malakal. The report that follows is based on those interviews, as well as the findings of a previous Refugees International mission in October 2018 and broader surveys carried out by humanitarian organizations.¹

1. The views of the PoC population in Malakal have been recorded in a series of surveys, including the following: “Malakal PoC: Intention-Perception Survey,” International Organization on Migration (IOM) Displacement Tracking Matrix South Sudan and United Nations Refugee Agency (UNHCR), May 8, 2019; “No Simple Solutions: Women, Displacement, and Durable Solutions in South Sudan,” Oxfam International, Nile Hope, Titi Foundation, Danish Refugee Council, Norwegian Refugee Council and CARE, September 2019, <https://www.oxfam.org/en/research/no-simple-solutions-women-displacement-and-durable-solutions-south-sudan>.

for the peace process, and thus for displaced people and their plans to return. Indeed, provisions in the agreement that specifically address the right of refugees and IDPs “to return in safety and dignity” ring hollow in the absence of progress in these other areas.⁶

Cantonment and Force Integration

Under the peace agreement, the SPLA and its opposition agreed to identify the number of soldiers in their forces and begin moving them to agreed-upon cantonment sites. A process of disarmament, demobilization, and reintegration of significant portions of each side would then be initiated to reduce overall numbers and subsequently integrate them into a new and smaller joint army. This process has been fraught from the start, however. The number of soldiers claimed on each side has been inflated and is difficult to

verify. The parties have been slow to agree on cantonment sites and, despite a pledge of \$100 million toward implementation of the peace agreement, the government has yet to provide significant resources toward cantonment or other elements of the agreement.

As of August 2019, 35 sites had been identified for cantonment of both SPLA and opposition forces, but none was operational and most were in disrepair. The Refugees International team heard reports of soldiers supposedly located at the sites living in nearby villages and only coming into the sites just ahead of verification exercises. In May 2019, Augustino Njoroge, the interim head of the Reconstituted Joint Monitoring and Evaluation Commission (RJMEC), the body tasked by IGAD to monitor implementation of the peace agreement, stated, “My greatest concern is the delayed operationalization of the cantonment sites.”⁷ Similarly, in July 2019, Abiche Ageno, the head of the Ceasefire and

6. “Signed Revitalized Agreement on the Resolution of the Conflict in South Sudan,” Intergovernmental Authority on Development (IGAD), September 12, 2018, <https://igad.int/programs/115-south-sudan-office/1950-signed-revitalized-agreement-on-the-resolution-of-the-conflict-in-south-sudan>.

7. “RJMEC Concerned about ‘Delayed Operationalization of the Cantonment Sites,’” Reconstituted Joint Monitoring and

Transitional Security Arrangements Monitoring and Verification Mechanism (CTSAMVM), the group charged by IGAD to monitor the ceasefire, warned that without cantonment, the peace process could not move forward.⁸

The cantonment process affects the prospects for the return of refugees and IDPs in three important ways. First, the failure to move soldiers to cantonment sites or integrate rebel fighters into the government security forces leaves the ethnically homogenous SPLA military, primarily comprising members of the Dinka ethnic group, as the dominant presence in potential areas of return. For people who fled ethnically targeted violence, the idea of returning to an area still dominated by soldiers of another ethnicity is a significant concern.

This dynamic is on display in Malakal, a city that was ethnically diverse and ranked as South Sudan's second largest before the war. Post-war Malakal, however, has been primarily occupied by SPLA soldiers of the dominant Dinka ethnicity. IDPs interviewed by the Refugees International team stated that either the removal of soldiers from the town or the presence of an integrated force was a prerequisite for their return. As one man in the PoC said, "We need to know real peace before we return. We need to see IO [Machar's SPLA-In-Opposition] with the government and know there is security there [in Malakal town]. It is not there now."

Second, as humanitarian actors told Refugees International, areas in which cantonment has begun are often close to civilian areas hosting displaced populations. This juxtaposition raises serious protection concerns, particularly in light of the large percentage

of women-headed households among those displaced. The use of sexual violence as a weapon of war was widespread during the conflict and remains prevalent. Many displaced women therefore have a well-founded fear of armed men in uniform. Indeed, the sexual assault of some 150 women en route to gather supplies or access food distribution sites near Bentiu in the north of the country in late 2018 was a high-profile reminder of these dangers. Many of those identified as perpetrators were in uniform.⁹

Third, the cantonment process has created some perverse incentives that do not bode well for returnees. Because the parties to the conflict inflated the number of their soldiers to be cantoned, they have had to scramble to fill their ranks accordingly. There are reports that as a result, the parties have supported returns around Rubkona and Bentiu in South Sudan's Unity state for the purpose of recruitment. One observer claimed that refugees from as far afield as Egypt were being returned as part of the effort. The extent of such manipulated returns is unclear, but it will be essential for humanitarian actors to monitor these dynamics in the context of any facilitated returns and take measures to ensure that such returns are truly safe and voluntary.

States and Boundaries

Perhaps the most contentious issue to be tackled under the peace agreement is the determination of the number of states in South Sudan, along with their boundaries. Decisions on these questions will have serious implications for future power sharing and control of long-disputed territories. They threaten to disenfranchise ethnic minorities

Evaluation Commission (RJMEC), May 2, 2019, <https://jmecsouthsudan.org/index.php/media-center/news/item/440-rjmec-concerned-about-delayed-operationalization-of-the-cantonment-sites>.

8. "S. Sudan's Troops Cantonment Facing Logistical Challenges: CTSAMVM," *Sudan Tribune*, July 6, 2019, https://www.sudantribune.com/spip.php?iframe&page=imprimable&id_article=67740.

9. "Conflict Related Sexual Violence in Northern Unity," United Nations Mission in South Sudan (UNMISS) and United Nations Human Rights Office of the High Commissioner (OHCHR), February 15, 2019, https://www.ohchr.org/Documents/Countries/SS/UNMISS_OHCHR_report_CRSV_northern_Unity_SouthSudan.pdf.

ADDITIONAL MISSING PIECES

There are several additional aspects of the peace agreement that have not been addressed adequately and thus have the potential to derail the peace process. Although it is beyond the scope of this report to cover them in detail, two of these aspects are noteworthy, given the frequency with which they were raised in the team's interviews. First, one observer reflected others' concerns when he warned that economics, not politics, would be the most likely spoiler of peace. He spoke of the extant kleptocracy and South Sudan's failing patronage system, under which political actors maintain their positions by paying supporters and potential rivals. Indeed, elite capture—particularly of profits from the opaque oil sector—is rife, and resource competition is tied to arming local actors and the intensified “traditional” cattle raids seen in many parts of the country.

Second, sufficient steps have not been taken to hold perpetrators responsible for past atrocities committed during the conflict. Several IDPs mentioned such accountability as a prerequisite for feeling safe to return. The creation of a hybrid African Union-South Sudan court to bring justice to bear was agreed to under the peace agreement but has yet to be set up. In particular, accountability for widespread sexual violence has been virtually non-existent.¹

1. “Conflict Related Sexual Violence in Northern Unity,” United Nations Mission in South Sudan (UNMISS) and United Nations Human Rights Office of the High Commissioner (OHCHR), February 15, 2019, https://www.ohchr.org/Documents/Countries/SS/UNMISS_OHCHR_report_CRSV_northern_Unity_SouthSudan.pdf

and are likely to influence the decisions of displaced people on when and where to return.

The question about the number and boundaries of states arose from presidential decrees issued by Kiir, which first replaced South Sudan's original 10 states with 28 and then 32 states. The lower house of parliament rejected a later proposal for parliamentary approval that Kiir submitted. Despite this rejection and widespread opposition, a 32-state structure has taken effect. Under the peace agreement, this issue was to be resolved by an Independent Boundaries Commission (IBC). The commission would determine the number of states; establish their boundaries; and, significantly, set the composition of the Council of States (the

upper chamber of South Sudan's national legislature), thus influencing relative political representation and power. However, the IBC was unable to reach the level of consensus required under the peace agreement.

As a result, the issue is to be decided by referendum, but there is no indication as to how it is to be carried out.

Adding extra states could redraw boundaries in a way that alters the balance of representation and political influence of various groups. It could, as one observer described, effectively serve as a system of ethnic gerrymandering, potentially disenfranchising ethnic minorities. In places like Malakal, such new political realities would weaken the claims of ethnic minorities to ancestral lands—something likely to meet with strong opposition and thus



Two women in Malakal PoC. Photo Credit: Refugees International.

running a high risk of triggering renewed violence. As one observer described to Refugees International, the failure to satisfactorily resolve boundary issues will be an “absolute dagger” to the peace process.

These dynamics are not lost on those who have been displaced. In areas like Upper Nile and Western Bahr al Ghazal, where ethnic minorities stand to lose the most, displaced people are monitoring these decision-making processes closely. The majority of IDPs in the Malakal PoC, for example, are of Shilluk ethnicity. Uncertainty about future states and borders, and the potential disenfranchisement and violence to which changes could lead, adds to their reluctance to return to the areas from which they fled. At the same time, observers warn, ethnic leaders are making political calculations based on these dynamics and pressuring IDPs to stay or go accordingly, further complicating the work of international actors in ensuring that any returns home are safe and voluntary.

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Machar’s Return to South Sudan

A third key aspect of the peace agreement is the pending return of Machar to South Sudan. Some prominent opposition leaders, including Machar’s wife Angelina Teny, have already returned to Juba. All eyes, however, are on Machar, who was forced to flee South Sudan when fighting first broke out at the end of 2013 and again after a short return in 2016. Despite visiting for a couple of days in October 2018 and September 2019, and announcing several times his intention to return more

permanently, Machar has yet to do so. Part of the reason for this reluctance is the failure to agree on the size and makeup of what was to be a VIP protection force. On the one hand, Machar needs some assurance that he will not be the target of attacks, as he has been in the past. On the other hand, it was the presence of Machar's army in Juba that contributed to two outbreaks of violence.

Machar's return in 2016 to take up his role as first vice president lasted a few months before he was dismissed by Kiir. Soon after, he was forced to flee when tensions erupted between his and Kiir's elite guard forces, which quickly spiraled into violence throughout Juba and beyond. This memory is fresh for those it displaced or re-displaced, and they are understandably reluctant to return before Machar himself feels it is safe to do so. One woman, reflecting on fighting among the elite guards that began at the presidential palace in 2016, told Refugees International: "We don't know if this is real peace or the same 'peace' that took people to [the presidential palace]."

ADDITIONAL BARRIERS TO RETURN

Ultimately, the failure to implement the peace agreement largely explains why there have been relatively few returns. However, several other factors also act as deterrents and were highlighted in Refugees International's interviews with IDPs in Malakal PoC. The observations throughout the following section refer to the Malakal PoC but echo findings from past Refugees International interviews in Juba and Wau, as well as those of other independent surveys. The challenges most often cited are personal safety; housing, land, and property

(HLP) issues; and the lack of basic services in areas of return.

Personal Safety

The most frequently cited reason for not returning, as reflected in Refugees International interviews, was individuals' concern for personal safety. Despite the absence of large-scale fighting in or around Malakal over the past couple of years, as well as some steps to demilitarize Malakal town and surrounding areas, IDPs still fear the presence of a significant Dinka-dominated military force. Although more IDPs have been venturing into town during the day, the population fears traveling to it or remaining there at night. Some in the PoCs have yet to venture outside. One woman cited earlier killings just outside the PoC and said she has not felt comfortable leaving it since. One man told Refugees International, "If security remains like this, no person will agree to go home."

In an IOM survey of people in Malakal PoC in May 2019, fewer than half of respondents said they left the PoC daily or weekly. The same survey found that 30 percent of respondents had family members who never leave the PoC, mostly because of security concerns.

For women and girls, the level of sexual violence remains a major concern.¹⁰ Although humanitarian actors report a decrease in overall conflict-related sexual violence, frequent incidents of gender-based violence—both at the hands of former soldiers or other displaced people—remain a daily reality. In November 2018, for example, 150 women were sexually assaulted in Bentiu within just two weeks. The attacks were widely covered and underscored the severity of the threat that remains even after the peace agreement was signed.

10. A forthcoming Refugees International report will look into the extent of sexual violence, lack of accountability, and other challenges faced by women and girls in South Sudan in more detail.

Moreover, despite the widespread and horrific nature of these crimes, few have been held to account. As one man told Refugees International, “Seeing those who killed innocent civilians held accountable would encourage us to go back.” Meanwhile, this failure of the rule of law disincentivizes returns.

Housing, Land, and Property Issues

HLP concerns were another frequently cited barrier to return for people in the Malakal PoC. Nearly every IDP with whom Refugees International spoke said they were unable to leave the PoC because their home or property had been destroyed or occupied. IDPs rarely have the means to rebuild even if they are able to access their property. One man described recently returning to his home for the first time since the start of the conflict, only to find that it had been destroyed. “Only the place for the toilet was left,” he told the Refugees International team. One woman wondered, “If I find someone in my house, how can I live there?”

Again, these interviews reflected the findings of broader intention surveys carried out by humanitarian actors. The IOM survey found that, of the 75 percent of interviewees who reported owning a house or land, 80 percent reported that their house or land had been destroyed. Ten percent reported that their house was being occupied by other people.

Many house and land deeds also have been destroyed and, without neighbors present to vouch for previous residents, it is difficult to prove ownership. Moreover, the local

government in Malakal has reportedly been titling empty land and selling it, even if it was previously owned.¹¹ The national government has recognized the HLP challenge. In a statement to Malakal residents at the time of the Refugees International team’s visit, Vice President James Wanni Igga called upon people to abandon occupied homes that were not theirs.¹² In practice, however, the current Dinka-dominated government has been reluctant to tackle this issue. Many of those who abandoned their homes were of Shilluk or Nuer ethnicity, whereas those occupying homes are mostly Dinka. Past attempts by the UN and humanitarian actors to offer their expertise on HLP issues or help set up an HLP commission have been rebuffed. The government claims it can handle these issues on its own through a broader IDP commission, but there is little to suggest this claim is true.

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Though particularly acute in Malakal, HLP issues are present in several other areas of South Sudan. In Juba, a common complaint is that homes have been occupied by SPLA soldiers. President Kiir acknowledged this issue in a presidential statement calling for occupied homes to be vacated.¹³ In Bentiu and Rubkona towns, researchers shared with Refugees International reports of government authorities such as evicting inhabitants and selling title deeds to newly demarcated land.

11. “Housing, Land and Property, Aid and Conflict in South Sudan,” Conflict Sensitivity Resource Facility – South Sudan, September 2018, <https://www.southsudanpeaceportal.com/wp-content/uploads/2018/09/CSRF-Briefing-Note-Housing-Land-and-Property-Aid-and-Conflict-in-South-Sudan.pdf>.

12. Joakino Francis, “Return and Rebuild Malakal Town, VP Urges Residents,” *Eye Radio*, July 2019, <https://eyeradio.org/return-and-rebuild-malakal-town-vp-urges-residents/>.

13. “South Sudan’s Kiir Directs to Vacate Newcomers from IDPs Land,” *Sudan Tribune*, December 10, 2018, <http://www.sudantribune.com/spip.php?article66745>.



View of the shelters in Malakal PoC. Photo Credit: Refugees International.

Lack of Basic Services

The lack of basic services in areas of return also hinders returns of IDPs in Malakal PoC. The war did extensive damage not only to physical infrastructure but also to livelihood networks. Several IDPs cited the lack of access to food, water, health care, and education as reasons not to return. As an example, one humanitarian worker observed that, across the Greater Upper Nile region, which is about the size of Spain, only 137 of 228 health facilities are functioning, and less than a quarter are capable of performing skilled birth deliveries.

To address this challenge, international funders have begun supporting efforts to build resilience and restore livelihoods networks. The Partnership for Recovery and Resilience, led by the United Nations Development Program (UNDP) and the U.S. Agency for International Development (USAID), has

focused on certain areas identified for joint humanitarian, development, and peacebuilding efforts. These efforts include “quick-impact” projects, such as community reconciliation workshops and rebuilding schools and police stations. Similarly, international donors recently rolled out a South Sudan Reconciliation, Stabilization, and Resilience Trust Fund, which aims to increase the self-reliance of communities affected by conflict in part by supporting local government capacities and addressing the lack of services in many areas.¹⁴ Such efforts will be essential for supporting returns, but in the context of widespread ethnic division and dislocation resulting from the conflict, they carry high risks. To avoid reinforcing divisions and disenfranchisement of ethnic minorities, these efforts must be carefully designed and informed by adequate conflict-sensitivity analysis. The lack of basic services in areas of return is particularly stark, given the relatively good access to services within PoCs like that in

14. “Trust Fund Fact Sheet,” Multi-Partner Trust Fund Office Gateway, accessed September 13, 2019, <http://mptf.undp.org/factsheet/fund/SSR00>.



Two men sitting under a Malakal PoC sign. Photo Credit: Refugees International.

Malakal. A concentration of international NGO services in the PoC has created a “pull factor,” incentivizing IDPs to stay in the sites rather than return home as ultimately intended. To address this issue, the United Nations Mission in South Sudan (UNMISS) and NGOs have been moving services outside of PoCs, as well as from towns into rural areas, with some notable success via the “Beyond Bentiu” and Wau “decongestion” strategies. A “Beyond Malakal” strategy has also been introduced. However, it must be recognized that the pull factor of services is not the only calculation influencing the decision of IDPs to remain in the PoCs. As illustrated earlier, these IDPs are predominantly motivated by fears for their safety. In addition, poor conditions in the PoCs counteract, at least to some extent, the pull of services within them.¹⁵ Efforts to expand services to areas of return or mitigate the pull of services in PoCs must be balanced with the risks of incentivizing people to return to unsafe situations.

However, it must be recognized that the pull factor of services is not the only calculation influencing the decision of IDPs to remain in the PoCs.

Local Context

A study of the Malakal PoC also illustrates how each PoC site and region in South Sudan is characterized by distinct dynamics that drive displacement and individuals’ decisions about whether to return. Among the dynamics unique to Malakal are those surrounding Shilluk land and power, the influence of Shilluk general Johnson Olony, and particular policies of ethnic dislocation

15. Daniel P. Sullivan, “Displaced Nation: The Dangerous Implications of Rushed Returns in South Sudan,” Refugees International, November 2018, <https://www.refugeesinternational.org/reports/2018/11/29/displaced-nation-the-dangerous-implications-of-rushed-returns-in-south-sudan>.

in and around Malakal. Given these factors' volatility, several analysts consider Malakal to be the most likely area to experience a return to large-scale violence.

Shilluk Land Issues and the 'Olony Factor':

Nowhere are the stakes in the dispute over states and boundaries higher than in Upper Nile, home to the third largest ethnic group in South Sudan: the Shilluk. In this region, efforts to redraw borders threaten to water down the political power of the Shilluk people at the national level and erode their claims to ancestral lands—including to Malakal itself. Such threats have touched off violent responses in the past, often led by popular general Johnson Olony. Olony has a history of making and breaking alliances based on Shilluk interests, particularly when it comes to ancestrally claimed Shilluk land. Although initially aligned with the SPLA, he defected to the opposition in 2015 after fighting with a Dinka militia resulted in his deputy being killed. Having attacked and taken over Malakal in the past, and with troops and a broader population ready to rally to his call, Olony remains a dangerous wild card for the prospects of a broader return to violence.

Ethnic Dislocation: A series of policies by the Dinka-dominated government in Juba have, in effect, pushed for an ethnic reengineering of Malakal's population. For example, under the expanded state system, the government of the new state of Central Upper Nile (in which Malakal is located) is relocating civil servants who previously worked in Malakal to their place of birth, even if they owned property in Malakal. This move will affect Nuer and Shilluk civil servants in particular.¹⁶ Meanwhile, about 2,000 Dinka previously living in other areas of the country have been moved from Juba to Malakal.

During recent returns facilitated by UNMISS and the UN Refugee Agency (UNHCR) near Malakal, UN officials had to rebuff government requests that hundreds of Dinka be relocated to Malakal although they had not lived there before. These dynamics complicate returns to Malakal and surrounding areas. Understanding them will be essential in avoiding the manipulation of facilitated returns for the purpose of ethnic reengineering.¹⁷

Malakal PoC: The fact that Malakal is the site of a formal PoC is in itself a factor that distinctively shapes the experience of IDPs there. Unlike other IDP sites, PoCs are the direct responsibility of the UN, rather than the government. They are located on or adjacent to UN peacekeeping bases and house some of the most vulnerable IDPs, including many former combatants likely to be targeted by other ethnic groups. The risk that returns from PoCs could fuel tensions in areas of return—as well as the UN's direct role in carrying out any such returns—has drawn international attention to the future of the PoCs.

Although PoCs house only around 10 percent of the total number of IDPs in South Sudan (180,505 out of 1.5 million), they are at the forefront of discussions about the international community's role in returns. Indeed, returns organized from these sites are likely to set a precedent for returns from other IDP sites. As of September 2019, Malakal is one of six PoCs in South Sudan and is the second largest, with a registered population of approximately 32,000 people. UNMISS recently conducted a review, mandated by the UN Security Council, of the future of the PoCs. The review, as outlined in a report of the Secretary General in

16. Unpublished report on dynamics in Malakal from late 2018.

17. For an in-depth look into the dynamics behind displacement of the Shilluk, see Joshua Craze, "Displaced and Immiserated: The Shilluk of Upper Nile in South Sudan's Civil War 2014-2019," Small Arms Survey – Human Security Baseline Assessment for Sudan and South Sudan, September 2019, <http://www.smallarmssurveysudan.org/fileadmin/docs/reports/HSBA-Report-South-Sudan-Shilluk.pdf>. These dynamics tie into a broader challenge of ethnic dislocation highlighted in Refugees International's November 2018 report—it is the most dangerous way in which international humanitarian aid risks being manipulated in South Sudan (Sullivan, "Displaced Nation").

September 2019, noted several remaining barriers to return from PoCs, but argued for increased shifting of UNMISS and humanitarian resources to areas outside of the PoCs.¹⁸ Based on the Refugees International team's interviews with various actors, this recommendation appears to be based on calculations that the immediate danger to IDPs leading to the creation of the PoCs has passed and the argument that IDPs remain in the sites more for services than for safety. This argument has raised serious concerns among humanitarian actors, who point to ongoing instability and a high risk of return to violence for those leaving PoCs. They fear that returns from PoCs might be motivated more by political pressure than determinations that returns would be safe.

ADDRESSING THE OBSTACLES TO RETURN

Several steps should be taken to address the barriers to return that IDPs have identified. First, fears over personal safety can be mitigated by further demilitarizing potential areas of return, such as Malakal, and their surrounding areas. Advancing the integration of security forces and improving accountability would also increase confidence in the prospect of return. UN and humanitarian actors should also continue and expand “go and see and tell” missions, in which IDPs are taken to areas of potential return to assess conditions for themselves and report back to their communities.

On HLP issues, the UN and humanitarian actors should expand HLP advisory services and rehabilitation projects in places such as Malakal, where many homes have been de-

stroyed. However, such efforts can only go so far without the full support of the government. International donors and countries involved in the peace agreement should encourage and support the government in accepting assistance on HLP issues and mediating the sensitive land issues at play in the greater Malakal context. They should also encourage the government to establish a special court for adjudicating HLP issues arising in the context of ethnic dislocation occurring in towns like Malakal and Wau.

UN and humanitarian policies should not force IDPs to choose between receiving protection and accessing essential services.

To address the lack of basic services in areas of return, international donors should work with local officials and continue to support relief and development efforts. UNMISS, working closely with humanitarian actors, should continue to find opportunities to expand services out of PoCs and into areas of return while also working with the government to establish basic services in them. However, such moves must be carefully weighed against legitimate safety concerns and other barriers to ensure they do not push people out of PoCs prematurely—UN and humanitarian policies should not force IDPs to choose between receiving protection and accessing essential services. This issue has important implications not only for a current debate on the future of the PoCs but also for the broader role of international actors in facilitating returns.

Finally, like Malakal, each region in South Sudan carries its own unique character,

18. “Future Planning for the Protection of Civilians Sites in South Sudan – Report of the Secretary General (S/2019/741), September 12, 2019, <https://reliefweb.int/report/south-sudan/future-planning-protection-civilians-sites-south-sudan-report-secretary-general>.



Young Girl in Malakal PoC. Photo Credit: Refugees International.

ethnic divisions, and history. Conflict sensitivity assessments and improved understanding of the unique conflict dynamics in each area will be essential to any localized attempt at returns. Areas that have experienced significant ethnic dislocation, and where policies are being pursued to reinforce it, will be particularly sensitive. These dynamics should be further investigated by the Commission of Human Rights on South Sudan, mandated by the UN Human Rights Council. An understanding of local contexts is particularly relevant, given the risk that local officials or armed actors may manipulate services and returns for their own benefit. To avoid stoking tensions and unintentionally contributing to population reengineering, UN agencies and NGOs involved with returns must conduct rigorous conflict sensitivity assessments.

NEED FOR INTERNATIONAL ENGAGEMENT

Finally, international actors must engage more directly in encouraging the relevant parties to implement the terms of the peace agreement in accordance with agreed-upon deadlines. The leaders' demonstration that they are upholding their commitments is essential to building the population's confidence in the peace process, which in turn is critical in mitigating refugees' and IDPs' fears about their personal safety, and creating space to address other barriers to return.

Unfortunately, IGAD, the main guarantor of the peace, has been slow in applying pressure to hold South Sudan's leaders to account. Other regional developments, including the recent upheaval in Sudan, have overshadowed South Sudan as a regional priority. Traditional external actors, most



A 44-year-old man in Malakal PoC. Photo Credit: Refugees International.

notably the Troika (the United States, United Kingdom, and Norway), were not a formal part of the peace agreement and have been hampered by United States inattention.

Several IDPs with whom the team spoke expressed a lack of trust in their leaders and appealed for further engagement and pressure from the United States. The major donors should make a coordinated international diplomatic push to engage South Sudan's leaders to hold to their agreements. At a minimum, Kiir and Machar should meet regularly in person to discuss the peace process. Diplomatic engagement must be backed by credible consequences for the leaders' failure to comply, including multilateral targeted sanctions such as travel bans and asset freezes applied to the highest levels of South Sudan's leadership.

Without a high-level focal point for engagement, the multilateral diplomacy necessary to achieve this goal will be difficult for the United States. For now, the United States remains the largest bilateral donor of vital

humanitarian aid, but it lacks a robust diplomatic presence to ensure that aid is used effectively and not manipulated. The United States remains the one part of the Troika without a dedicated special envoy. A previously existing position of U.S. Special Envoy to Sudan and South Sudan remained vacant throughout the Trump administration until early 2019—at that time, however, it was restructured as a Special Envoy to Sudan exclusively. The United States should appoint a Special Envoy for South Sudan with significant stature and knowledge of the region to work with IGAD and regional powers toward a coordinated diplomatic push ahead of the next key deadline to form a transitional government.

'A COLOR OF PEACE'?

Despite the challenges and overall skepticism about the peace agreement, a year of relative peace has led to some notable improvements. Humanitarian actors with whom Refugees International spoke described

fewer access constraints. IDPs said they had more freedom of movement and confidence in accessing nearby towns and markets. Also, although the numbers are limited, IDPs and refugees have begun to return, largely motivated by the relative peace that has taken hold.

Movements between the Malakal PoC and Malakal town are a good example of this change. One man told Refugees International, “We are now seeing a color of peace.” During the Refugees International team’s visit, an estimated 20,000-30,000 people, including most of the PoC population, gathered for the consecration of a new bishop for the Upper Nile region. One South Sudanese man who had attended the event described boatloads of people coming from opposition areas. Significantly, opposition supporters loyal to Olony also attended. The man described it as a “unifying event,” hinting at an environment in which people could leave the PoCs more permanently.

However, these improvements are limited and fragile. Rumors and unexplained killings are quick to stem the flow of people out of PoCs into towns. People are waiting to see if the peace will hold. Failure to move forward on implementation will quickly erode the little confidence beginning to take hold.

Even given the deadline extensions, South Sudan’s leaders have not made meaningful progress toward lasting peace. The one-third of the nation that has been displaced has taken note of this fact. To avoid a return to violence and allow displaced people to return home voluntarily and safely, the regional guarantors of peace and influential international actors must engage more robustly and hold South Sudan’s leaders to account.

CONCLUSION

The greatest test to the peace agreement to date is the approaching deadline to form a transitional government on November 12, 2019. A collapse of the peace agreement is likely to revive the devastating violence seen in recent years. Even if the peace process muddles forward, more than 6 million South Sudanese remain severely food insecure. Failing to prevent or address these humanitarian crises will have consequences too dire to ignore.

ABOUT THE AUTHOR

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ABOUT REFUGEES INTERNATIONAL

Refugees International advocates for lifesaving assistance and protection for displaced people and promotes solutions to displacement crises around the world. We do not accept any government or UN funding, ensuring the independence and credibility of our work.



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