

South Sudan | Freedom House

POLITICAL RIGHTS: –2 / 40

A. ELECTORAL PROCESS: 1 / 12

A1. Was the current head of government or other chief national authority elected through free and fair elections? 0 / 4

Kiir was elected president of the semiautonomous region of Southern Sudan in 2010, and inherited the presidency of South Sudan at independence in 2011. A revised version of Southern Sudan's 2005 interim constitution, adopted at independence, gives sweeping powers to the chief executive. The president cannot be impeached and has the authority to fire state governors and dissolve the parliament and state assemblies. A permanent constitution was due to be passed by 2015, but a draft had yet to be published as of 2018.

Elections due in 2015 were postponed as a result of the civil war. A peace agreement reached that year extended Kiir's mandate until April 2018. In July 2018, the parliament voted to further extend Kiir's term to 2021, along with the mandates of his vice presidents, state legislators, and governors. The Revitalized Agreement on the Resolution of the Conflict in South Sudan (R-ARCSS), signed in September, reset the timetable once again, initiating an eight-month interim period after which a Revitalized Transitional Government of National Unity (RTGoNU) headed by Kiir would be formed and serve a three-year term. Riek Machar would be first vice president, alongside four additional vice presidents. The new government would include representatives from five political factions, with most members from the wing of the Sudan People's Liberation Movement (SPLM) that remained loyal to Kiir. As of end of the 2018, Kiir's incumbent government remained in place.

A2. Were the current national legislative representatives elected through free and fair elections? 0 / 4

South Sudan has not held elections for its bicameral National Legislature since 2010, and its original mandate expired in 2015; that year's peace agreement extended it to 2018. The R-ARCSS in September then extended the mandate until May 2022. The lower house, the Transitional National Legislative Assembly (TNLA), was expanded to 550 members, including 332 affiliated with Kiir's government, 128 from Machar's splinter faction of the SPLM, and the remainder from other groups. The upper house, the Council of States, was to be reformulated pending a review by a newly established body, the Independent Boundaries Commission. The IBC was tasked with deciding how many states South Sudan should have and where their borders should be; it had yet to begin its work at the end of 2018. The R-ARCSS established a power-sharing formula for state and local government posts, with Kiir loyalists receiving a 55 percent share.

A3. Are the electoral laws and framework fair, and are they implemented impartially by the relevant election management bodies? 1 / 4

The R-ARCSS called for a new, impartial National Elections Commission to be established by the end of the first year of the transition. It also mandated changes to the 2012 Electoral Act, to bring it in line with international standards. These steps were still pending as of late 2018.

B. POLITICAL PLURALISM AND PARTICIPATION: 1 / 16

B1. Do the people have the right to organize in different political parties or other competitive political groupings of their choice, and is the system free of undue obstacles to the rise and fall of these competing parties or groupings? 1 / 4

The SPLM dominates the political landscape, and most competition takes place within the movement, which splintered at the outbreak of the civil war. Kiir's hostility toward dissent within the SPLM contributed to the conflict.

The R-ARCSS granted non-SPLM parties 80 of the 550 seats in the TNLA, but they lack the resources to operate effectively and the experience to formulate policy and set party platforms.

The agreement tasked a National Constitutional Amendment Committee with reviewing the Political Parties

Act of 2012 to ensure that it meets international best practices. The process was ongoing at year's end.

B2. Is there a realistic opportunity for the opposition to increase its support or gain power through elections? 0 / 4

If fully implemented, the R-ARCSS would eventually provide an opportunity for opposition groups to contest long-overdue elections. However, South Sudan's last elections, in 2010, featured violence and intimidation against opposition parties and SPLM members whose loyalty to Kiir was in doubt.

B3. Are the people's political choices free from domination by the military, foreign powers, religious hierarchies, economic oligarchies, or any other powerful group that is not democratically accountable? 0 / 4

The civil war has stifled ordinary politics and created a climate of fear. South Sudan's military, the Sudan People's Liberation Army (SPLA), exercises an overbearing influence on political affairs and public life, and the activities of various other armed groups tied to partisan and ethnic factions have made political participation by civilians all but impossible.

B4. Do various segments of the population (including ethnic, religious, gender, LGBT, and other relevant groups) have full political rights and electoral opportunities? 0 / 4

Under Kiir's leadership, the SPLM has sidelined citizens who are not members of the Dinka ethnic group. The exclusion of ethnic groups such as Machar's Nuer has gone far beyond the denial of political opportunities to include violent attacks, sexual exploitation, and the destruction of property.

In an attempt to address the chronic underrepresentation of women in political leadership positions, the R-ARCSS established a 35 percent quota for women in the planned RTGoNU.

C. FUNCTIONING OF GOVERNMENT: 0 / 12

C1. Do the freely elected head of government and national legislative representatives determine the policies of the government? 0 / 4

South Sudan's government and legislature, which lack electoral legitimacy, are unable to exercise control over the national territory.

A clique of Dinka leaders surround Kiir and exert undue influence on decision-making. The UN Security Council has accused the group of deliberately sabotaging peacemaking efforts and stirring up ethnic hatred.

Although Sudan and Uganda helped to broker the 2018 peace deal, they have supported opposing sides in the civil war, with Khartoum at times backing Machar and Kampala defending Kiir. Observers raised concerns that the two neighboring powers would continue to wield undue influence following the accord.

C2. Are safeguards against official corruption strong and effective? 0 / 4

Corruption is pervasive among political and military leaders. The state's resources, including its oil revenues, are concentrated among an elite associated with the president. Military commanders have gained enormous wealth through corrupt procurement deals. President Kiir has facilitated corruption by appointing officials who were previously accused of embezzlement. In 2017, the US Department of the Treasury froze the assets of three officials linked to Kiir, accusing them of orchestrating violence and "enriching themselves at the expense of the South Sudanese people."

C3. Does the government operate with openness and transparency? 0 / 4

Under the interim constitution, citizens have the right to access public information and records held by state entities. These rights are not respected in practice by the government, which is hostile to scrutiny and lacks the capacity to perform its functions.

ADDITIONAL DISCRETIONARY POLITICAL RIGHTS QUESTION

Is the government or occupying power deliberately changing the ethnic composition of a country or territory so as to destroy a culture or tip the political balance in favor of another group? -4 / 0

Both sides in the civil war have committed atrocities against civilians from rival ethnic groups, but government-aligned forces have been responsible for the worst attacks. In one case from 2018, UN officials found that troops loyal to Kiir had murdered more than 200 mainly Nuer civilians during an offensive in Unity State between April and May. In addition, more than 100 women and girls were reportedly raped or gang raped.

The United Nations and the African Union (AU) have documented numerous other incidents of murder, torture, rape, looting, displacement along ethnic lines, and forced starvation. Both organizations have accused Kiir's leadership of planning and coordinating such attacks. UN observers have noted the use of hate speech by senior officials, including Kiir himself.

In 2017, the UN Commission on Human Rights in South Sudan presented evidence of government attempts to reconfigure the population by flying in Dinka to take up residence in places that other ethnic groups have fled and steering humanitarian assistance in their direction.

CIVIL LIBERTIES: 4 / 60

D. FREEDOM OF EXPRESSION AND BELIEF: 2 / 16

D1. Are there free and independent media? 0 / 4

South Sudan's transitional constitution guarantees freedom of the press, but this right is not respected in practice. According to the Committee to Protect Journalists, at least six members of the media have been killed in the course of their work since 2015.

Kiir's government has threatened and detained journalists for reports it does not like or for conducting interviews with opposition officials. Defamation is prosecuted under criminal law, stifling free speech. The National Security Service (NSS) seizes pressruns of newspapers or temporarily closes media organizations that breach its arbitrary standards on what can be reported. In March 2018, the Media Regulatory Authority said it was suspending the UN-run Radio Miraya, claiming that it was in violation of its broadcasting license; the station, based in a UN compound, continued to operate.

D2. Are individuals free to practice and express their religious faith or nonbelief in public and private? 1 / 4

The interim constitution guarantees religious freedom, but houses of worship—used as places of refuge for civilians—have been attacked by gunmen seeking members of rival ethnic groups. An investigation by Radio Tamazuj in 2017 found that at least 40 church leaders had been killed since the civil war began. Places of worship have also been vulnerable to land grabs by corrupt officials. In June 2018, President Kiir acknowledged that Muslims had been targeted by these seizures and ordered property to be returned.

D3. Is there academic freedom, and is the educational system free from extensive political indoctrination? 1 / 4

There are no formal government restrictions on academic freedom. However, the education system was seriously disrupted by the civil war, with many schools closed or commandeered for military use. A report by the Assessment Capacities Project, a nongovernmental organization (NGO), estimated that by 2016, one-quarter of schools that had been open at any point since independence were nonfunctional.

D4. Are individuals free to express their personal views on political or other sensitive topics without fear of surveillance or retribution? 0 / 4

The NSS has extensive powers to conduct surveillance and monitor communications. According to the United Nations, agents have used these powers to intimidate and detain journalists, opposition activists, civil society representatives, non-Dinka citizens, and even members of faith-based organizations, forcing many to flee the country.

E. ASSOCIATIONAL AND ORGANIZATIONAL RIGHTS: 2 / 12

E1. Is there freedom of assembly? 1 / 4

South Sudan's commitment to freedom of assembly under the interim constitution is rarely put to the test in the current conditions of war, displacement, and hunger, as demonstrations seldom occur. Past protests have

been met with excessive force by the authorities.

E2. Is there freedom for nongovernmental organizations, particularly those that are engaged in human rights– and governance-related work? 0 / 4

The government, including Kiir himself, has adopted a hostile stance toward NGOs. According to the United Nations, the NSS has infiltrated civil society organizations, fomenting an atmosphere of fear and distrust. A law passed in 2016 requires NGOs to get written permission from the authorities to conduct activities and hold a bank account in South Sudan, and at least 80 percent of staff must be South Sudanese.

Special hostility has been directed toward UN agencies, which Kiir has accused—without foundation—of siding with his rivals. Humanitarian operations have been consistently blocked, workers deliberately targeted, and food supplies looted. Since the war began, more than 100 aid workers have been killed. The government has also used fees and other bureaucratic barriers to complicate the acquisition of work permits for aid workers.

In September 2018, a group of 10 soldiers received prison sentences from a military court for their involvement in a 2016 attack on a hotel housing foreign aid workers. Several women were raped and a South Sudanese journalist was murdered during the assault.

E3. Is there freedom for trade unions and similar professional or labor organizations? 1 / 4

A new labor law signed at the end of 2017 took effect in 2018, providing for the rights to participate in trade unions, bargain collectively, and strike under certain conditions. However, the law was not effectively implemented, and legal protections for workers are poorly enforced in practice. The country's limited union activity has historically been concentrated in the public sector.

F. RULE OF LAW: 0 / 16

F1. Is there an independent judiciary? 0 / 4

Judicial independence exists in theory but not in practice. A Supreme Court judge who resigned in 2017 complained of continual interference from the executive. Earlier that year, South Sudan's judges went on a five-month strike to protest poor pay and working conditions, during which the president dismissed more than a dozen judges; he did not cite specific misconduct or a recommendation from the National Judicial Service Commission, as required by the interim constitution. Kiir had similarly removed a deputy chief justice of the Supreme Court in 2016 without citing a formal cause or recommendation.

F2. Does due process prevail in civil and criminal matters? 0 / 4

Unlawful arrests and detentions are routine in South Sudan, according to UN observers. Under the National Security Service Law, which became operational in 2015, the NSS has almost unlimited powers to detain and interrogate suspects. Dysfunction and lack of capacity in the justice system have led to cases of indefinite detention, often without charge.

Among other cases during 2018, scholar and activist Peter Biar Ajak, a frequent critic of the government, was arbitrarily detained in July; he remained in custody at year's end and was reportedly held incommunicado, without access to counsel. The president amnestied a number of political prisoners in August and more later in the year as part of the R-ARCSS, but others continued to be held, and new detentions were reported.

F3. Is there protection from the illegitimate use of physical force and freedom from war and insurgencies? 0 / 4

Physical mistreatment and abuse are widespread within the criminal justice system. According to a September 2018 report by Amnesty International, hundreds of people have been detained in Juba by the NSS and military intelligence and subjected to torture and other ill-treatment since the beginning of the civil war. In addition to numerous deaths in custody during this period, the authorities have carried out formal executions, including of people who were children when convicted. At least seven people were executed in 2018.

In September 2018, the London School of Tropical Hygiene and Medicine estimated that 400,000 people had died as a direct or indirect result of the civil conflict. There is near-total impunity for perpetrators of violence and sexual abuse in the context of the war. Recognizing the inability of South Sudan's judiciary to prosecute these offenses, both the 2015 and 2018 peace agreements mandated the establishment of a hybrid court, under the auspices of the AU, to take charge of the process. Soon after the 2018 deal was signed, the government's information minister dismissed the idea of a court, describing it as a Western tool for regime change.

F4. Do laws, policies, and practices guarantee equal treatment of various segments of the population? 0 / 4

The UN, the AU, and other international monitors have documented repeated, deliberate attacks by government forces against members of non-Dinka ethnic groups, most of them civilians. The perpetrators have not been brought to justice. The UN Commission on Human Rights in South Sudan has concluded that these activities amount to a campaign of ethnic cleansing by the government.

The interim constitution includes guarantees on gender equality, but women are routinely exposed to discriminatory customary practices and gender-based violence. While same-sex sexual conduct is not explicitly illegal in South Sudan, “carnal intercourse against the order of nature” is punishable by up to 10 years in prison. LGBT (lesbian, gay, bisexual, and transgender) people face widespread discrimination and social stigma, including harassment and abuse by security forces.

G. PERSONAL AUTONOMY AND INDIVIDUAL RIGHTS: 0 / 16**G1. Do individuals enjoy freedom of movement, including the ability to change their place of residence, employment, or education? 0 / 4**

South Sudan’s interim constitution enshrines the rights of free movement and residence, as well as the right to an education. In reality, the civil war, multiple local conflicts, and poor to nonexistent service delivery have made it impossible for many people to exercise these basic rights. An estimated 1.8 million people were internally displaced as of December 2018, and 2.5 million South Sudanese refugees were living in neighboring countries.

G2. Are individuals able to exercise the right to own property and establish private businesses without undue interference from state or nonstate actors? 0 / 4

Disputes over land use and ownership are frequent causes of armed conflict in South Sudan, and returning refugees from earlier wars have exacerbated the problem. Property rights are weak and not respected in practice. There have been multiple allegations of land grabbing and forced evictions in recent years. Customary practices often deny women their legal rights to property and inheritance.

G3. Do individuals enjoy personal social freedoms, including choice of marriage partner and size of family, protection from domestic violence, and control over appearance? 0 / 4

Rape and other forms of sexual violence have been used extensively as weapons of war against both men and women. Domestic violence is not addressed by the law. A 2017 study by International Rescue Committee found that 65 percent of the women and girls surveyed had experienced physical or sexual violence, with 33 percent suffering sexual violence by a nonpartner.

Customary law puts women at a disadvantage in matters of divorce and child custody. Forced and early marriages are common, with about half of girls marrying by age 18, and spousal rape is not a crime.

G4. Do individuals enjoy equality of opportunity and freedom from economic exploitation? 0 / 4

The collapse of the national economy has led to rampant inflation that puts the prices of essential goods out of reach for ordinary people.

Trafficking in persons for forced labor and sexual exploitation is widespread, with rural woman and girls, the internally displaced, and migrants from neighboring countries among the most vulnerable to mistreatment. The use of child soldiers is also a serious problem. UNICEF, the UN Children’s Fund, estimated that some 19,000 children had been recruited by armed groups since 2013, and it verified more than 1,200 cases of recruitment in 2017 alone.