

Pushing The Reset Button For South Sudan

Steven Kay QC | 9BR Chambers, London

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In October 2021 at a meeting with officials from the Government of South Sudan (GoSS), we discussed the policies of the international community towards the new state of South Sudan, primarily shaped by the African Union Commission of Inquiry on South Sudan (AUCISS) and the reports of the United Nations Mission in South Sudan (UNMISS). The complaint was made that these and other international institutions had ignored and rejected the statements made by GoSS upon the causes of the conflicts within the brief history of this state and a completely erroneous narrative had been promulgated that prevented it from developing as a nation on its own terms.

South Sudan as a consequence of those narratives has found itself the subject of sanctions preventing it from acquiring military equipment necessary to protect itself from armed groups as well as restrictions that prevent it from proper commercial trading in its single most valuable resource - oil. Individuals who represent the state and challenge the approach of the international institutions have found themselves personally sanctioned for their resistance. In light of the findings in this report, the narratives are open to question.

This report publicly releases from South Sudan phone intercept communications and evidence obtained by an Investigation Commission formed by Presidential Decree¹ in 2014 to conduct a criminal investigation against twelve suspects² alleged to have taken part in an attempted coup on 15 December 2013. That attempted coup precipitated the conflict that followed from that date into 2014 and beyond. The sources we have reviewed establish the truth behind the violence that broke out in South Sudan, not only on 15 December 2013 but also a further attempted coup on 8 July 2016 that continued the conflict. The evidence supports President Salva Kiir's statements at the time that these were attempted coups carried out by Dr Riek Machar and others, in which they planned to take control of South Sudan for themselves. In the intervening period between the coups, Machar continued his policy of conflict with the deliberate aim of seizing power.

The question must be posed as to why the international community, particularly UNMISS and AUCISS chose to disbelieve or disregard President Salva Kiir's allegations of a coup attempt? The issuance of critical press releases condemning both parties, reveal a bias and misreading of what had taken place in South Sudan.

1 "This order shall be cited as 'The Republican Order No.06/2014 for the Formation of Investigation Committee to Investigate on Human Rights Abuses in the Attempted Coup of 15 December 2013, 2014 A.D.' and shall come into force on the date of its signature by the President of the Republic". The exercise of the powers conferred upon me under Article 101(j) of the Transitional Constitution of the Republic of South Sudan, 2011 A.D read together with Section5(1) of the Investigation Committees Act, 2006.

2 The suspects named in the Summary of the Case Diary prepared by Jackson Elia Hariha are: Dr Riek Machar, Taban Deng Gai, Pagan Amum Okech, Dr Majack De Agot, Guier Chauwang Along, Kosti Manebi, James Luk, Madut Biar, Ezekiel Lul, Dr Cirino Hetang, Alfred Ladu Gore and Dr Peter Adwok.

It resulted in international policy that was based upon a premise of distrust for the GoSS. The contextualisation by UNMISS of the conflict in December 2013 as being ethnically based resulted in a narrative that was quickly adopted and the rights of a state to protect its constitution and government side-lined. Too easily have claims of potential genocide been made to scare the international community by UN officials as the GoSS strives to work out political solutions.³ These claims are in fact destructive to the advancement of the nation and result in the imposition of international sanctions and restrictions. The approach of the UN Mission that they had to be “convinced” by the GoSS is baffling and does not excuse its lack of willingness to review and interpret materials later presented that contradicted a narrative it had too quickly issued. The failure to properly inquire and review materials provided by the GoSS in its defence in the form of the phone intercepts by AUCISS is equally baffling, particularly as it was prepared to make findings that rejected the defence. We have learnt from our experience of international cases that narratives too easily morph into policies that are only to be unravelled later.

³ <https://theworld.org/stories/2016-12-14/south-sudan-president-calls-national-dialogue-end-civil-war>

The telephone intercepts reviewed by 9BR Chambers are authentic and reveal not only the planning of the attempted coups in 2013 and 2016, but also the discussion of the events as the conspirators put into action their plans, the impact of which have continued to sow division and separation throughout the country. The Investigation Commission conducted under the law of South Sudan heard direct evidence from those involved in the events of 2013 and corroborates the authenticity of the telephone intercepts, as indeed the intercepts cross-corroborate the evidence of the Investigation Commission. This report reveals how the international community got it wrong in South Sudan by ignoring what was said on its behalf in pursuit of a preconceived agenda for western led policies and solutions.

The findings in this report suggest that it is now time for the international community to push the reset button in respect of how the events of the past ten years have been perceived and in so doing, how the future governance of South Sudan should proceed on terms for reconciliation, peace and justice that are workable within its unique history and experience.

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Executive Summary

Since the creation of South Sudan in 2011, international institutions have ignored or rejected statements made by President Kiir and the Government of South Sudan on the causes of the two main conflicts in 2013 and 2016. This stance has led to the promulgation of an erroneous narrative that has prevented the world's youngest nation from developing on its own terms.

In this report, 9BR Chambers publicly releases for the first time, information from phone intercept communications, reports, witness statements and other sources to establish the truth behind the violence which broke out in the attempted coup on 15 December 2013 and the subsequent coup attempt on 8 July 2016. The sources reviewed prove the truth of President Kiir's contemporaneous statements, namely that both attempted coups were carried out by Dr Riek Machar and others with the aim of taking control of South Sudan for themselves.

This report contradicts the narratives issued by the United Nations Mission in South Sudan as to the nature of the conflict as well as the report of the African Union Commission of Inquiry on South Sudan that investigated the first attempted coup of December 2013 and found no evidence to support the assertions of the President of South Sudan and other leading officials.

Chapter 1 sets out the evidence as to how Riek Machar planned the attempted coup of 15 December 2013 by both military and political means. Taban Deng Gai led the military efforts in coordinating troops and weapons with Brigadier General Peter Lim Bol Badeng Commander of Tiger Brigade 1 and other officers in the Sudan People's Liberation Army (SPLA). The telephone intercepts reveal how the conspirators put into action their plans. This evidence corroborates the evidence produced in the Investigation Commission formed by Presidential Decree in 2014 conducted under the law of South Sudan.

President Kiir's explanation of 16 December 2013 was reported widely as an '*alleged coup*' but framed as violence along ethnic and political lines. This misinterpretation of events led to a hastily introduced prescribed formula for peace-building and lengthy international intervention ever since; based upon an erroneous narrative, namely that the violence was political and ethnically targeted.

Chapter 2 analyses the response of the international community to the attempted coup in December 2013. Crucially, the United Nations, African Union, USA, and EU did not describe the events of 15 December 2013 as an attempted coup. The preferred international response was of a political 'crisis' that escalated to violence carried out by the military and various armed groups. Ethnicity and political factionalism were named as the overriding causes. This narrative enabled prescribed responses to fit a humanitarian agenda.

The peace agreements thereafter have been underpinned by a need to address ethnic differences, largely informed by external perceptions of these events. These agreements have largely failed as ethnicity has been exploited by Riek Machar to undermine President Kiir and the Government of South Sudan. The more conflict the Sudan People's Liberation Movement/Army-in-Opposition (SPLM/A-IO) can cause, the more they can increase international pressure on President Kiir and the GoSS. Such international pressure has perceptibly prevented the development of the country and kept it locked in a prism of international control.

Chapter 3 examines the interim events between the two attempted coups which illustrate a continued effort by the SPLM/A-IO under the leadership of Riek Machar to undermine and protract peace negotiations, exploit factional divisions and ultimately, destabilise the GoSS. All these activities frustrated the development of the country and resulted in the diminution of its international status.

The Government's efforts to restore peace and stability in South Sudan following the attempted coup in December 2013 were immediately swept aside as the opposition took advantage of its position within the protracted peace negotiations throughout 2014 to 2016. Significant efforts were made by President Kiir to ensure peace with repeated attempts to reach out to the opposition and notable concessions.

In contrast, the opposition made no attempt to return the goodwill or to progress efforts to stabilise South Sudan. At each stage of the peace negotiations, the primary goal of the opposition led by Riek Machar was to undermine the Government and to overthrow President Kiir. These efforts were concretely put in motion with military assistance from foreign entities and continuous efforts to delay, stall and compromise peace efforts.



Pushing The Reset Button For South Sudan

Ultimately, Riek Machar's signature of ARCSS in August 2015 was not a genuine attempt to power share as evidenced by his own words a month before when on 8 July 2015 he declared that should President Kiir not resign then the *"citizens have every right to rise up and overthrow his regime"*.

This imbalance of efforts was overlooked by the international community and the opposition gained significant traction as Machar was provided with extensive powers as First Vice-President in 2016. Yet even then, Machar continued to plot to overthrow President Kiir in furtherance of his own grand ambitions to be President of the Republic of South Sudan. This culminated in the attempted coup on 8 July 2016.

Chapter 4 examines the attempted coup of 8 July 2016. Following his return to Juba in April 2016, Riek Machar launched a charm offensive promoting peace, unity and solidarity with the government. On 8 May 2016, he called for *"forgiveness and reconciliation in South Sudan"*. On 22 May 2016, Machar attended prayers at a predominantly ethnic Dinka church on Sunday, telling the congregation *"that peace and reconciliation will enable national healing and ensure stability."*

However, the evidence from telephone intercepted communications from the same period reveal that Riek Machar as First Vice President of the Transitional Government of National Unity (TGoNU) plotted a coup to seize power on 8 July 2016. Whilst he was presenting a unified front to the international community, in the background he was at the same time preparing forces of the SPLM/A-IO to carry out the coup and using support from a foreign government, the Republic of the Sudan, to provide his forces with the necessary arms and ammunition. When the coup failed in its initial stages during his meeting with President Kiir and Second Vice President James Wannu Igga in the President's office, Riek Machar never resumed the reconciliation talks that had been taking place between the leaders of the TGoNU. Instead, he continued the conflict that caused great loss of life including the deaths of civilians, knowing from his experience over many years of conflicts in South Sudan and Sudan that such killings were inevitable.

The institutions of the United Nations were bound by the narrative they had followed from the time of the first attempted coup in December 2013, to continue with the same humanitarian agenda they had invoked against the GoSS. This narrative remained locked in the prism that the conflicts were ethnically driven, and responsibility was shared between the protagonists. The institutions of the United Nations did not recognise that the coup attempts were the result of the pursuit of an ambition that stoked and utilised ethnic divisions. It also failed to recognise adequately the rights of a sovereign state to control its territory and prevent the unlawful and violent attempts to usurp the lawful structures of power and government.

The findings in this report suggest that it is now time for the international community to push the reset button in respect of how the events of the past ten years have been perceived and in so doing, how the future governance of South Sudan should proceed in respect of reconciliation, peace and justice in ways which are workable within its unique history and experience.

02	Introduction
04	Executive Summary
09	Abbreviations
10	Chapter One: 15 December 2013 First Attempted Coup
11	A. Background of Escalating Political Tensions Leading to First Attempted Coup
12	B. Telephone Intercept Evidence
12	(i) Preparing for a Coup D'Etat
13	(ii) Political Build-Up – December 2013
14	(iii) National Liberation Council Meeting
15	(iv) Final Preparations for the Coup – 15 December 2013
17	(v) Telephone Intercepts Ordering the Coup - 15 December 2013
24	(vi) Weapons Supply from Sudan and Further Planning - January 2014
25	C. The South Sudan Investigation Commission
33	D. Conclusion
33	Fig. 1: Location of Al Giada, Newsite and Bilpham SPLA (SSPDF) HQ
34	Chapter Two: 15 December 2013: The Narrative from the International Community
35	A. The International Response
35	(i) United Nations
38	(ii) African Union
41	(iii) Intergovernmental Authority on Development
41	(iv) USA
45	(v) European Union
46	(vi) UK and Norway
46	B. Conclusion
48	Chapter Three: Efforts to Destabilise the Government of South Sudan Between 2014-2016
48	A. The Government's Commitment to Peace and Stability
48	(i) Repeated Calls for Peaceful Settlement
49	(ii) Initiation and Maintenance of Dialogue with the Opposition
51	(iii) Commitment to Protection of Civilians and Humanitarian Access
52	(iv) Legitimate Concerns of the Government Ignored
54	B. Attacks on the Government's Commitment to Peace and Stability
54	(i) Primary Aim to Overthrow President Kiir
55	(ii) Delayed Resolution of the Peace Process
57	(iii) Request for Material Support
58	C. Conclusion
60	Chapter Four: The Attempted Coup of 8 July 2016
60	A. Events at J1 (Presidential Headquarters) on 8 July 2016
63	B. Preparation for the July 2016 Attempted Coup – Telephone Intercepted Communications
63	(i) May-June 2016
66	(ii) July 2016
67	C. Telephone Intercepts After 8 July Attempted Coup
70	D. Conclusion

Abbreviations

AU	African Union
AUCISS	African Union Commission of Inquiry on South Sudan
ARCSS	Agreement on the Resolution of the Conflict in South Sudan
CID	Criminal Investigation Department
CoH	Cessation of Hostilities Agreement
CMC	Crisis Management Committee
EU	European Union
GoSS	Government of South Sudan
IGAD	Intergovernmental Authority on Development
JMEC	Joint Monitoring and Evaluation Commission
NLC	National Liberation Council
R-ARCSS	Revitalised Agreement on the Resolution of the Conflict in South Sudan
SAF	Sudan's Armed Forces
SPLM/A	Sudan People's Liberation Movement/Army
SPLM/A-IO	Sudan People's Liberation Movement/Army – In Opposition
SSP	South Sudanese Pounds
TGoNU	Transitional Government of National Unity
UKFCO	United Kingdom Foreign and Commonwealth Office
UN	United Nations
UNMISS	United Nations Mission in South Sudan
UNSC	United Nations Security Council
USA	United States of America



Background of Escalating Political Tensions Leading to First Attempted Coup

South Sudan became an independent state in 2011, having been forged out of conflict, with all the component elements of conflict remaining within its borders. It did not take long before tensions between Vice-President Riek Machar and President Kiir rose, driven largely by Riek Machar's desire to become the next President of South Sudan and his vocal criticism of President Kiir. These tensions were heightened by the scheduling of national elections due to be held on **9 July 2015**. Suggestions that President Kiir may step down after the 2015 elections led to others positioning themselves as next in line.⁴

By March 2013, Riek Machar had disclosed his ambition to replace President Kiir as Chairman of the SPLM and ultimately to become President of the nation.⁵ Throughout 2013, Riek Machar was planning and organising his forces in the regions in preparation for rebellion. This mobilisation is why within 48 hours of the outbreak of fighting on **15 December 2013**, Riek Machar was coordinating and mobilising troops from Unity State in a bid to overthrow the Government of South Sudan.⁶

The stripping of 'all duly delegated powers' of Riek Machar under the 2011 Transitional Constitution on 15 April 2013 by Presidential decree⁷ did not deter him. Indeed, on 4 July 2013, he declared in an interview that he was not prepared to wait to take power in 2015 and was ready "for a change now."⁸ He later accused President Kiir's actions as a "violation" of the party constitution and having no constitutional power to dissolve party structures until the National Liberation Council meeting was held.⁹ The Constitution adopted on 2011 gives President Kiir broad authority to dismiss senior government officials.¹⁰

In a major cabinet reshuffle on 23 July 2013, announced by presidential decree on State television, President Kiir dismissed his entire cabinet (with the exception of four ministers) along with Vice-President Riek Machar. President Kiir had initially wanted a cabinet of eighteen cabinet ministers with international donors pressing for a leaner and more effective set-up.¹¹ The reshuffle was to restructure the government and aimed to avoid ethnic violence.

⁴ *Special Report: August 3 2014, 'South Sudan's Crisis: Its Drivers, Key Players and Post-Conflict Prospects', p.5, The Sudd Institute.*

⁵ <https://www.bbc.co.uk/news/world-africa-23470960>

⁶ *Coordination of joint operations between the Lou Nuer Youth and Forces loyal to late Peter Gadet in Division 8 and Cobra faction under David Yau Yau: Transcript 29-10-2013 08:13:10; Transcript 30-10-2013 11:20:09.*

⁷ *Republic of South Sudan (RSS) The President, Republican Order No.03/2013 for the withdrawal of all duly delegated powers assigned to the Vice President of the Republic by the President of the Republic, 2013 AD.*
https://sudantribune.com/wp-content/uploads/2013/04/pdf_presidential_decree_reducing_powers_of_the_vp.pdf

⁸ <https://www.theguardian.com/world/2013/jul/04/south-sudan-two-years-on>

⁹ <https://sudantribune.com/article47818/>;
<https://www.aljazeera.com/news/2013/7/24/south-sudan-president-fires-cabinet>

¹⁰ *Article 104(2) specifically allows the President to remove the Vice President and Article 112(1) for the removal of all "ministers of the national government"*
https://www.constituteproject.org/constitution/-South_Sudan_2011.pdf

¹¹ *See Johnson (2016) p. 168.*

Provoked by his dismissal, Riek Machar announced again that he would challenge President Kiir for the Presidency.¹² Machar's removal from office had the effect of precipitating the mobilisation of his supporters against President Kiir thus creating political division which would ultimately divide the nation.

In the months leading up to **December 2013**, the National Security Agency (NSS) and law enforcement agencies were alerted to the continuing dangers of division within the SPLM and the potential serious consequences for the security of the nation. Consequently, attempts were made by the Minister of the Interior, Director General of National Security and the Director General of External Security along with the Director of Military Intelligence, to engage in dialogue with Riek Machar and his supporters, urging them to reach a political compromise so as to avoid plunging the country into serious political and social crisis.

Riek Machar held a press conference on **6 December 2013** and announced that he planned to conduct a public rally to garner support for his campaign against the government.¹³ This press conference heightened the internal party crises and provoked fears among citizens.¹⁴ The rally was later cancelled as the government scheduled the voting session for the new National Liberation Council of the SPLM on the same day. Machar's intention however, to become the next President of South Sudan was clear.

On **8 December 2013**, the Vice President, James Wani Igga, responded publicly in a statement denouncing the disaffected SPLM leadership as irresponsible and undisciplined. The Vice-President cautioned the group against inciting the army and creating instability in the country.¹⁵

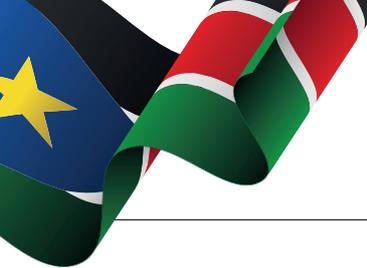
Tensions were running high following the press conference on **6 December** as the SPLM National Liberation Council (NLC) meeting scheduled for **14 and 15 December 2013** approached. This meeting, repeatedly postponed, was aimed at discussing and approving key SPLM documents, namely its manifesto, constitution, code of conduct and regulations.

12 <https://apnews.com/article/79d4047e888a43ef93a509ded9f65a42>

13 <https://sudantribune.com/article48043/>

14 Special Report: August 3 2014, 'South Sudan's Crisis: Its Drivers, Key Players and Post-Conflict Prospects', p.6.

15 <https://www.peaceau.org/en/article/report-of-the-chairperson-of-the-commission-on-the-situation-in-south-sudan-411th-meeting-of-the-peace-and-security-council>



15 December 2013 First Attempted Coup

On **14 December**, the first day of the meeting, contentious issues arose including: (i) the voting method (whether it should be by secret ballot or a show of hands); (ii) the proposed nomination by the President of 5% of the delegates that would eventually elect the party officials, including the party's Presidential candidate for the 2015 elections; and (iii) the election of the party's Secretary General.

On **15 December**, the party proceeded to adopt the constitution, manifesto and code of conduct. Although Riek Machar and a large contingent of his supporters attended the first day, their numbers dwindled by **15 December**¹⁶ when it became apparent that Riek Machar would not win the Chairmanship of the party and the NLC was boycotted.

At around 9pm on **15 December 2013**, fighting broke out at Al Giada barracks,¹⁷ the former Government Military Headquarters in Juba,¹⁸ spreading thereafter to New Site¹⁹ and nearby Bilpam,²⁰ the Headquarters of the SPLA.

B. Telephone Intercept Evidence

(i) Preparing for a Coup d'Etat

29 October 2013: Major General Peter Gadet Yak, Commander of the SPLA Infantry Division 8 in Jonglei State²¹ was assigned by Riek Machar to mobilize the White Army in Lou Nuer areas and connect them with the insurgency group based in the Pibor area known as the Cobra Movement under the command of David Yau Yau.²² Gadet was seeking logistical support "for change to happen in the Government".²³

29 October 2013: Peter Gadet mobilised support and weapons directly from Khartoum under Khalid Butrus²⁴ - a key liaison officer for weapons supply from the Sudan Government in Khartoum - and coordinated with David Yau Yau and Major General James Kong Kong (1st in Command under David Yau Yau, Cobra Movement). Gadet told Butrus: "that the situation in the country is very bad and people are also very desperate." He added that: "everything will be ok if they can get the supply from Khartoum."²⁵

¹⁶ <https://sudantribune.com/article48133/>

¹⁷ See Fig. 1.

¹⁸ The barracks are also known as the Division Headquarters of the Presidential Guard (also referred to as the Tiger Division).

¹⁹ See Fig. 1.

²⁰ See Fig. 1.

²¹ The late Major General Peter Gadet Yak defected to the SPLA-IO and was declared military Governor of the Jonglei State by Riek Machar. He was SPLA-IO Commander before forming his own rebel movement called the South Sudan United Movement/Army (SSUM/A).

²² David Yau Yau was a Murle Commander in Pibor County

²³ Transcript of audio intercept dated 29-10-2013; 08:13:10. \

²⁴ He was an Officer in the Sudan Armed Forces (SAF); they formed a Cobra faction Movement under Gen. David Yau Yau operating in Buma area located in Jonglei state now called Pibor Administrative Area. Khalid Butrus was the logistic coordinator for supply of ammunition and arms to the Cobra Movement in Sudan. After the government signed peace with the Cobra faction, he joined the National Salvation Front under Gen. Thomas Cirilo Swaka but afterwards defected and joined another political party that is now under the South Sudan Opposition Alliance (SSOA). This Alliance is now of the partners in the Revitalized Transitional Government of National Unity (RTGoNU). He is currently the Deputy Minister of Labour.

²⁵ Transcript of audio intercept dated 29 October 2013; 08:13:10.

30 October 2013: Peter Gadet spoke with Major General James Kong Kong seeking assistance for the White Army youth to be sent to Pibor areas for the assembly with the forces of the Cobra Movement. James Kong Kong agreed to send enough forces to Bor for a joint operation with Gadet in Pariak and the White Army Youth. Gadet inquired about weapons for the White Army Youth. He advised that they should keep communications open using Thuraya (Satellite) only.²⁶

26 Transcript of audio intercept dated 30-10-2013; 11:20:09 Peter Gadet Yak called James Kong Kong.

27 Transcript of audio intercept dated 30-10-2013; 11:20:09 Peter Gadet Yak called James Kong Kong.

28 Transcript of audio intercept dated 30-10-2013; 11:20:09 Peter Gadet Yak called James Kong Kong.

29 Audio TabanAC144.

30 Audio PAGAN_FSG00.

31 Audio Transcripts: TabanAC141; TabanAC142; TabanAC143.

32 Transcript of audio intercept dated 06 December 2013; 09.12.35 from Steve Lam to George Sebit.

33 Transcript of audio intercept dated 06 December 2013; 11.06.12 MaMach to Agok Makur.

30 October 2013: Peter Gadet revealed he needed help from David Yau Yau for weapons and ammunition. He informed James Kong Kong that: “their forces are ready”.²⁷ Gadet added that they are planning for a new idea and he asked if Kong Kong is ready with the forces so he can be directed to the meeting place to get support: “Their idea is to organize about 12,000 troops so as to attack and capture Bor up to Pariak”. Gadet advised that he could help James Kong Kongs’ forces with the route to Bor.²⁸

(ii) Political Build-Up - December 2013

Riek Machar’s intention was to make a bid for the Presidency of the SPLM at the upcoming NLC meeting. Telephone intercepts show a series of calls were made to establish how much support he had.²⁹ When it was apparent that Riek Machar would not win the Presidency during the NLC meeting of **14 December**, he and his team boycotted the following day’s meeting.³⁰ The intercepts show how events were brought forward following suspicions that the coup plot had been discovered.³¹

On **6 December 2013**, at 09.12 Riek Machar’s press secretary **Steve Lam** called George Sebit, Security Advisor in the Office of Governor of Central Equatoria State, to tell him to come to Riek Machar’s press conference that day with youths from Equatoria. Lam passed details to Sebit of a young man in Nairobi who would work with mobilizing the youth.³² Lam emphasised the importance of Sebit’s teams’ presence at the press conference so they could later brief their communities on the importance of good leadership.

6 December 2013: At 11.06³³ **MaMach** a youth leader of the Nuer from Nasir in Upper Nile State, called **Agok Makur** to inform him of Riek Machar’s press conference. MaMach stated that he was in the village mobilising the White Army and that if there was a need for support from the grass roots they would facilitate this.



15 December 2013 First Attempted Coup

(iii) National Liberation Council Meeting

13 December 2013: At 08.21 **MaMach**, called **Pagan Amum** to discuss the SPLM conference and informed him that there are youths in Juba so Pagan need not be worried about the government.³⁴

34 Transcript of audio intercept dated 13 December 2013; 08.21.49 MaMach to Pagan Amum Okech.

35 Audio Transcript TabanAC141.

36 Audio Transcript TabanAC142.

37 Audio Transcript: TabanAC144.

14 December 2013: At 07.39³⁵ Taban Deng Gai discusses the NLC meetings with Brig. Gen. Peter Lim Bol Badeng, Commander of Tiger Brigade 1:

38 Transcript of audio intercept dated 14 December 2013; 09.36.31 - PAGAN_FSG00.

TDG: Have you been given your orders yet?

PL: We have not been given orders yet.

39 Audio Transcript: TabanAC151.

14 December 2013: At 8.30³⁶ Taban Deng Gai spoke with Captain Tai Matien officer in the National Security Service:

TM: The planned meeting was not postponed you should not make the mistake of going to the meeting. You will be defeated at the meeting.

TDG: They should be prepared to fight if they are dismissed by those people and we see who will be chased.

14 December 2013: At 08.44³⁷ Taban Deng Gai speaks with Riek Machar about the NLC meeting and alliances:

RM: Have you spoken to the forces?

TDG: Yes I have, they have not yet received their orders.

TDG: You have to be careful.

14 December 2013: At 09.36³⁸ Pagan Amum received a call from Thejji Dedut concerning the SPLM conference on 15 and 16 December. Pagan Amum said they could not go to the meeting unless they had their own force, and advised they needed to meet and not talk on the phone, they will meet somewhere to decide to “fight the dictator”.

14 December 2013: At 22.48³⁹ Taban Deng Gai speaks with Ezekiel Lual Gatkuoth, former South Sudan Ambassador to the USA, who informed Taban that there had been an “infiltration” in their forces that had gone to the President concerned about the money. Taban says he suspects certain individuals who it may be. Ezekiel offered to bring three officers tomorrow to see Taban.

14 December 2013: At 21.48⁴⁰ Taban speaks to Chuol regarding phones. He confirms the phones have arrived and are configured. Taban told him to make sure they were all programmed and well-charged ready for use. He tells Chuol that once they are ready to bring them to his home anytime.

40 Audio Transcript: TabanAC150.

41 Audio Transcript: TabanAC156.

42 Officer in SPLA Infantry Division 2

43 Audio Transcript: TabanAC157.

44 Battalion Commander, Tiger Division

45 Audio Transcript: TabanAC158.

46 Former Deputy Director General of the Sudan's National Intelligence Security Service before the Independence of South Sudan. Served as the deputy Minister of Defence and Veteran Affairs after independence in 2011.

47 Audio Transcript: TabanAC159.

48 Officer in the Signal Unit, SPLA General Headquarters

(iv) Final Preparations for the Coup - 15 December 2013

Taban Deng Gai had no military command but during the day of 15 December 2013, he made a series of telephone calls to serving SPLA officers to carry out the plan to stage a military coup and seize power for Riek Machar. The plan was put into operation as a result of the failure by Riek Machar to gain sufficient support for his bid for the Presidency of the SPLM at the NLC the previous day. The recordings and transcripts of intercepted phone calls from the phone of Taban Deng Gai reveal the preparations and execution of the planned coup. Some of these are set out below:

15 December 2013: At 12.55⁴¹ Taban Deng Gai calls Lt. Col. Stephen Gueh⁴² and inquires over the forces and their readiness - *"the force will be ready for tomorrow or today?"* Gueh answered that it would depend on Taban Deng Gai and Gwardit's [Riek Machar] position.

15 December 2013: At 13.02⁴³ Taban Deng Gai calls Lt. Col. Peter Lok Tang:⁴⁴

TDG: What will you do in the Parade?

LT: What is your solution?

TDG: I met your Commander he will brief you on what we discussed.

TDG: There are things we have not yet decided.

TDG: You go to Brigadier Lim he will update you.

TDG: Let them not surprise you.

LT: This is my job.

15 December 2013: At 14.40⁴⁵ General Oyai calls Taban Deng Gai to say they should meet at Taban's house and that General Majak de Agot⁴⁶ was already there.

15 December 2013: At 15.05⁴⁷ Taban Deng Gai calls an officer of the Tiger Division and asks for the contact of Brigadier General Kuol Chuol.⁴⁸

TDG: Do you know his parade?

Officer: We have 50 arms.

Officer: We have many young people.



15 December 2013 First Attempted Coup

15 December 2013: At 15.47⁴⁹ Taban Deng Gai calls Makur Kulang, former Commissioner of Yirol West to report they will boycott the NLC meeting.

49 Audio Transcript: TabanAC160.

50 Audio Transcript: TabanAC161.

15 December 2013: At 17.19⁵⁰ Taban Deng Gai handed his mobile phone to General **Oyai Deng Ajak**⁵¹ former Chief of Staff of SPLA, who spoke with an officer. In the conversation, General Oyai believed that the additional 200 soldiers were not professional soldiers and therefore would not put up much resistance to better-trained militia.

51 Prior to December 2013 he held the post of Minister of National Security. He was arrested following the failed coup.

52 Audio Transcript: TabanAC164. This communication seems to have been considered by AUCISS and Hilde Johnson but was not understood.

53 Officer in Battalion One, Tiger Division

54 Audio Transcript: TabanAC166.

15 December 2013: At 19.18⁵² Taban Deng Gai speaks with Brig. Gen. Peter Lim Bol Badeng of the Tiger Brigade 1 who informs him of a plan to arrest 1st Lt. Riek Manguan⁵³ for bringing money to pay soldiers allegedly “wrapped in a bed sheet and came in a car”. Brig. Gen. Peter Lim Bol Badeng suggested they should start their programme tonight instead of tomorrow. This was the communication that put into action the plan for the coup that was originally scheduled for the 16 December.

TDG: Do you think we can resist the situation tonight?

Lim: We can resist but our concern is the issue of guns and artillery. The armoured vehicles are going to affect us.

TDG: If the armoured cars are taken away from you in the daytime what can you do?

Lim: The problem is tomorrow they have ordered his arrest, we are concerned if we resist the arrest, the number is bigger. We cannot do anything. If we are the one planning it we can take the 21 cars. If they are planning we will divide the armoured cars.

15 December 2013: At 19.48⁵⁴ Taban Deng Gai speaks with Captain Bedong Yuai Majok from a Commando unit based in Kapoeta regarding the situation and checking they are ready:

TDG: Do you follow the people of Brigadier Lim?

BYM: Yes we are following up with their people”

TDG: Are your people ready?

BYM: Yes.

TDG: Okay I will call you later but you yourself need to be ready.

15 December 2013: At 20.24⁵⁵ Taban Deng Gai talks again to Brig. Gen. Peter Lim Bol Badeng and they discuss the arming of their forces.

55 Audio Transcript: TabanAC168.

PLB: A Major in 1st Battalion of Tigers issued an order for 10 guns to be removed from the store. Those guns were given to his [President's] people for duty. I ordered them to take them back as they were for ordinary duty.

56 Audio Transcript: TabanAC169.

57 Audio Transcript: TabanAC172.

58 Audio Transcript: TabanAC173.

TDG: Today you will take your guns.

59 Audio Transcript: TabanAC174.

PLB: Yes we will take our guns. The two gentlemen will now go to the garrison.

TDG: Yes let them go.

TDG: Take all those who are armed to the house of Dr. Riek.

PLB: They have noticed something.

15 December 2013: At 20.41⁵⁶ Taban Deng Gai speaks with an officer on duty at the John Garang Mausoleum to report on the number and ethnicity of forces:

Officer: My force is 57 of which 24 Dinka, 33 from Ekuatoria.

15 December 2013: At 21.22⁵⁷ Taban Deng Gai called General Oyai to tell him that things would be bad tonight and that Riek Machar: had already authorized that the soldiers should break the stores and take their guns.

(v) Telephone Intercepts Ordering the Coup – 15 December 2013

15 December 2013: At 21.36⁵⁸ Taban Deng Gai spoke with Lt. Col. Stephen Gueh and we hear the start of the attempted coup:

SG We have reached the garrison. How are you doing now?

TDG: We are doing okay. We have given you the orders.

SG: Are you waiting for Lim?

TDG: You continue with your work.

SG: Son of Machar [Riek Machar] is leaving now and going to a safe place.

TDG: I am told that one of our relatives has run away with the keys.

SG: They are progressing well with their work and shall start within time.

15 December 2013: At 21.50⁵⁹ Taban Deng Gai spoke with another officer who asks whether a senior person has been arrested. Taban informs him no one has been arrested but a few officers within the Tiger Division will be arrested tomorrow.



15 December 2013 First Attempted Coup

15 December 2013: At 22.02⁶⁰ Taban Deng Gai called Lt. Col. Peter Lok Tang who informed him they were ready and in their positions.

TDG: How are you guys?

PL: We are doing well. We are waiting for Brigadier Lim he is outside.

TDG: Let them not attack you first.

PL: This will never happen.

TDG: If Lim delays you should not wait for him, you start your guns. If Lim is delaying get your guns.

PL: I want them to come in with us to the garrison.

60 Audio Transcript: TabanAC175.

61 Audio Transcript: TabanAC176.

62 Audio Transcript: TabanAC179.

63 Audio Transcript: TabanAC182.

15 December 2013: At 22.29⁶¹ Taban Deng Gai called General Oyai to inform him firing had started. General Oyai says he is in the house of General Deng Alor and expresses surprise at the speed of matters. Taban told him to stop his meetings with Deng Alor as nothing will come of it. General Oyai agrees to leave the house immediately.

15 December 2013: At 22.37⁶² Riek Machar calls Taban Deng Gai to inform him that the fighting has started. Taban asks if he has left his house yet. Machar tells Taban he has not and he thinks there is no point in leaving yet. Taban tells him to stop thinking like that and he should just take the small car and leave the house immediately. Riek Machar agreed that he will see what he can do.

15 December 2013: At 22.43⁶³ Taban Deng Gai called Brig. Gen. Peter Lim Bol Badeng who informed him about the violence at Giada.

PL: We have started fighting.

TDG: Is it true they did not surprise you?

PL: We surprise each other.

TDG: Have you started fighting?

PL: We chased them out from the Headquarters.

TDG: Your people who are outside let them join you.

TDG: You have chased them from their positions do you think they have taken guns with them?

PL: We will organise a parade.

TDG: If you capture people don't kill them.

15 December 2013: At 23.02⁶⁴ Taban Deng Gai receives a call from a Captain in the Presidential Guard.

64 Audio Transcript: TabanAC184.

Capt: All the cars and tanks of the Tiger have been captured.

65 Audio Transcript: TabanAC186.

TDG: Let them set up the guns on the cars. Is there anything coming from the artillery unit?

Capt: Nothing coming from there.

TDG: Give them reinforcements.

Capt: Yes.

15 December 2013: At 23.18⁶⁵ Taban Deng Gai speaks with Lt Col Lok Tang.

TDG: How are you going?

LT: I am in the barracks.

TDG: That's good. Did Those of Brigadier Lim come to you?

LT: Yes they are on the other side of the barracks.

TDG: Who is there controlling the tanks?

LT: I do not know but only maybe Brigadier Lim may know that.

TDG: Have you captured their store?

LT: Yes we are now breaking the store.

TDG: You have not yet broken it?

LT: It is very difficult as there are big locks and we do not have a hammer.

TDG: Everyone has got a gun right?

LT: Yes all of them have got.

TDG: You open the route for others to come to your enforcement.

LT: Yes we have prepared everything and we also briefed ourselves that we cannot shoot anyone randomly.

TDG: You don't kill somebody if he is not fighting you because this is a government fight.

You just break the store quickly.



15 December 2013 First Attempted Coup

15 December 2013: At 23.19⁶⁶ Taban Deng Gai speaks with Lt. Col. Stephen Gueh, firing can be heard in the background and Taban is coordinating weapons and troops:

66 Audio Transcript: TabanAC187.

TDG: How are you going in the barracks?

67 Audio Transcript: TabanAC188.

SG: We are doing OK. We have captured everything as I told you before.

TDG: What about the support weapons have you mounted the vehicles? This is what we asked?

68 Audio Transcript: TabanAC189.

SG: We have done everything. We have captured all the cars.

TDG: Have you mounted the cars?

SG: We will mount them.

TDG: You mount them up. Wrap them with the ropes to mount them.

15 December 2013: At 23.32⁶⁷ Taban Deng Gai speaks with Lt. Col. Stephen Gueh again.

SG: Where is the big man?

TDG: He left behind me to his farm where you grafted the land last time. He is safe.

SG: What about Madam and Majak?

TDG: They have no problem and we shall get them tomorrow.

15 December 2013: At 23.50⁶⁸ Taban Deng Gai informs General Oyai their forces captured the headquarters at Al Giada.

TDG: I have just heard there is enforcement coming to the field. I have heard your house is surrounded.

GO: I left my house I went to the house of General Hoth. I will go back to my house now.

TDG: How will you go there?

GO: There is no problem I will go.

TDG: Please call me when you reach home so I can give you the report.

15 December 2013: At 23.53⁶⁹ Taban Deng Gai updates General Oyai.

69 Audio Transcript: TabanAC190.

TDG: It seems they have captured the area.

70 Audio Transcript: TabanAC193.

GO: OK.

71 Audio Transcript: TabanAC194.

TDG: It seems they have captured the tanks, but I will confirm. I do not know the force of the other side and where they will come from. There are reports that they are coming from Luri. I do not know whether this is true. They have captured all of the vehicles. I told them they should mount the supporting weapons on the vehicles. The soldiers are complaining there is no welding, I told them to use ropes. I am not getting Brigadier Lim now, I will call him later. He told me he will call me but he has not yet. Have you reached home?

GO: I have.

TDG: Is it true the house is surrounded?

GO: Yes.

TDG: Are you going to sleep there?

GO: Going out will be difficult now.

TDG: You should relay the reports to me.

16 December 2013: At 00:46⁷⁰ Taban Deng Gai speaks with Brig. Gen. Peter Lim Bol Badeng:

TDG: Where are you? Have you reached?

PL: You must leave the house and join me come like you are going to...

TDG: Where are those of Lok Tang?

PL: Some forces of Battalion 1 went to.....some forces still at the barracks.

TDG: How come some are still at the barracks?

PL: Those of Lotan are...but the others are in the barracks.

TDG: If they are still in the barracks why don't they get reinforcements?

PL: I have just heard the tanks have been given instructions to move.

TDG: Okay.

16 December 2013: At 00.52⁷¹ Taban Deng Gai speaks to Brig. Gen. Peter Lim Bol Badeng:

TDG: Where are you? Have you reached Mangateen?

PL: Yes.

TDG: Do you know the Big Man has left his house?

PL: They refused to tell me the location.

TDG: Have you contacted those guys again?

PL: Yes we are talking on the phone right now.



15 December 2013 First Attempted Coup

TDG: Is that Lok Tang talking to you?

72 Audio Transcript: TabanAC195.

PL: No his phone went off.

73 Audio Transcript: TabanAC196.

TDG: Where is the other Lieutenant?

PL: I am trying his number now.

TDG: Who is that telling you they are still in the barracks?

PL: I got that from

16 December 2013: At 00:59⁷² Taban Deng Gai speaks to Lt. Col. Stephen Gueh

SG: We are the ones shooting.

TDG: Did you manage to break the stores?

SG: We broke the stores and took out the guns.

TDG: You opened the roads for the people to come?

SG: All the civilians came to us and received the guns.

TDG: Congratulations.

SG: The civilians are not going back they are fearing of the tanks.

TDG: They will come back tomorrow.

TDG: Ok you control that side.

SG: We are not going back it will never happen that we can be defeated by Dinka.

16 December 2013: At 01:45⁷³ Taban speaks with Brig. Gen. Peter Lim Bol Badeng:

TDG: Are you still OK?

PL: Yes.

TDG: Have you talked to your forces?

PL: Those guys are still in the barracks all of them. They have control of the areas.

DG: Are there civilians or youth that have joined you?

PL: All the youth have come, they grabbed the guns and went back.

TDG: Is this true?

PL: Yes they run away and I think they will come back tomorrow.

TDG: That is not good. Have they captured Bilpam?

PL: Not yet but they are around the periphery.

TDG: Those guys are still in the barracks, I told them if you have a problem you come to this side.

TDG: How did those people get to you?

PL: One of the tanks went in and nobody took care of that.

TDG: Have you captured anti-tanks?

PL: No we do not have anti tanks.

TD: This is going to be a problem tomorrow.

16 December 2013: At 03.01⁷⁴ Taban Deng Gai receives a call from Ambassador Ezekiel Lual Gatkuoth.

74 Audio Transcript: TabanAC197.

EZ: How are you going?

TDG: Are you still in the hotel or have you gone somewhere?

EZ: I am still in the same place.

TDG: If you have something you go to your Embassy.

EZ: They have control of the National Security including the other.

TDG: No we do not have control of National Security they have control of the barracks. Bilpam is still not controlled.

EZ: He ran away (President).

TDG: No he did not run he is still around.

EZ: He is still around?

TDG: Who told you NS has been captured?

EZ: It is the guys in the theatre who informed me.

TDG: National Security went for attack but they repelled them. Our guys who are the NS did not do any work.

EZ: OK You bring reinforcements? I have already informed Washington you bring reinforcements I told them what provoked people was the speech, also the arrests that is what caused the thing.

16 December 2013: At 03.43⁷⁵ Taban Deng Gai speaks with an officer in the Tiger division who confirms they are readying an attack on the National Security HQ in the morning.

TDG: Are you in the same place?

Officer: Yes. We are in the Presidential Guard.

TDG: Where?

Officer: In Tigers.

Officer: We are the people who fought with the Dinka.

TDG: You are in the others.

TDG: How did you do with the security?

Officer: We have made a deployment we will see tomorrow.

TDG: Did you get tanks?

Officer: No the tanks are chasing out.

TDG: I was told you got 2 or 3 tanks.

Officer: No. We broke the armoury stores but we have not yet got the anti-tanks. We are looking for the ammunition store.

TDG: Are you more? Have you been joined by the youth?

Officer: They have joined us, they are making defence our side.



15 December 2013 First Attempted Coup

16 December 2013: At 05.13⁷⁶ Taban Deng Gai calls Lt. Col. Malual.

TDG: *Where are you?*

Malual: *We are in the barracks.*

TDG: *They have not yet attacked you?*

Malual: *No the only attack that happened was at 2 o'clock with the tanks.*

TDG: *The Battalion is still with you?*

Malual: *They are on the other side of the barracks and we are defeating them.*

TDG: *Did the youth join you?*

Malual: *Yes they came to us we give them the guns.*

TDG: *Where are they now?*

Malual: *They say they were in the fighting then ran away because of the firepower of the tank.*

TDG: *Did you load the artillery?*

Malual: *We loaded the artillery including 12, the problem was the drivers took the keys of the cars.*

76 Audio Transcript: TabanAC199.

77 Audio Taban Cordin001: Dated 19-01-2014; 01:54:53.

78 Audio Gen. James Kong Cordin007: Dated 16.01.2014; 15.35.19.

79 Senior Intelligence Officer in the National Security in Nairobi on 15 December 2013.

80 Audio Taban Cordin001: Dated 19-01-2014; 01:54:53.

81 Audio Michael Cordina003: Dated 19-01-2014; 19.35.14.

(vi) Weapons supply from Sudan and further planning - January 2014

Transcripts from **January 2014** show Taban Deng Gai and Riek Machar continuing to arm and mobilise militia in their attempts to overthrow the government of President Kiir. Importantly, these intercepts evidence coordination with contacts in Sudan to obtain military supplies.⁷⁷ Intercepts for **16 January 2014**⁷⁸ show conversations between Maj. Gen. James Koang Chuol and Dr Lony in Khartoum coordinating the weapons supply with Maj. Gen. Michael Chiengjiek.⁷⁹

On **19 January 2014**, Taban Deng Gai discusses with Lt. Col. Parjiek Toang Liak about “*working hard to destroy Kiir’s government in Juba*” and that they will now establish a base in Upper Nile to crash the government. Taban Deng Gai reiterates the support of the Sudan Armed Forces and that Parjiek should open the route for military support.⁸⁰

Maj. Gen. Michael Chiengjiek called Brig. Gen. John Mabieh Ger on **19 January 2014**, to discuss coordinating and receiving weapons from Upper Nile and in particular Kuek on the border with Sudan. During this call, Mabieh confirms to Chiengjiek that the forces in Akobo received their weapons supply.⁸¹

Taban Deng Gai confirms with Col. James Kurt Puot on 19 January 2014 that the “people in Khartoum” will be sending military supplies by road, not air to avoid the Americans intercepting. He suggests Brig. Gen. Makal Kuol should receive and organise the transportation urgently as he will be coming with the trucks from Heglig the following morning.⁸²

A further call on **19 January** between Taban Deng Gai and Burchot, an officer from Leer County, also reveals the supply of weapons from the Sudan Armed Forces via road. Taban Deng Gai informs them that they “must fight to return to the north of Bentiu so as to link up with trucks carrying the cargo which is now escorted by Brig. Gen. Michael Makal Kuol”.⁸³

On **20 January 2014**, Taban Deng Gai confirms good relations with Khartoum to Lt. Col. Parjiek Toang Liak and assigns a “smart MI officer to handle the coordination”. Taban Deng Gai confirms that Michael Parjiek is known in Khartoum and to inform the Sudanese Armed Forces that directives from Riek Machar’s headquarters for military equipment are to be supplied through Kuek.⁸⁴

On **20 January 2014**, Riek Machar is also recorded having conversations with Sergeant Matek based in the Kuek border post about permitting military vehicles through. A later call between the two reveals the police refusing crossing and a shoot-out ensues. Riek Machar states he will coordinate with Khartoum to “complete the coordination”.⁸⁵

C. The South Sudan Investigation Commission

In **January 2014**, an Investigation Commission (Commission) was formed by Presidential Decree⁸⁶ pursuant to Ministerial Order No 2/2013 from the Minister of Justice to conduct a criminal investigation against twelve named suspects⁸⁷ alleged to have taken part in the attempted coup on 15th December 2013. Five individuals in respect of whom arrest warrants were issued could not be located. These were Riek Machar; Alfred Ladu Gore; John Malual Biel; Taban Deng Gai and Brigadier General Peter Lim Bol Badeng.

⁸² Audio Taban Cordin004: Dated 19.01.2014; 00.24.40.

⁸³ Audio Taban Cordin006: Dated 19.01.2014; 16.28.51.

⁸⁴ Audio Taban Cordin010: Dated 20.01.2014; 02.17.08.

⁸⁵ Audio (Intel_20114A): Dated 20.01.2014; 13.02.45 and (Intel_20114B): Dated 20.01.2014; 16.03.30.

⁸⁶ “This order shall be cited as ‘The Republican Order No.06/2014 for the Formation of Investigation Committee to Investigate on Human Rights Abuses in the Attempted Coup of 15 December 2013, 2014 A.D.’ and shall come into force on the date of its signature by the President of the Republic”. The exercise of the powers conferred upon me under Article 101(j) of the Transitional Constitution of the Republic of South Sudan, 2011 A.D read together with Section 5(1) of the Investigation Committees Act, 2006.

⁸⁷ The suspects named in the Summary of the Case Diary prepared by Jackson Elia Hariha are: Dr Riek Machar, Taban Deng Gai, Pagan Amum Okech, Dr Majack De Agot, Guier Chauwang Along, Kosti Manebi, James Luk, Madut Biar, Ezekiel Lul, Dr Cirino Hetang, Alfred Ladu Gore and Dr Peter Adowak.



15 December 2013 First Attempted Coup

“On Sunday 15/12/2013 the suspects above have attempted to overthrow the government by force using dangerous weapons and the incident resulted in the death of 600 soldiers including civilians approximately, destruction of public properties and private, created desertion amidst organized forces and army, breach of security and peace in Juba and the displacement of innocent civilians.”⁸⁸

Evidence obtained by the Commission provides insight into how the coup attempt in 2013 was planned, including information about the role of Brigadier Peter Lim Bol Badeng,⁸⁹ Colonel John Malual Biel⁹⁰ (the personal bodyguard of Riek Machar), Lt Colonel Ruei Nyochom⁹¹ and Riek Machar himself. The reliability of the evidence is corroborated by the telephone intercept records produced in the first section of this chapter. A summary of the evidence within the Investigation Commission’s Case Diary, from witnesses who testified is set out below:⁹²

- **Major General Saaid Chawul Lom**, a former Inspector General of Police testified that he went to the Directorate of Operations in the early hours of the morning. There he found all police forces assembled and the Minister of the Interior, Aluei Ayian briefing them that a “group of political leaders under Riek Machar, Taban Deng and others had attempted to take power by force using military personnel and other organised forces which resulted in the loss of lives of innocent persons and soldiers that night.”⁹³ It was after this meeting that a committee of three senior officers was formed, (General Lom, Major General Paulino Dodor and Major General James Bol), tasked with initiating a criminal case and carrying out the arrest of those suspected of involvement in the coup attempt.
- **Major General Paulino Dodor**, one of the three senior police officers tasked to initiate a criminal case explained to the Commission that money was distributed to soldiers who were attempting to overthrow the government.⁹⁴ He stated that “we have soldiers who belong to protection guard of Tiger, they said the money was brought from Commercial Bank, but I did not know the total.”⁹⁵
- **Major General James Bol Nyok** stated that Major General Marial Chanuon briefed him and his colleagues on the attempted coup and that Riek Machar and others were said to be behind the incident.

88 Summary of the Case Diary prepared by Jackson Elia Hariha, Investigator from South Sudan National Police, p.4. “Case Diary”.

89 Brigadier General Peter Lim Bol Badeng, Commander of Tiger Brigade One.

90 Colonel John Malual Biel, First Commander of Second Battalion. He was an officer in the Tiger Division (Presidential Republican Guard), He was among the officers who executed the coup in at Giada Military Barracks after receiving orders from Dr. Riek Machar through Taban Deng Gai. Currently, he is a Major General commanding the SPLA-IO forces in an area called Both bordering South Sudan and the Sudan.

91 Lt Colonel Ruei Nyochom was a logistic officer in the Tiger Division (Presidential Republican Guard); he was in charge of the armoury of Tiger Division in Gaida Military Barrack.

92 The evidence from the Investigation Commission has never previously been released.

93 Case Diary, p.8.

94 Case Diary, p.10.

95 Case Diary, p.10.

- **Private Kong Kutei Kai**, from the Tiger Unit stated that he and other soldiers were attacked heavily by Nuer Tiger soldiers under the command of Brigadier Peter Lim. The same attackers, including civilians, moved to the armoury, broke in and took guns and ammunition. They came with drivers and five new Land Cruisers, which had been parked at the Tiger Headquarters. Private Kai stated that he believed Brigadier Peter Lim was behind the attempted coup and that Lim knew the politicians behind it.
- **Private Arop Chan Akech**, from the Tiger Division heard information that Brigadier Peter Lim was distributing money to Nuer soldiers, brought by a car which stopped at the residence where Nuer stayed, a short distance from the Tiger HQ.
- **Sergeant Martin Abouk Baak**, from the Tiger Division stated that on 15 December 2013, he had been on duty at the military hospital near the Tiger HQ and that he had been surprised to hear shooting nearby. At around 11pm, the fighting subsided and he went with others to the Tiger HQ and was informed that the attackers had withdrawn in the direction of residences in South Tiger and Jebel Market. In the early hours of 16 December, the attackers assaulted again, advanced to the armoury store, broke in and took rifles and ammunition. By this stage, Baak had been wounded and was evacuated to the military hospital. He had also heard that money was brought by a car into a Nuer residential area and that Brigadier Peter Lim was distributing it secretly to Nuer fighters, something he did not personally see.
- **Major General Marial Chaunoug**, the Tiger Division Commander heard shooting at Al-Giada on 15 December 2013 at around 10.17pm. Moving to the scene, he called his officer Bol and asked him what was happening. He was told that soldiers were rebelling. Chaunoug immediately contacted Chief of Staff James Hoth by phone to inform him of the situation. On arrival at Al Giada, Chaunoug was shot at and his bodyguard responded with return fire. Officer Bol had informed him that the rebelling soldiers were from Tiger Brigade Units 1 and 2. There were also many soldiers present who did not belong to the Tigers and civilians. He recounts that the rebel soldiers broke into the armoury store and took the rifles.



15 December 2013 First Attempted Coup

When Major Akuol Reech, Deputy Commander arrived and asked what was happening, officer Lt. Col. John Malual Biel, the second Commander of the Brigade (and the personal bodyguard of Riek Machar) shot him dead. Fighting continued up to 2am on 16 December and Chaunoug brought tanks that forced the rebels to disperse. The rebel forces consisted of 162 officers of different ranks and 2,000 other officers, all of them belonging to the Tigers under the command of Brig. Peter Lim. He told the Commission that it was Lt. Colonel John Malual Biel who released the first bullet in the fighting at Al-Giada. He also stated that when Riek Machar asked Peter Lim what was happening by phone, Lim responded by telling him, *“we have started.”* Chaunoug also gave evidence that Lt Colonel Ruei Nyochom was distributing money but when he asked him about it, Nyochom told him that he was distributing the salaries of soldiers on mission.

96 Case Diary, pp.23-24.

- **Brigadier Inyasio Agang Deng** told the Commission that he believed the fighting to be organised because *“they targeted the armoury store and Bilpam”* but he thought *“there was no central command and control.”*
- **Brigadier Atem Benjamin Bol**, an SPLA member in the General Administration in Bilpam explained that on Monday morning once the report had spread that Riek Machar was behind the attempted coup, most of the Nuer soldiers did not report for duty.

In addition to SPLA members and police officers, the Commission also heard evidence from intelligence agency officials on the lead up and immediate aftermath of the attempted coup. These individuals gave evidence about the roles of Riek Machar, Taban Deng Gai, Colonel Gatton, Major General Marial Oyai Deng and Samuel Gatkoi.

- **Major General Mac Paul Kuol**, the Director of Military Intelligence stated that on **8 December 2013** he met with Taban Deng at his house and explained to him the danger of popular uprising and military confrontation. Taban Deng⁹⁶ appeared angered by this conversation. Kuol explained that on 6 December, Riek Machar and Rebecca Nyadeng held a press conference airing their grievances against President Kiir.

11 December 2013, Kuol explained rumours were circulating that Major General Marial Chanuong tried to disarm the Nuer soldiers of the Tiger Brigades. Kuol contacted Marial but he denied the allegation stating that there was instruction from the command to put rifles in the armoury, except those authorised or on duties.

12 December, he received reports that Brigadier Peter Lim had brought money in a car covered by bed sheets and was distributing it to Nuer soldiers and civilians in the rate of 2,000 SSP per person. Kuol explained that Major General Marial had been informed and had investigated the officer who had denied the allegation stating that what he was distributing were the salaries entrusted to him. Kuol also states that he informed the President about the abnormal situation emerging “at Tiger” but no precautionary measures were taken at that stage.⁹⁷

- **Major General Akol Koor Kuc**,⁹⁸ The Director General of the Internal Security Bureau, gave evidence that he had met with Riek Machar on **12th December 2013** and explained to him the highly tense political situation and serious consequences that could result depending on actions taken. Seven days later, Riek Machar replied stating “Dhaal”, a word in Nuer dialect, which implies fighting. Kuc made several attempts to get Riek Machar to negotiate with the government with no success.⁹⁹ Kuc also reported that on the evening before the attempted coup, Oyai Deng Ajak¹⁰⁰ said to Thomas Duoth at his house, “we will take the government within two hours because you don’t have professional army, police and neither security.” He explained that Thomas Duoth had told him this.¹⁰¹

13 December 2013, Kuc received a report that Brig. Gen. Peter Lim was distributing money to Nuer soldiers in the Tiger division. Kuc informed Major General Marial as the district commander of the Tiger division.

14 December 2013, Kuc informed Major General Marial on the mobilization of the Nuer forces within the Tiger Division.¹⁰²

⁹⁷ Case Diary, p.24.

⁹⁸ Major General Akol Koor Kuc was interviewed by AUCISS and provided the CD ROM with the telephone audio intercepts, that was dismissed by the Commissioners. His evidence to the South Sudan Investigation Commission also produced information from the intercepts.

⁹⁹ Case Diary, pp.25-27.

¹⁰⁰ Oyai Deng Ajak was a former Chief of staff of the SPLA now SSPDF from 2005 to 2009; He held other portfolios including Ministry of Investment and more recently Minister of National Security Service before 2013. He was among the coup plotters and the four suspects who were tried in the court. Currently, he is a member of the SPLM faction called the Real SPLM (R-SPLM) under the leadership of Pagan Amum Okech.

¹⁰¹ Case Diary, p.25.

¹⁰² Case Diary, pp.25-26.



15 December 2013 First Attempted Coup

Kuc explained that various meetings took place in the lead up to the attempted coup, including the following:

2 December 2013, A meeting at Riek Machar's house attended by Riek Machar, Rebecca Nyadeng, Alison Manani, Chol Tong, Oyai Deng and Deng Alor.

3 December 2013, A meeting at Riek Machar's house where it was resolved that they would conduct a press conference and public rally on 6 December 2013.

13 December 2013, A meeting at Riek Machar's house attended by Riek Machar, Chol Tong, Pagan Amum and Deng Alor.

16 December 2013, The signal unit of Internal security intercepted Deng Alor requesting Majak De Agot to convince Hilde Johnson to take South Sudan to a similar level as Democratic Republic of Central Africa.¹⁰³

- **Major General Lemi Longwonga**, Director of Crime Intelligence and Prevention stated that when he returned to South Sudan on 13 December his deputy briefed him on the security situation and told him that there had been abnormal movement of CID personnel which had been undertaken secretly by Colonel Gathon.¹⁰⁴ He directed his deputy to write a report on the matter.

By **15 December**, his deputy had failed to submit the report. Later that day, he heard shooting around 10pm, went to his office at CID HQ and was told to remain there by the Inspector General of Police.¹⁰⁵ Major General Longwonga explained that the security organs were following the political activities of the three groups rivalling for chairmanship of the SPLM in the upcoming National Liberation Council Convention. They followed (i) Riek Machar's group, (ii) Mama Rebecca's group and (iii) Pagan Amum's group. These groups finally reconciled and allowed Riek Machar to be their leader. Longwonga explained that the activities of redeployment of CID personnel by Colonel Gaton are the only indicators of a planned coup in CID. Riek Machar and Taban Deng Gai kept the idea of a coup only with those they trusted. There were reports that Riek Machar had asked Dr Majak to persuade Pagan Amum to join his leadership and convince Mama Rebecca to join him, promising her the vice presidency if she did so.¹⁰⁶

103 Case Diary, p.26, as stated in the text.

104 He was a colonel in the Criminal Investigation Department (CID) in the South Sudan National Police Service (SSNPS).

105 Gen. Pieng Deng Majok.

106 Case Diary pp.27-28.

- **Brigadier Awer Nathan**, Director of Crime Intelligence and Prevention, told the Commission that at the time of the shooting, his first information was from the CID personnel that there had been regular gatherings of Nuer CID police personnel spearheaded by Col Garton Jal and Samuel Gatkoï. Nathan issued an order removing all rifles from the hands of the forces and putting them in the store except those authorised for duties. Nathan informed the Director of CID about the suspicious Nuer gatherings within the three weeks of December. Notably, Garton and Gatkoï started to absent themselves from work.¹⁰⁷
- **Thomas Duoth Guet**, Director General of the External Security Bureau, stated that on **15 December 2013** he attended the house of General Oyai Deng for a dinner party organised by Chollo Youth¹⁰⁸ in honour of Johnson Obeny's¹⁰⁹ promotion. Majak De Agot,¹¹⁰ Guier Chawng,¹¹¹ Taban Deng Gai and Pagan Amum were also present. General Oyai Deng told him he was happy that he was there so that he could personally take the message to the President as to why they boycotted the National Liberation Council conference sessions on the Monday morning. General Oyai Deng said they would denounce the Chairman as he had dissolved all structures of the party. When asked how he would do this, Oyai Deng stated: "you people don't have a professional army, police and national security. If anything happens, we can control Juba within two hours." He said they would inform the President that they would go on the street. Taban Deng Gai expressed his anger stating that the President cannot replace the founders of the SPLM-A with new-comers and that he could not be replaced by someone like the current governor of Unity, Josep Monytool [Joseph Monytuil] from the National Congress Party. If things became violent, Deng Gai stated that: "we will control resources. We will control the oil fields and this makes the government ungovernable."¹¹² Dr Majak De Agot told Guet to "tell the President to solve our problems peacefully, we don't want to go for violence. Those who are with the president and give him wrong advice are not his people. If it is in that way that the President runs the government, it's better for us to take the government."

107 Case Diary, pp.28-29.

108 Chollo Youth refers to armed youth mobilized under the Agwelek militia group under Lt. Gen. John Olony Thabo operating in Upper Nile state.

109 Johnson Obeny was the leader of the Agwelek militia group located in Upper Nile state.

110 Majak De Agot was the former Deputy Director General of the Sudan's National Intelligence Security Service before the Independence of South Sudan. He served as the deputy Minister of Defence and Veteran Affairs after independence in 2011.

111 Guier Chawang was the Minister of Telecommunication and Postal Service in 2005. He served as the Minister of Interior after Independence and Minister of Road and Bridges. Among the group of SPLM members who attended the meeting in SPLM House on the 6 December 2013, calling for change in the leadership of the party. Member of Parliament in the Revitalized Transitional National Legislative Assembly (RTNLA) representing the Political Detainees (FD's).

112 Case Diary, p.29-31.



15 December 2013 First Attempted Coup

Guet explained that Guier Chawang was angry about the President replacing him and others who did not contribute in the same way during the struggles. Banguet Amum stated *“We are going on Monday to denounce the chairman on 16th December.”*¹¹³ Guet called the Chief of General Staff and asked him to call the General Director of Security and Commander of Presidential Guards to meet at the house of the Chief General of staff so that he could convey the information he had gathered and arrange for a meeting with the President.¹¹⁴

113 Case Diary, p.31.

114 Case Diary, p.31.

115 Case Diary, p.31-32.

116 Case Diary, p.31-32.

117 Case Diary, p.32.

118 Case Diary, p.32.

119 Case Diary, p.32.

- **Honourable Aleu Ayieng Aleu**, Minister of the Interior stated that he was aware from the CID, military intelligence and internal security that Riek Machar and supporters from SPLM had been conducting meetings at different houses. They were not aware of the agendas of those meetings. When Riek Machar and his supporters wanted to organise a press conference and public rally, he began to be concerned in his role as Minister of Interior.¹¹⁵ He explained that one day, the representative of the UN, Hilde Johnson came to his office and raised concerns about the current political situation of the SPLM. Aleu told her that he understood the constitutional right to conduct a press conference. It emerged that permission for a press conference to be held by Riek Machar on 6 December had been granted by President Kiir.¹¹⁶

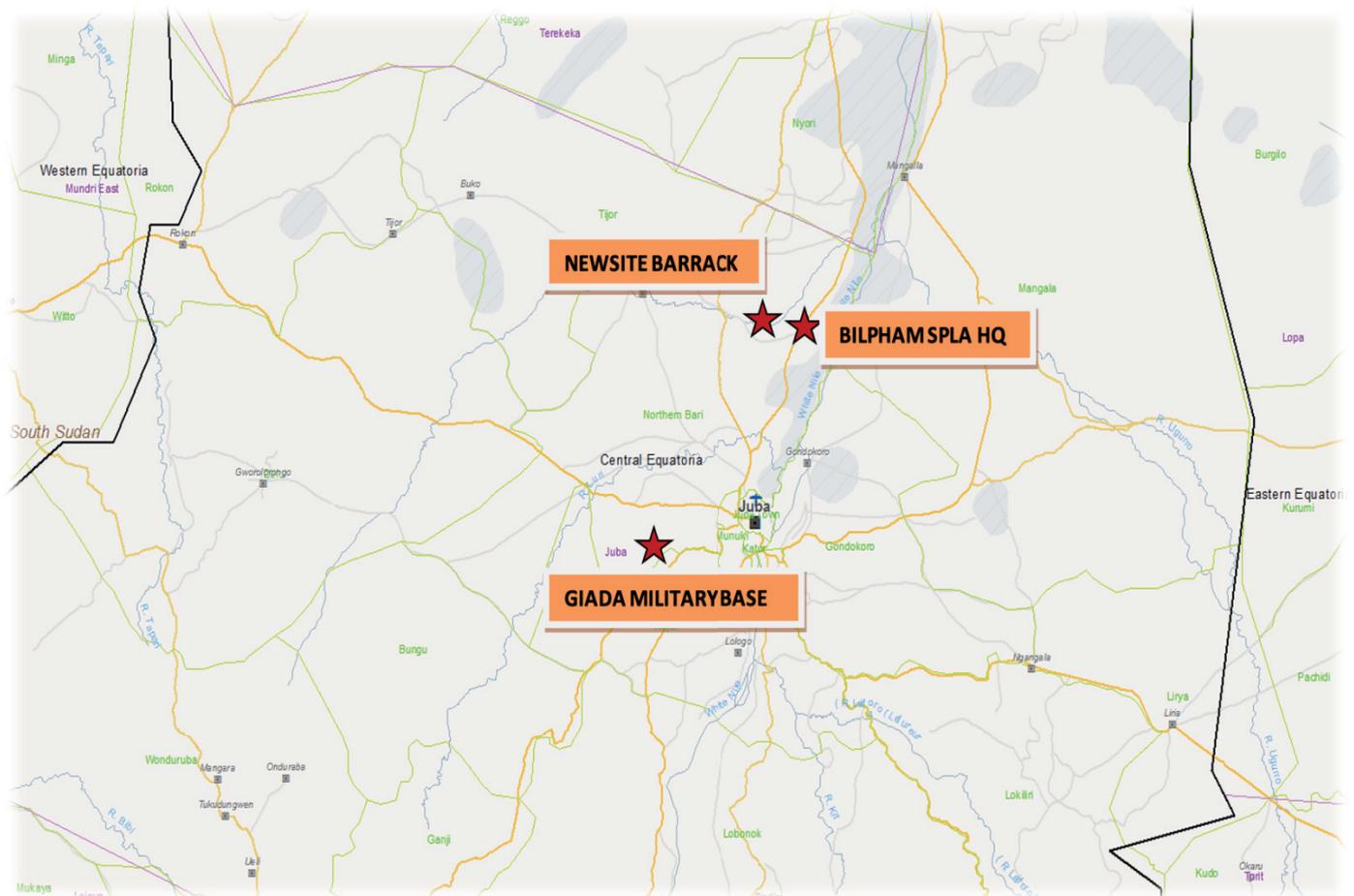
Aleu referred to the press conference conducted on **6 December** in which Riek Machar criticised the government and insisted on conducting a public rally. Aleu spoke with Riek Machar and requested him to conduct it at SPLM House if his reasons were genuine. He said that Riek Machar and his SPLM supporters attended the first day of the SPLM Conference on **14 December** but boycotted the next day due to growing misunderstanding on the voting mechanism.¹¹⁷ Aleu also stated that there was a significant incident *“on the next sessions where an unknown gunman shot a bullet towards the conference hall and people started to leave.”*¹¹⁸

15 December shooting started around 9pm at the military barracks of the former Sudan Army Force and that on 16 December when he went to the house of Riek Machar, he had left for an unknown place with Taban Deng Gai. He started to instruct the police to arrest those who participated in Riek Machar's press conference. *“At the meeting at Rebecca House, the issue of toppling the government was raised by Riek but Rebecca and others opposed it.”*¹¹⁹

D. Conclusion

The evidence of the telephone intercepts and the Investigation Commission's inquiry mutually corroborate each other and give a coherent explanation of the causes of the conflict that broke out in South Sudan on **15 December 2013**. The conflict was caused by an attempted coup planned by principals - Riek Machar, Taban Deng Gai and Brig. Gen. Peter Lim Bol Badeng. The evidence is credible and authentic. It can be said to justify the position of the Government of South Sudan as it has sought to resist the policies and agenda of the international community that would not accept the explanations advanced on behalf of the state by its President and ministers.

Fig. 1
Location of Giada, Newsite and Bilpham SPLA (SSPDF) HQ





15 December 2013: The Narrative From The International Community

The United Nations, African Union, USA, and EU did not describe the events of **15 December 2013** as an attempted coup. The preferred international response referred to a political crisis that escalated to violence carried out by the military and various armed groups. Ethnicity and political factionalism were named as the overriding causes.¹²⁰ This narrative enabled prescribed responses to fit a humanitarian agenda. On **20 December 2013**, the UN Security Council “expressed grave alarm and concern regarding the rapidly deteriorating security and humanitarian crisis in South Sudan resulting from the political dispute among the country’s political leaders” and concluded that they would “take additional steps as necessary”.¹²¹

On **24 December 2013**, the UN Security Council issued UNSC Resolution 2132 “Determining that the situation in South Sudan continues to constitute a threat to international peace and security in the region,” exercising its Chapter VII powers. Tension existed between the GoSS and UNMISS due to allegations that the latter had aided the rebels. Hilde Johnson (former Special Representative of the UN Secretary General and Head of UNMISS) acknowledges her contact with Riek Machar on 15-16 December 2013 in her memoir but denies the UN aided him.¹²² The issue of UN neutrality and its agenda in South Sudan was raised.¹²³

A press statement by President Kiir in January 2014 questioned the role of the UN at this time: “I think the UN want to be the Government in South Sudan and they fell short of naming the chief of the UNMISS as the co-President of the Republic of South Sudan”.¹²⁴ The Americans intervened to insist on a renewal of relations between South Sudan and the UN and on **24 January 2014** President Kiir issued a press statement ensuring that all foreign nationals and UN staff were protected.¹²⁵

The EU did not issue an immediate response to the events of **15-16 December 2013**. They sent their regional delegation on 26 December and subsequently coordinated efforts through IGAD and the AU. The Americans, who were heavily invested in South Sudan did not refer to the attempted coup. An indirect reference was made by former President Obama on **21 December 2013**: “Any effort to seize power through the use of military force will result in the end of longstanding support from the United States and the international community”.¹²⁶

120 See for example: <https://www.aljazeera.com/opinions/2013/12/27/the-real-reasons-behind-south-sudan-crisis>; <https://www.reuters.com/article/us-sudansouth-unrest-idUSBRE9BN0GR20131225>

121 <https://www.un.org/press/en/2013/sc11227.-doc.htm>

122 Johnson, Hilde F, ‘South Sudan: The Untold Story from Independence to Civil War, (2016) p.194

123 Special Report: August 3 2014, ‘South Sudan’s Crisis: Its Drivers, Key Players and Post-Conflict Prospects’, p.12, The Sudd Institute Weapons supply to James Koang: https://www.washingtonpost.com/world/africa/report-un-gave-arms-to-south-sudan-rebels-later-implicated-in-massacre/2016/12/15/d6910498-c23c-11e6-92e8-c07f4f671da4_story.html

124 <https://sudantribune.com/article48559/>

125 See p.212 of South Sudan, *The Untold Story From Independence to Civil War* by Hilde F Johnson (Johnson (2016) which refers to footnote 67, “Transcript of President Salva Kiir’s remarks to the media, 24th January 2014.”

126 <https://obamawhitehouse.archives.gov/the-press-office/2013/12/21/readout-president-obamas-updates-south-sudan>

However, both UNMISS through Hilde Johnson, and AUCISS were provided with summaries and audio material of telephone intercepts between Taban Deng Gai, military commanders, Riek Machar and other political leaders planning and executing the attempted coup of 15 December 2013 but chose not to conclude that an attempted coup had taken place. This was despite the GoSS aiding international partners in their response efforts and consistently promoting a message of peace and accountability for “criminal” elements who had caused the violence. The Government found its description of events overridden by external powers who chose to pursue an ethnically driven narrative that has informed responses to South Sudan thereafter.

127 <https://unmiss.unmissions.org/ms-hilde-johnson-special-representative-un-secretary-general-south-sudan-calls-calm>

128 <https://unmiss.unmissions.org/hundreds-civilians-seek-shelter-unmiss-facilities>

129 Johnson (2016) p.182 “Defence Minister Kuol Manyang Juuk; Minister of National Security Obote Mamur Mete; and the Foreign Minister Barnaba Benjamin Marial”

130 Johnson (2016) p.182.

131 <https://www.un.org/sg/en/content/highlight/2013-12-17.html>

A. The International Response

(i) United Nations

On **16 December 2013**, the UN made two public statements regarding events in South Sudan: One appealing for calm¹²⁷ and the other referring to the humanitarian situation.¹²⁸ No mention of the attempted coup was made. Hilde Johnson had spoken with senior ministers in the early hours of 16 December who informed her that President Kiir was “*managing a crisis*”¹²⁹ and she spoke with him at 05.00.¹³⁰ Significantly, the words used to describe President Kiir’s activities speak to a situation that was not of his making. Also of significance to the events that took place, is the difference between the actual evidence of Riek Machar’s knowledge of events as revealed in the telephone intercepts and what he stated at the time.

On **17 December 2013**, the UN issued highlights from a phone conversation between UN Secretary General, Ban Ki Moon and President Kiir: “*Asked whether a coup had been attempted in South Sudan, the Spokesperson said that the Mission was monitoring events, while undertaking its primary task of trying to ensure the safety of civilians affected by the armed violence.*”¹³¹ The UN was avoiding giving weight to the attempted coup although the interest in whether that was the cause for the conflict is of importance, for the true understanding of events and appropriate actions to take thereafter.



The Narrative From The International Community

15 December 2013: The Narrative From The International Community

On **17 December 2013**, Hilde Johnson admitted in her memoir published after the events that, “*what we knew was anecdotal at best.*”¹³² However, Johnson particularly referenced “*targeted ethnic killings*”. She stated: “*what clearly had been at first a fight between forces of the Presidential Guard loyal to the President and those siding with Riek Machar had degenerated into a deliberate massacre of Nuer, and particularly Nuer males.*”¹³³ Although references to the coup are made, Johnson focused on politics and ethnicity as root causes and consequences of the violence. In doing so, Johnson avoided the significance of the cause of the fighting if the events of 15 December 2013 were indeed triggered by a coup. There is no supportive evidence that the conflict that took place was ethnically motivated, whereas the political alignments that were the cause for the conflict are clear.

132 Johnson (2016) p.191.

133 Johnson (2016) p.191.

134 Johnson (2016) p.184.

135 UNMISS Press Statement 18 December 2013.

Johnson criticised President Kiir for his press briefing of 16 December claiming he did not “*explicitly order his forces to protect civilians or express regret for those killed*”¹³⁴ and that: “*After this we could expect no call for restraint from Riek.*” This statement bears close consideration as it is language aimed at tainting President Kiir’s conduct and by inference suggests he was responsible for attacks upon civilians and the targeting of Nuer males. The evidence in this report establishes Machar had caused the conflict in the first place. In fact, President Kiir’s press statement of the morning of **16 December 2013** only tried to reassure citizens that the government was in control of the security situation and condemned the “*criminal actions*” of forces loyal to Riek Machar. A curfew was ordered and he reiterated the SPLM’s commitment to the peaceful transfer of power and the priority of the security and safety of citizens. President Kiir also stated he would not allow the incidents of 1991 to repeat themselves again and condemned criminal actions. The reference in the statement to 1991, were subsequently taken as provocative, rather than anger at events that should not have been repeated. Johnson seems to fail to appreciate the significance to those involved in the government of the implications of a military coup taking place at the time.

In a press conference on **18 December 2013**, the UN’s Secretary General Ban Ki-Moon referred only to the “*political crisis*”, requiring “*political dialogue.*” UNMISS issued a press statement on **18 December** calling on the “*Government of South Sudan to do its utmost to end any continuing violence ...UNMISS calls on all parties to the violence to exercise restraint and seek a peaceful way out of the current crisis.*”¹³⁵

These exhortations need to be considered in context where there is a conflict as a result of an attempted coup. All the government can do is to challenge the forces seeking to usurp it from power by armed force and engage with legal processes once it has control of the situation – if that is the outcome.

Johnson met with President Kiir on **18 December** where she called on him to order the halt of all ethnically motivated violence. The President reassured Johnson in respect of her concerns and stated that he was committed to redoubling his efforts and holding those accountable for their criminal actions.¹³⁶ He informed her that he had met with Nuer leaders the previous day to clarify “*misleading information*” that the Nuer were being targeted as a community.¹³⁷ Throughout, President Kiir declared that the ‘*crisis*’ was executed by the criminal actions of a few and stated he was committed to restoring peace. He did not refer to ethnicity and spoke of the citizens of South Sudan. The narrative from Johnson and the UN was at odds with the knowledge and information of the government.

Parallels were drawn at the time with Rwanda from international staff¹³⁸ and Johnson also admits to the influence of Majak d’Agot’s warning to her “*this could become another Rwanda*”. The impact of these resulting biases was apparent.¹³⁹ Johnson’s expectation that President Kiir should order forces to halt ethnically motivated violence as a result of her own contextualisation of events, when he was dealing with an attempted coup, led to the promotion internationally of the ethnic conflict narrative rather than its political source.

On 19 December, President Kiir gave a press conference calling for calm, confronting tribalism and the arrest and trial of anyone found attempting abuse, looting or killing.¹⁴⁰

However, basing their conclusions on UNMISS reporting, on 19 December 2013, the UN High Commissioner for Human Rights Navi Pillay issued a statement which focused on extrajudicial killings¹⁴¹ and targeted ethnic killings. Johnson used these references to describe the events of December 2013 in her 2016 memoir.¹⁴² She also stated at this time: “*In the Mission, we remained unconvinced that an attempted coup had taken place.*”¹⁴³ This conclusion of course was made without access to the facts at the time, and it set in train an UNMISS-led narrative of ethnically targeted attacks and rejection of the coup attempt as each international institution took up the cause.

¹³⁶ Johnson (2016) p.194.

¹³⁷ Johnson (2016) p.194.

¹³⁸ In her memoir from 2020, Elizabeth Shackelford says: “... but whispers and fears of another Rwandan-style genocide were already filling the air.” *The Dissent Channel: American Diplomacy in a Dishonest Age*, p.111

¹³⁹ Majak d’Agot talking to Hilde Johnson (1599) 15 December 2013 at 23.34.39.

¹⁴⁰ Press statement: <https://reliefweb.int/report/-south-sudan-republic/tribal-tensions-must-end-president-kiir-urges>

¹⁴¹ <https://newsarchive.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14128&LangID=E>

¹⁴² Johnson (2016) Chapter 5 ‘*The Leadership*’, and Chapter 6 ‘*The Nightmare*’.

¹⁴³ Johnson (2016) p.195.



The Narrative From The International Community

15 December 2013: The Narrative From The International Community

This in turn, called into question the legitimacy of the actions of the GoSS in the context of the conflict. Johnson and the UN's need to be 'convinced' that an attempted coup had taken place in order to accept statements made on behalf of the government and the President is plainly wrong.

On **20 December 2013**, the UN Security Council condemned the targeted violence against civilians and specific ethnic communities¹⁴⁴ and on **24 December 2013**, the Security Council further condemned what it described as ethnic violence perpetrated by both armed groups and national security forces.¹⁴⁵ UN Security Council Resolution 2132 on 24 December 2013 called on President Kiir for an immediate end to the violence and urged "*Riek Machar and his forces to rise to the challenge of nation-building.*"¹⁴⁶

UNMISS's Interim Report from **21 February 2014** included reference to President Kiir's claims of a coup attempt¹⁴⁷ but did not pursue matters further with GoSS to establish the basis as to why it claimed it was the cause for the events that took place on **15 December 2013**. The final report from 8 May 2014 referenced President Kiir's press conference of **16 December 2013** and allegations of an attempted coup as well as the status of the political detainees for their "*purported coup attempt*"¹⁴⁷ but did not include in its findings the cause of the violence.

Hilde Johnson states she saw summaries of the audios of Taban Deng Gai organising troops and weapons supplies prior to the coup but questioned their authenticity.¹⁴⁸ She remained '*unconvinced*' of a coup and based on her memoir references, did not pursue analysis or review of the materials further to understand them. The narrative that was preferred by her for the events that took place could be said to have had great influence upon the policies pursued by the UN and other international institutions in their dealings with, and treatment of, South Sudan at the time and thereafter.

(ii) African Union (AU)

On 30 December 2013 at its 411th Meeting, the Peace and Security Council of the African Union mandated the establishment of the AU Commission of Inquiry on South Sudan ("AUCISS"). Its mandate was to investigate human rights violations and other abuses committed during the armed conflict; investigate the underlying violations and make recommendations to ensure accountability, reconciliation and healing and in moving the country forward

¹⁴⁴ Security Council, SC/11227, AFR/2775, Security Council Press Statement on Situation in South Sudan.

¹⁴⁵ Resolution 2132 (2013) / adopted by the Security Council at its 7091st meeting, on 24 December 2013: "Expressing grave alarm and concern regarding the rapidly deteriorating security and humanitarian crisis in South Sudan resulting from the political dispute and subsequent violence caused by the country's political leaders".

¹⁴⁶ <https://www.un.org/press/en/2013/sc11230.-doc.htm>

¹⁴⁷ UNMISS: Interim Report on Human Rights: Crisis in South Sudan; report Coverage 15 December 2013-31 January 2014; Human Rights Division 2/21/2014, p. 12.

¹⁴⁸ UNMISS: Conflict in South Sudan: A Human Rights Report, 8 May 2014, p. 15.

¹⁴⁹ Johnson (2016) FN 131, p. 348.

in unity, cooperation and sustainable development. A report was to be submitted within three months. The Commission's four focal areas were: healing, reconciliation, accountability and institutional reforms. The AUCISS was formally created on 7 March 2014.¹⁵⁰

The temporal jurisdiction of the Commission began from **15 December 2013** – the day the hostilities broke out. However, the reconciliation, healing and institutional reform aspects of the mandate were not time bound.

The communique issued by the AU mandating AUCISS, did not refer to a coup but paragraph 5 – which reiterated the “AU’s relevant instruments on the rejection of unconstitutional changes of Government and the use of force to further political claims,”¹⁵¹ – did draw upon President Kiir’s press statement of **16 December 2013** for its message regarding the peaceful transition of power.

The **30 December** communique outlined the willingness of President Kiir to engage in peace talks and the absence of Riek Machar at the table stating that: “The Council endorses the IGAD Summit decision that face-to-face talks should commence by 31 December 2013. In this regard, Council welcomes the expressed commitment of President Salva Kiir to engage in talks unconditionally and looks forward to Dr. Riek Machar and other stakeholders concerned to do the same.”¹⁵²

In the subsequent African Union Commission of Inquiry established on **12 March 2014**, President Kiir gave two interviews in which he explained the genesis of the conflict and the nature of the coup attempt.¹⁵³ In its report, issued on **15 October 2014**,¹⁵⁴ the AU rejected the claims of President Kiir, determining there was no coup attempt.¹⁵⁵ The detail of what President Kiir told the AU bears close scrutiny in the context of the information provided to them in respect of the telephone intercept evidence disclosed in this report in Chapter 1.¹⁵⁶

The intercepted phone calls evidencing the coup were submitted to AUCISS by the former Director General for Internal Security, Major **General Akol Koor Kuc**.¹⁵⁷ In his interview the General informed the Commission of voice intercepts, “of Taban Deng manning the situation and asking those with whom he was in contact if they had accessed the guns as well as mobilising the youths who had been trained around the mountains because they were not armed.

150 Peace and Security Council, 411 Meeting at the level of Head of State and Government, Banjul, The Gambia, 30 December 2013. PSC/AH-G/COMM.1(CDXI); <https://www.peaceau.org/uploads/psc-com-411-south-sudan-30-12-2013.pdf>

151 Ibid at para. 5.

152 Ibid at para. 7(iii).

153 Paragraphs 390-399; pp. 191-121, AUCISS October 2014 Report.

154 Final report of the African Union Commission of Inquiry on South Sudan, Addis Ababa, 15 October 2014, (AUCISS October 2014 Report).

155 See AUCISS October 2014 Report at para. 68, p. 27: “From all the information available to the Commission, the evidence does not point to a coup.” Also, “The Commission was provided with tapes of the intercepts at the meeting, listened to them thereafter but could not detect information relating to a coup from the intercepted conversation they listened to.” See para. 418, p. 125.

156 AUCISS October 2014 Report at para. 68, p. 414 – 418.

157 This relates to a CD ROM with 200 intercepts mainly in Arabic or Nuer language.



The Narrative From The International Community

15 December 2013: The Narrative From The International Community

He even asked the youth “have you got the guns?” However, the Commission having listened to the intercepts stated it, “could not detect information relating to a coup from the intercepted conversation they listened to”.¹⁵⁸ The Commission did not attempt to clarify further with the GoSS the content of the intercept evidence. If it had, it would not have made the findings below.

158 AUCISS October 2014 Report at paragraphs 416-418.

159 AUCISS October 2014 Report at paragraph 68.

160 Johnson (2016) f.n. 62, p. 359.

161 AUCISS October 2014 Report at para. 27 at p. 15.

AUCISS disbelieved the GoSS account of the 2013 conflict and rejected President Kiir’s statement of facts of the violence with these words, “there are two competing narratives. The first holds that the violence was sparked by disagreement within the Presidential Guard following a claim that there was an order to disarm sections of the Presidential Guard. The second narrative which emerged on December 16th 2013 was that the violence was sparked by an aborted coup. **From all the information available to the Commission the evidence does not point to a coup.**”¹⁵⁹ (Emphasis added) The expression “aborted coup” was not even the correct context of the GoSS submission - that it was a planned coup.

The rejection of the account of President Kiir and supporting witnesses for GoSS has had a significant impact. The AUCISS final report is viewed as the ‘truth’ of what happened in December 2013; yet, even Hilde Johnson questions the reliability of some of its findings: “This included me, as sentences from a background briefing for the AU Commission had been used as an interview without my knowledge and consent, out of context and given different meaning. Similar things happened to others, who found themselves inaccurately quoted with their full names and without their consent.”¹⁶⁰ This report undermined President Kiir’s testimony and gave higher credence to international staff who admit at the time that what they knew was “anecdotal at best”.

The AU Commission employed both primary and secondary data collection methods to inform its report. Limitations in accessing certain areas and key individuals presented challenges to the Commission, along with lack of access to documentary evidence such as medical records and statements. A notable absence of information was UNMISS’s data which they claimed to have been recording since December 2013. From Johnson, we know however, that information collection was difficult to corroborate. The AU team therefore relied on “witness statements, physical evidence and documentary data availed to the team to reconstruct the events, obtain a forensic analysis and opinion of the events and make valuable conclusions thus meeting its objectives.”¹⁶¹

The African Union also did not refer to an attempted coup in its press statements in December 2013. The AU's response on **17 December 2013** referred to a "deep concern, [for] the situation in South Sudan, marked by an outbreak of fighting in parts of Juba, since the evening of Sunday 15 December 2013".¹⁶² On **16 January 2014**, the Peace and Security Council for the AU referred to the Council's reiteration of "its grave concern at the escalation of the political dispute in South Sudan into a full-fledged civil war."¹⁶³

¹⁶² https://www.usip.org/sites/default/files/121713_AU-Press-Release-on-South-Sudan.pdf

¹⁶³ *The Peace and Security Council of the African Union, 413th Meeting*: <https://www.peaceau.org/en/article/413th-meeting-of-the-peace-and-security-council-of-the-african-union-on-the-situation-in-the-republic-of-south-sudan>

¹⁶⁴ <https://www.peaceau.org/en/article/report-of-the-chairperson-of-the-commission-on-the-situation-in-south-sudan-411th-meeting-of-the-peace-and-security-council>

¹⁶⁵ http://igad.int/attachments/725_Communique%20of%20the%2023rd%20IGAD%20Extraordinary%20Summit.pdf

¹⁶⁶ <https://2009-2017.state.gov/r/pa/prs/ps/2014/01/219296.htm>

(iii) Intergovernmental Authority on Development (IGAD)

IGAD were at the centre of peace mediation and conflict resolution efforts in South Sudan. Contrary to Hilde Johnson's perception of him, President Kiir welcomed the assistance of IGAD and a high-level ministerial delegation travelled to Juba between **19-21 December**, with senior AU and UN representatives, urging an immediate cessation of hostilities. President Kiir committed himself to "unconditional dialogue; cessation of hostilities; use of IGAD good offices to contact Dr. Riek Machar and the opposition; protection of the civilian population and humanitarian workers by the GoSS armed forces; maintaining the dispute at political level and preventing it from escalating into an ethnic or tribal conflict."¹⁶⁴

In a communique issued on **27th December 2013**, IGAD made reference to "all unconstitutional actions to challenge the constitutional order, democracy and the rule of law" and in particular, it condemned "changing the democratic government of the Republic of South Sudan through use of force."¹⁶⁵

On 4 January 2014, IGAD announced the start of direct talks in Ethiopia "between the parties to the conflict in South Sudan." The press statement noted that: "The parties must use these talks to make rapid, tangible progress on a cessation of hostilities, humanitarian access and the status of political detainees."¹⁶⁶

(iv) USA

The Americans played a major role in how the international community received and responded to the situation in South Sudan.



The Narrative From The International Community

15 December 2013: The Narrative From The International Community

Ezekiel Lual Gatkuoth (EG) played a key role in communicating disinformation to the US, to whom he was connected as a former Ambassador of South Sudan.¹⁶⁷ Gatkuoth was an insider on the coup attempt and what he said in a phone call to US Ambassador Susan Page (SP) on **16 December 2013** at 01.09.42¹⁶⁸ reinforces the coup attempt:

167 Ezekiel Lual Gatkuoth was a former SPLM/A member and former Ambassador of South Sudan to USA.

168 This recording and a summary of its content as a transcript was amongst the collection given to AUCISS

EG: You know the people who were fighting...One group took the Presidential Guard Headquarters.

SP: What do you mean they took the Presidential Guard Headquarters?

EG: That's what I mean, the National Security Headquarters.

SP: Sorry what do you mean by that, they took...who took what? Headquarters?

EG: I think those who were fighting amongst themselves, one party chased others

SP: I'm sorry...I don't know why the connection is not very good. Say that again...

EG: I want to be vague like that...I don't know...(laughing) because they are just giving me information...calling...calling...

SP: OK...

EG: Yeah...so...

SP: So fighting is on-going though?

EG: It's actually stopped I think because some people are saying we cannot clearly see you, we cannot clearly identify you...so let us wait until it is a bit clearer...

SP: OK.

EG: You will not be able to control it...it's difficult...I think they have killed six of Salva's people...

SP: They killed six of Salva's people?

EG: Yeah, I think they just ran away...

SP:...oh...

EG: Yeah...so it's very sketchy...very sketchy...

SP: I'm told that there might be something happening you know like within the next hour...

EG: I'm sure yeah..I'm sure...

SP: I mean to do what though exactly? What would be the...for what purpose exactly?

EG: Ah Maybe he's trying to reinforce...

SP: But I mean whose forces are assaulting whose?

EG: Of course...The majority are Rieks...I don't want to call them Riek's...but it's those who are unhappy with what he said yesterday...

SP: OK so you think the majority of the forces are Rieks?

EG: Not Riek's...the people who are not happy...I don't want to...

SP: Right....right...

EG: Yeah...

SP: Well I mean OK so they're not happy but that doesn't mean...yeah...OK...

EG: Yeah those who are not happy with the speak yesterday...

SP: But you stayed all day yesterday and didn't feel like you could get any clarity on what was going on or what?

EG: No, yesterday people were just burning...you know remember I was telling you that I was really worried because you can see the feeling everywhere...people are just so angry and when people...you know... ..as the President he was supposed to calm the situation by striking the right tone you know...

SP...uh-uh...

EG...Yeah yeah but when you rub salt into the wound, you know people are just angry everywhere, just angry, people are just angry...I am really worried, like I was telling you... I don't know why you want to rule a country and you just want to just create confusing and fighting and provocative, and now how is he going to handle it?

SP: Do you think there could be some sort of major assault and if so on whom?

EG: I don't think so...

SP: You don't think so...

EG: They might try it...because everyone is running now...

SP: Everyone's running...

EG: They took all the ammunitions and they're all... they're armed...

SP: Hmm..Hmm, did they manage to actually get into the ammunition depot?

EG: Oh yes, that one was the first...

SP: That was the first...And who did that? I mean was it people loyal to Riek...or?

EG: They just call among themselves...they just call among themselves...it wasn't...it started as an argument and just went out of control...that's what I was told...

SP: OK...OK...Well be prepared to erm.. receive some calls from Washington...I think everybody's really concerned, obviously we're all concerned...the last thing we want is.... you know is...I told you the other day...what Ambassador Booth was saying...I mean please don't burn down this house that you've created and built and fought for, for so long.

EG: hmm, but eh, speaking Ambassador...the man seems to be you know...I think he doesn't care...he doesn't care anymore...I don't know what is happening to him....honestly, I don't know...

SP: OK...alright...

EG: OK...

SP: Well, thank you very much and like I said, please don't hesitate to get in touch if you need anything...



The Narrative From The International Community

15 December 2013: The Narrative From The International Community

EG: OK. No problem...

SP: OK, thanks so much, goodnight...

At 03:01 on **16 December**, Ezekiel Lual Gatkuoth informed Taban Deng Gai that he had told Washington that the violence was as a result of the provocation of the speech by President Kiir earlier that day during the NLC meeting.¹⁶⁹

ELG: He ran away (meaning the President).

TDG: No he did not run he is still around.

ELG: He is still around?

TDG: Who told you NS has been captured?

ELG: It is the guys in the theatre who informed me.

TDG: NS went for attack but they repelled them. Our guys who are the NS did not do any work.

ELG: OK.

ELG: You bring reinforcements? I have already informed Washington you bring reinforcements I told them what provoked people was the speech also the arrests that is what caused the thing.

Reports from former US diplomatic personnel show that by 07:00 on **16 December 2013**, US Ambassador Susan Page had not yet spoken with President Kiir but had spoken with Riek Machar who confirmed he had left his home and was 'safe'.¹⁷⁰ The same author reveals that details at the time were based on "sketchy information" and that on **16 December** there was "an absence of concrete information and prevalence of conflicting rumours."¹⁷¹ On **17 December 2013**, a former diplomatic staff member referred to events as "the second day of the civil war."¹⁷²

The US did not issue a formal statement until **18 December 2013** and surprisingly, this did not refer to a coup. The US statements do not refer to conversations with President Kiir until **20 December** and then do not state support for his government during this time: "The United States is deeply troubled by the recent fighting in South Sudan. We call on the country's political leaders to refrain from any action that could escalate an already tense situation or fuel the violence. It is absolutely critical that political differences be resolved by peaceful and democratic means."¹⁷³

169 Audio Transcript: TabanAC197 16.12.2013 03:01

170 Shackelford, (2020) p.102. "Ambassador Page had spoken with Machar again and confirmed that he'd left his home but was safe."

171 Shackelford, (2020) p.111 and 112.

172 Shackelford, (2020) p.111.

173 <https://2009-2017.state.gov/r/pa/prs/ps/2013/218885.htm>

On **19 December 2013**, former President Obama referred only to on-going violence: *"Its leaders can end the violence and work to resolve tensions peacefully and democratically. Fighting to settle political scores or to destabilize the government must stop immediately. Inflammatory rhetoric and targeted violence must cease."*¹⁷⁴

On **20 December 2013**, US Ambassador Susan Page stated that the conflict had taken on an ethnic nature, that the violence was not surprising, and that tensions had been rising given how the *"SPLM had been run"*.¹⁷⁵ On **20 December**, Secretary of State, John Kerry spoke of the need to *"end the chain of retributive violence between ethnic and political groups"*¹⁷⁶ and on **23 December**, Special Envoy to South Sudan and Sudan, Donald Booth released a statement referring to *"frank and open discussions with President Salva Kiir"* *"to halt the devastating violence"*. President Kiir is noted as 'committed' to begin talks with Riek Machar *"to end the crisis"*.¹⁷⁷

President Obama's statement of 21 December 2013 - following the evacuation of American citizens from Bor stated that: *"Any effort to seize power through the use of military force will result in the end of longstanding support from the United States and the international community"*.¹⁷⁸ It did not however come out explicitly in favour of President Kiir's government.

On **24 December**, a statement by the US Department of State referred also to *"all parties in the crisis in South Sudan to implement an immediate cessation of hostilities."* It also encouraged the leaders of South Sudan: *"to accept compromise"*. They did not acknowledge President Kiir's previous calls for calm. They further stated: *"We hope and pray today that the leaders of South Sudan will acknowledge the international community's commitment and understand that those who seek to take or hold power by violence or division along ethnic lines will not have our support and may be in violation of international law. Violence today will not pave the way for a more stable or prosperous tomorrow."*¹⁷⁹

On **5 January 2014**, John Kerry again referred to the consequences of those *"who use force to take power."*¹⁸⁰

(v) European Union (EU)

The EU did not issue a response until **23 December 2013**, which corresponded with an announcement of \$50 million in humanitarian aid stating:

¹⁷⁴ <https://obamawhitehouse.archives.gov/the-press-office/2013/12/19/statement-president-south-sudan>

¹⁷⁵ <https://www.bbc.co.uk/news/av/world-africa-25461921>; In 2020, Susan Rice refers to "war breaking out" in December 2013 rather than a coup: <https://keough.nd.edu/a-conversation-with-ambassador-susan-d-page-on-her-diplomatic-career/>

¹⁷⁶ <https://2009-2017.state.gov/secretary/remarks/2013/12/219051.htm>

¹⁷⁷ <https://et.usembassy.gov/pr12132013/>

¹⁷⁸ <https://obamawhitehouse.archives.gov/the-press-office/2013/12/21/readout-president-obamas-updates-south-sudan>

¹⁷⁹ https://www.army.mil/article/117582/u_s_calls_for_immediate_talks_in_south_sudan

¹⁸⁰ <https://news.trust.org/item/20140105073606-0p40w/>



The Narrative From The International Community

15 December 2013: The Narrative From The International Community

"South Sudan is at the brink of a humanitarian tragedy ... since fighting erupted nine days ago."¹⁸¹

The EU's Special Representative for the Horn of Africa, Alexander Rondos travelled to South Sudan as EU Special Envoy on **26 December 2013**.¹⁸² His efforts were however, coordinated with IGAD and the AU.

On **8 January 2014**, a press statement from the EU still referred to the situation in South Sudan as a "crisis", calling for political dialogue and the release of "all political leaders currently detained in Juba".¹⁸³ This statement revealed a bias to prevent the GoSS from dealing with the conspirators who had instigated a coup.

In **July 2014**, the EU joined the US and UN Office of Humanitarian Affairs in issuing a "joint call for action" whereby the coup of December 2013 is not acknowledged but the UNMISS narrative followed: "... urging international action to end the crisis, which began in December 2013 when fighting broke out between Government and opposition forces, triggering massive population displacement."¹⁸⁴

(vi) UK and Norway

On **17 December 2013**, UK FCO Minister for Africa simply called for an end to hostilities in South Sudan and for leaders to resolve their differences through political means.¹⁸⁵

On **27 January 2014**, Norway issued a press statement noting that: "The conflict that broke out in December has made a difficult situation even worse. We are therefore doubling Norway's funding for humanitarian assistance, from NOK 50 million to NOK 100 million."¹⁸⁶

B. Conclusion

President Kiir's explanation of **16 December 2013** was reported widely as an alleged coup but framed as violence along ethnic and political lines. This misinterpretation of events led to a hastily introduced prescribed formula for peace building and lengthy international intervention ever since;¹⁸⁷ based upon an erroneous narrative, namely that the violence was political and ethnically targeted.

¹⁸¹ https://ec.europa.eu/commission/presscorner/detail/en/memo_13_1193

¹⁸² <https://www.dv.com/en/envoys-to-travel-to-south-sudan-for-negotiations/a-17324468>

¹⁸³ https://eeas.europa.eu/delegations/cuba/3760/what-happens-south-sudan-matters-greatly-european-union_zh-hans

¹⁸⁴ <https://news.un.org/en/story/2014/04/466052>

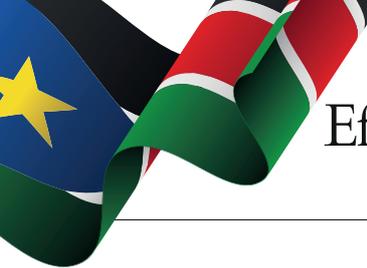
¹⁸⁵ <https://allafrica.com/stories/201312201515.html>

¹⁸⁶ <https://reliefweb.int/report/south-sudan/norway-provides-additional-nok-50-million-emergency-relief-south-sudan>

¹⁸⁷ "Following the crisis which broke out in South Sudan in December 2013, the Security Council, by its resolution 2155 (2014) of 27 May 2014, reinforced UNMISS and reprioritized its mandate towards the protection of civilians, human rights monitoring, and support for the delivery of humanitarian assistance and for the implementation of the Cessation of Hostilities Agreement." <https://peacekeeping.un.org/en/mission/unmiss>

The peace agreements thereafter have been underpinned by a need to address ethnic differences, largely informed by external perceptions of these events. These agreements have largely failed as ethnicity was exploited by Riek Machar as a means to undermine President Kiir and the GoSS. The more conflict the SPLM/A-IO were able to cause, the more they could increase international pressure on President Kiir and the GoSS. That international pressure has perceptibly prevented the development of South Sudan and kept it locked in a prism of international control.

As Chapter 4 will reveal, the coup strategy was to be reused in 2016 to once again deploy conflict as the means to gain power and fulfil the driving ambition of Presidency for Riek Machar.



Efforts To Destabilise The Government Of South Sudan Between 2014 – 2016

The failure of the first attempted coup in **December 2013** did not diminish the intention of the SPLM/A-IO to overthrow President Kiir. As set out in Chapter 4, this ultimately led to a second attempted coup in **July 2016**, led and planned by Riek Machar with the SPLM/A-IO.

The interim events between the two attempted coups illustrates a continued effort by the SPLM/A-IO under the leadership of Riek Machar to undermine and protract peace negotiations, exploit factional divisions and ultimately, destabilise the GoSS. All these activities frustrated the development of South Sudan and resulted in the diminution of its international status.

188 African Union, PSC/AHG/3(CDXI), Report of the Chairperson of the Commission on the situation in South Sudan: 411th meeting of the Peace and Security Council, 30 December 2013. See also IGAD, Communique of the Foreign Ministers of Inter-Governmental Authority on Development (IGAD), 21 December 2013.

189 https://sudantribune.com/wp-content/uploads/2013/12/pdf_pre-sident_salva_kiir_christmas_message.pdf; <https://www.bbc.co.uk/news/av/world-africa-25516678>

190 https://sudantribune.com/wp-content/uploads/2013/12/pdf_pre-sident_salva_kiir_christmas_message.pdf

A. The Government's Commitment to Peace and Stability

Following the attempted coup of **December 2013**, the government took immediate steps to restore peace and welcomed the IGAD Council of Ministers in Juba between **19 and 21 December 2013**. During this visit, President Kiir committed himself to unconditional dialogue, a cessation of the hostilities and the use of IGAD good offices to contact Riek Machar and the opposition, along with protection of the civilian population and humanitarian workers to prevent the situation escalating into an ethnic or tribal conflict.¹⁸⁸ Whilst effectively under-reported, the government's commitment to peace and stability was apparent throughout 2014 to 2016.

Repeated Calls for Peaceful Settlement

Although the outbreak of violence in **December 2013** has been characterised as a feud between President Kiir and Riek Machar, President Kiir was the first to issue various public declarations calling for a cessation of violence following the attempted coup on 15 December 2013.

On 24 December 2013, the President explicitly condemned the killing of innocent civilians and the destruction of property by all sides to the conflict.¹⁸⁹ He ordered government security forces “not to harass civilians or in any way loot, threaten or abuse them” warning that “unruly or undisciplined soldiers who are behind such terrible acts [...] will not escape the long arm of justice and will have to be punished”.¹⁹⁰

He called on Riek Machar and “forces supporting him” to put the interests of the newly independent nation first, and for police forces to “arrest anyone found attempting to be illegally entering somebody’s house, or who is found to have killed a person or a number of people”.¹⁹¹

These statements were reiterated throughout 2014 to 2016. In **April 2014**, at a mass in St Theresa’s Cathedral, Juba, President Kiir addressed the breach of the ceasefire agreement by rebels in Bentiu, Unity State and hoped the celebration of Easter “would bring peace to the country”.¹⁹² On **27 September 2014**, President Kiir informed the United Nations Security Council that the “Government is unwaveringly committed to resolve the conflict peacefully”.¹⁹³ On **23 February 2015**, Nhial Deng Dial, Chief Negotiator of the government delegation, restated during IGAD-led negotiations, that “the Delegation of the Government of the Republic of South Sudan is, as always, committed to the peace process and has come with an open mind, fully mandated by the president and the people of The Republic of South Sudan to seriously negotiate with the opposition to reach a just and lasting peace for our people”.¹⁹⁴

(ii) Initiation and Maintenance of Dialogue with the Opposition

Notwithstanding the attempted coup d’etat of **December 2013** which resulted in on-going conflict, President Kiir was the first to reach out to the opposition. He publicly declared his readiness to hold talks with Riek Machar and his supporters on **26 December 2013**,¹⁹⁵ and assured the United Nations Secretary General and African Union of the same.¹⁹⁶ Following this declaration, IGAD convened a summit in Nairobi on **27 December 2013**. This summit was to establish the main parameters of anticipated negotiations, to allow clarity and guidance for all parties – a crucial and necessary component for negotiations.¹⁹⁷

The context of the conflict was clearly understood by IGAD in its Communique dated **27 December 2013**.¹⁹⁸ IGAD condemned “all unconstitutional actions to challenge the constitutional order, democracy and the rule of law and in particularly condemn[ed] changing the democratic government of the Republic of South Sudan through use of force.” IGAD “welcomed the commitment by the Government of the Republic of South Sudan to an immediate cessation of hostilities and called upon Dr. Riek Machar and other parties to make similar commitments.”

¹⁹¹ *Ibid.*

¹⁹² <https://www.imago-images.com/st/0067299592;>
<https://allafrica.com/stories/201404220574.html>

¹⁹³ <https://www.bbc.co.uk/news/av/world-afri-ca-25516678>

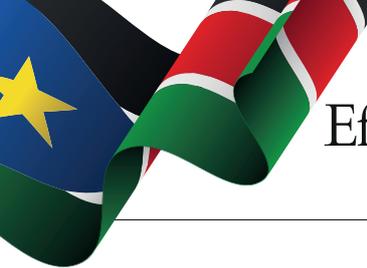
¹⁹⁴ Statement by Hon. Nhial Deng Nhial, Chief Negotiator, GRSS Delegation at the Launch of the Final Session, Phase III Session II of the IGAD-led South Sudan Peace Process, 23 February 2015: https://www.usip.org/sites/default/files/02-23-2015_opening_remarks_by_government_phase_iii.pdf
For similar messages of peace in this period see also e.g. <https://sudantribune.com/article55878/>; Sudan Tribune, S. Sudan president briefs elders on resolutions, reiterates commitment to peace, 1 December 2014; Sudan Tribune, South Sudan president urges delegation to prioritise peace, 4 August 2014.

¹⁹⁵ <https://www.bbc.co.uk/news/av/world-afri-ca-25516678>

¹⁹⁶ UNSG, Readout of telephone conversation between the Secretary-General and H.E. Mr. Salva Kiir, President of the Republic of South Sudan, 30 December 2013; African Union, PSC/AHG/3(CDXI), Report of the Chairperson of the Commission on the situation in South Sudan: 411th meeting of the Peace and Security Council, 30 December 2013.

¹⁹⁷ IGAD, Lessons for IGAD Mediation arising from the South Sudan Peace Talks, August 2019; IGAD, Communique of the 23rd Extra-Ordinary Session of the IGAD Assembly of Heads of State and Government on the Situation in South Sudan, 27 December 2013.

¹⁹⁸ IGAD, Communique of the 23rd Extra-Ordinary Session of the IGAD Assembly of Heads of State and Government on the Situation in South Sudan, 27 December 2013, para 7. This was reiterated by IGAD in January 2014 see IGAD, Communique of the 24th Extra-ordinary Session of the IGAD Assembly of Heads of State and Government on the Situation in South Sudan, 31 January 2014.



Efforts To Destabilise The Government Of South Sudan

Efforts To Destabilise The Government Of South Sudan Between 2014 – 2016

However, whilst Barnaba Marial Benjamin (South Sudan's Foreign Minister) participated in this summit,¹⁹⁹ no representatives from Riek Machar and the opposition were in attendance, despite the extended invitation.²⁰⁰

In this context, on **30 December 2013** President Kiir yet again publicly repeated his willingness to engage with the opposition, an offer which was once again unreciprocated. Nonetheless, to solidify this commitment, Presidential Decree No. 02/2014 was issued on **1 January 2014** for the "Formation of the Negotiation Team with Dr. Riek Machar and his Group",²⁰¹ which led to the government's signing of the Cessation of Hostilities Agreement (CoH) on **23 January 2014**. Notably, the government provided its agreement without preconditions.

The government's willingness to engage with the opposition was not limited to initial talks leading to the CoH. As expressed by the Chief Negotiator, Nhial Deng Nhial, the Negotiation Team was "fully mandated by the President and the people of the Republic of South Sudan to seriously negotiate with the opposition to reach a just and lasting peace".²⁰² In this regard, although a criminal investigation led to charges being brought against eleven suspects who were involved in the attempted coup on **15 December 2013**, these charges were ultimately stayed on **27 April 2014** pursuant to section 25 of the South Sudan's Code of Criminal Procedure Act (2008).²⁰³ Whilst seven of the suspects had already been released on bail in **January 2014**, the stay of proceedings resulted in the release of four of the detained suspects. President Kiir confirmed that the government had made this significant concession,²⁰⁴ in an effort to ensure continued dialogue with Riek Machar and the opposition and to increase the chances of a peaceful settlement ahead of the resumption of IGAD-led talks scheduled for **28 April 2014**.²⁰⁵ The government's decision to stay criminal proceedings against suspects involved in the attempted coup had a tangible effect and contributed to the conclusion of the second agreement for the cessation in hostilities on **9 May 2014**.²⁰⁶

Further concessions were made by the government at each fracture in the peace process so as to accommodate the increasing demands of the opposition. For example, despite its significant reservations to the Agreement on the Resolution of the Conflict in South Sudan (ARCSS) in **August 2015**, the government agreed to restore Riek Machar as First Vice-President of South Sudan in accordance with the terms of the agreement.²⁰⁷

199 IGAD, Lessons for IGAD Mediation arising from the South Sudan Peace Talks, August 2019

200 IGAD, Communique of the 23rd Extra-Ordinary Session of the IGAD Assembly of Heads of State and Government on the Situation in South Sudan, 27 December 2013.

201 RSS/RD/J/02/2014, Republican Decree No. 02/2014 for the Formation of the Negotiation Team with Dr. Riek Machar and his Group, 1 January 2014.

202 Statement by Hon. Nhial Deng Nhial, Chief Negotiator, GRSS Delegation at the Launch of the Final Session, Phase III Session II of the IGAD-led South Sudan Peace Process, 23 February 2015.

203 Sudd Institute, The Release of South Sudan's Political Detainees and the Prospects for Peace, 28 April 2014.

204 Statement by Hon. Nhial Deng Nhial, Chief Negotiator, GRSS Delegation at the Launch of the Final Session, Phase III Session II of the IGAD-led South Sudan Peace Process, 23 February 2015.

205 IGAD, Phase II of IGAD-led South Sudan talks resume in Addis Ababa (Press Release), 28 April 2014.

206 IGAD, Press Release On Signing Of Agreement Between President Salva Kiir Mayardit And Dr. Riek Machar, 9 May 2014.

207 The Guardian, Hopes rise for South Sudan peace deal, 12 February 2016

In doing so, the government fulfilled its commitment to implement transitional security arrangements in Juba to allow for the return of Riek Machar in **April 2016** to his post within the TGoNU. This included, inter alia, the withdrawal of thousands of government forces from Juba and the deployment of hundreds of opposition forces in the city.²⁰⁸ President Kiir repeated calls for co-operation during the formal swearing in of Riek Machar as Vice-President on **26 April 2016** so that they could “return our country to the peaceful coexistence”.²⁰⁹

As well as its commitment to engage with the opposition, the government continually adopted an inclusive approach throughout the protracted negotiations. On **5 April 2014**, the government launched the National Platform for Peace and Reconciliation which was aimed at civil society, youth, women’s organizations, government, opposition and the international community for cooperation to build a collective, unified and comprehensive national agenda for lasting peace in South Sudan; and to embrace the process of healing, peace and reconciliation as a cross cutting theme in all their programmes.²¹⁰ The Platform was intended to contribute to and progress IGAD-led peace negotiations and, as confirmed by President Kiir, was designed to “work independently, offering a space for dialogue amongst all South Sudanese to voice their concerns, raise issues and contribute to political dialogue”.²¹¹

(iii) Commitment to Protection of Civilians and Humanitarian Access

The government undertook several initiatives between 2014 and 2016 in furtherance of its commitment to the protection of civilians and humanitarian workers. Following the declaration of a state of emergency across Jonglei, Upper Nile and Unity State on **2 January 2014**, President Kiir issued a decree on **9 January 2014**²¹² appointing a Crisis Management Committee (CMC).²¹³ Members of the Committee were high-ranking SPLM politicians, led by Riek Machar’s replacement and former Vice-President James Wani Igga as the Chairman of the Committee. The Committee itself was tasked with monitoring and coordinating the government’s efforts in mitigating the consequence of the conflict and provided daily updates to the government on social, economic and security threats to the population.²¹⁴

²⁰⁸ *Sudan Tribune, S. Sudan’s Machar may return to Juba next week: official, 5 April 2016*

²⁰⁹ *Sudan Tribune, S. Sudan president calls for cooperation with Machar, 27 April 2016*

²¹⁰ *UNDP, National Platform for Peace and Reconciliation Launched, 8 April 2014*

²¹¹ *Ibid.*

²¹² *Sudan Tribune, Kiir declares a state of emergency in Jonglei, Unity states, 2 January 2014*

²¹³ *Sudan Tribune, South Sudan president appoints crisis management committee, 10 January 2014*

²¹⁴ *Sudan Tribune, South Sudan president appoints crisis management committee, 10 January 2014*



Efforts To Destabilise The Government Of South Sudan

Efforts To Destabilise The Government Of South Sudan Between 2014 – 2016

The efforts of the CMC were in accordance with the government's commitment for humanitarian access to reach internally displaced persons across South Sudan. In order to achieve this aim, the government ordered the disarmament of all roadblocks and prohibited inspections of all humanitarian vehicles.²¹⁵ The government's commitment to ensure unhindered humanitarian support to victims with immediate effect was reiterated throughout 2014 and 2016.²¹⁶

Simultaneously, the GoSS sought to continue the CoH. Following the establishment of the Monitoring and Verification Mechanism on 1 February 2014 to oversee compliance with the CoH,²¹⁷ it was President Kiir who pushed for the Mechanism's deployment following breaches of the agreement and facilitated the organisation of the Protection and Deterrent Force.²¹⁸ In contrast, Riek Machar and the opposition wholly rejected this initiative.²¹⁹

Representatives of the government also repeatedly met with regional and international dignitaries in support of its efforts to facilitate humanitarian access and protect civilians. For example, in support of the government's request for the Protection and Deterrence Force, President Kiir undertook several personal visits to the Heads of States of Kenya, Sudan, Uganda, Rwanda and Ethiopia throughout April 2014 to "push members of [IGAD] to immediately deploy peace keeping forces".²²⁰ Foreign dignitaries were also repeatedly welcomed in Juba in furtherance of the government's commitment to resolve the humanitarian crisis arising from the conflict.

(iv) Legitimate Concerns of the Government Ignored

Throughout the IGAD-led process, the government remained fully engaged and ensured that it attended all six extraordinary summits held by IGAD as well as all other additional gatherings. President Kiir's appreciation of IGAD's intervention was publicly repeated throughout 2014 and 2015, which extended to the IGAD-Plus in March 2015²²¹ – a new peace initiative composed of the IGAD core as well as other international partners including the African Union, European Union, China, Troika States (United States, United Kingdom and Norway), United Nations and the IGAD Partners Forum.²²²

²¹⁵ Reliefweb, *Ministry of Interior to investigate allegations of illegal roads blocks humanitarian workers*, 4 March 2014.

²¹⁶ IGAD, *Communique of the 26th Extraordinary Session of the IGAD Assembly of Heads of States and Government on the Situation in South Sudan*, 10 June 2014. See also *Office of the President Republic of South Sudan, Statement by H.E. Salva Kiir Mayardit, 69th Session of UNGA, 27 September 2014* and *Sudan Tribune, President Kiir forms joint humanitarian aid delivery committee*, 17 October 2016.

²¹⁷ IGAD, *Advance IGAD Verification Team Heads for Juba*, 2 February 2014.

²¹⁸ Reliefweb, *S. Sudan says talks over size of regional force under way*, 16 March 2014.

²¹⁹ Young, J., *A Fractious Rebellion: Inside the SPLM-IO*, September 2015, p.42. This decision was made during the Nasir Convention, April 15-18 2014. Reliefweb, *S. Sudan says talks over size of regional force under way*, 16 March 2014.

²²⁰ *Sudan Tribune, President Kiir, Ethiopian PM meet over South Sudan crisis*, 18 April 2014.

²²¹ *Office of the President Republic of South Sudan, Statement by H.E. Salva Kiir Mayardit, 69th Session of UNGA, 27 September 2014*; *Statement by Hon. Nhial Deng Nhial, Chief Negotiator, GRSS Delegation at the Launch of the Final Session, Phase III Session II of the IGAD-led South Sudan Peace Process*, 23 February 2015; *M Lomuro (Minister, Ministry of Cabinet Affairs Republic of South Sudan), The final position of the GRSS on the resolution of the crisis in South Sudan, statement*, GOSS website [new], 30 March 2015, cited to in *Parliament of Australia, Foreign Affairs, Defence and Security Section, South Sudan Crisis*, 17 April 2015.

²²² IGAD, *Key Provisions and Justification for the Agreement on the Resolution of the Conflict in the Republic of South Sudan*, June 2015, p. 8.

However, as negotiations continued, the aim of the process ultimately went beyond the restoration of peace and stability in South Sudan and threatened to undermine legitimate governance in South Sudan. This culminated in the government's adoption of the Agreement on the Resolution of the Conflict in South Sudan on **26 August 2015** with sixteen appended reservations.²²³ Notwithstanding these reservations, President Kiir expressed that upon signing the Agreement, he "*had fully committed myself and the government to the peaceful implementation of the Agreement on the Resolution of the Conflict in the Republic of South Sudan. All the institutions of the government in the country shall be bound by this Agreement and shall be expected to carry out the functions stipulated for them therein*".²²⁴

The reservations presented by President Kiir focused on provisions of the ARCSS which effectively curtailed the ordinary powers of government and thereby diminished its effective governance. For example, Chapter 2, Article 5.5 of ARCSS provides for "[a]ll military forces within Juba to be redeployed outside a radius of 25km from the capital city".²²⁵ The government objected to the demilitarisation of Juba and underscored its obligation to protect civilians within the capital city.²²⁶ Similarly, Chapter VII of ARCSS set out the scope and function of the Joint Monitoring and Evaluation Commission (JMEC) which was tasked with "*monitoring and overseeing the implementation of the Agreement and the mandate and tasks of the TGoNU, including the adherence of the parties to the agreed timelines and implementation schedule*".²²⁷ The government submitted reservations to those functions of the JMEC, which usurped the ordinary oversight authority of the national legislative assembly.²²⁸

Whilst the reservations of the government were reasonably made and in good order,²²⁹ they were swept aside by the international community once the SPLM/A-IO and other stakeholders signed the peace agreement on 17 August 2015. This was despite the fact that: (i) other stakeholders did not necessarily have the same interests or objectives in legitimate governance as the government and (ii) the SPLM/A-IO had itself suffered a major fracture in **July 2015** between the military and political factions and was not therefore in a position to constructively engage in the process on behalf of the entire opposition. The international community's push for ARCSS was driven by the fact that Riek Machar had previously rejected all other iterations of the peace deal, including the draft of ARCSS when initially provided to him on 24 July 2015, having rejected effectively the same agreement in March 2015.²³⁰

223 GSS, *Reservations of the Government of the Republic of South Sudan on the "Compromise Peace Agreement on the Resolution of the Conflict in South Sudan"*, 26 August 2015.

224 *President Salva Kiir Mayardit's Speech on the Implementation of the IGAD Peace Agreement*, 15 September 2015.

225 IGAD, *Agreement on the Resolution of the Conflict in the Republic of South Sudan*, 17 August 2015, p.24.

226 GSS, *Reservations of the Government of the Republic of South Sudan on the "Compromise Peace Agreement on the Resolution of the Conflict in South Sudan"*, 26 August 2015.

227 IGAD, *Agreement on the Resolution of the Conflict in the Republic of South Sudan*, 17 August 2015 at p.48.

228 GSS, *Reservations of the Government of the Republic of South Sudan on the "Compromise Peace Agreement on the Resolution of the Conflict in South Sudan"*, 26 August 2015.

229 *This is despite the fact that the process itself was undermined by last minute unilateral amendments which were not previously presented to the parties see in general Young, J, A Fractious Rebellion: Inside the SPLM-IO, September 2015, Chapter XIII.*

230 Young, J, *A Fractious Rebellion: Inside the SPLM-IO, September 2015, Chapter XIII, pp. 60-62.*



Efforts To Destabilise The Government Of South Sudan

Efforts To Destabilise The Government Of South Sudan Between 2014 – 2016

Timing wise, his signature of ARCSS on 16 August 2015 followed his formal denouncement as leader of SPLM/A-IO by the military opposition on 3 August 2015.²³¹

213 Sudans Post, FULL-TEXT | Declaration by Gen. Gatwech Dual for removal of Machar as SPLM-IO chairman, 3 August 2015

232 Young, J, A Fractious Rebellion: Inside the SPLM-IO, September 2015, pp.42-43.

Attacks on the Government's Commitment to Peace and Stability

Although Riek Machar and the opposition were repeatedly offered a seat at the negotiating table, their intention and focus remained at odds with the government's commitment to the restoration of peace and long-term stability in South Sudan throughout 2014 to 2016.

Primary Aim to Overthrow President Kiir

Whilst the opposition movement was itself a fractured coalition of anti-government entities, it was united in its primary aim to overthrow President Kiir. This intention extended well beyond the attempted coup on **15 December 2013** and continued even when Riek Machar was re-appointed as First Vice-President under the terms of ARCSS on **11 February 2016** leading up to an attempted coup in **July 2016**.

The SPLM/A-IO was formally brought together during the Nasir Convention held between **15 and 18 April 2014**. It reportedly attracted around 1,000 individuals from various factions of the opposition and set out the SPLM/A-IO's key resolutions to adopt throughout the IGAD-led process. Notably, the opposition declared the government led by President Kiir as "*illegitimate*" and inaugurated Riek Machar as the legitimate leader, endorsing him as provisional chairperson of the SPLM and commander in-chief of the SPLA and other organized forces.²³² The Nasir Convention followed a stall in the IGAD-led talks on **7 April 2014** which were subsequently resumed on **28 April 2014**. In effect, whilst President Kiir was undertaking efforts to stay criminal proceedings against members of the opposition involved in the attempted coup, the SPLM/A-IO was organising itself in a manner which was wholly incompatible with the purpose and spirit of the peace negotiations. This is elaborated further in Chapter 4.

The SPLM/A-IO doubled down on its efforts to remove President Kiir during the Pagak Conference between **6 and 12 December 2014**, in which it: (i) reiterated that it considered President Kiir had "*lost legitimacy*", (ii) sought the removal of President Kiir as leader of the transitional period and sought his criminal prosecution; and (iii) resolved to diminish the power held by the

'Government of South Sudan' to 20% in any power sharing arrangement.²³³

The SPLM/A-IO's aim to remove the government did not waiver even as international pressure to conclude the negotiations increased. Between **19 to 23 April 2015**, the SPLM/A-IO held yet another conference in Pagak and called on the "regional and African leaders and international community at large to proclaim Salva Kiir's regime illegitimate".²³⁴ Although Riek Machar had previously indicated his willingness to work alongside the government, on **8 July 2015**, he issued a statement calling for "[P]resident Salva Kiir to resign from office and dissolve his entire government" and declared that "[s]hould president Kiir remain adamant and refuse to hand over power back to the people then the citizens have every right to rise up and overthrow his regime".²³⁵

In **April 2016**, Riek Machar maintained aspirations to replace President Kiir as the President,²³⁶ despite the fact he was awarded significant political power and independence under the terms of ARCSS as First Vice-President.²³⁷ Seemingly these powers were insufficient for the opposition.

(ii) Delayed Resolution of the Peace Process

Whilst Riek Machar's desire to be President failed during the attempted coup on **15 December 2013**, he recognised the advantage to be gained from a protracted peace process. As such, the opposition engaged in various methods to delay and derail peace negotiations as part of efforts to remove the democratically elected government from power.

Although there was a clear and apparent need to resolve political divisions immediately following the eruption of violence in **December 2013**, the opposition was reluctant to engage in any process. It first participated in IGAD-led talks with the government on **24 January 2014** over a month after the attempted coup on **15 December 2013**. In doing so, the opposition adopted a maximalist position with unyielding conditions attached to its participation and cooperation. For example, whilst the IGAD process was focused on political dialogue and, subsequently, power-sharing between the government and SPLM/A-IO, the opposition fixated on 'revenge' against the government for victims of the hostilities in **December 2013**.

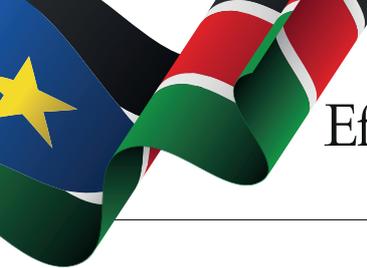
233 Sudan Peoples' Liberation Movement General Headquarters, SPLM/SPLA Conference – Resolutions of the Conference, Pagak Upper Nile State, 6 – 12 December 2014

234 Sudan People's Liberation Movement General Headquarters, Pagak SPLM/SPLA Leadership Conference – Resolutions of Conference, 19 – 23 April 2015

235 Sudan Tribune, Machar declares president Kiir illegitimate, calls on him to step down, 9 July 2015

236 Global Risk Insights, South Sudan risks entering a second round of conflict, 8 May 2016

237 IGAD, Agreement on the Resolution of the Conflict in the Republic of South Sudan, 17 August 2015; See Chapter 1 Article 6.3, see also Chapter 1 Article 8 which emphasised the need for the First Vice-President's approval and consultation in several legislative and national security matters and Chapter 1 Article 9.



Efforts To Destabilise The Government Of South Sudan

Efforts To Destabilise The Government Of South Sudan Between 2014 – 2016

Despite Riek Machar's organisation of the attempted coup, a role was adopted as if the opposition were representing victims - a complete travesty of the facts but it resonated easily with the international community, which was only too ready to voice support.

As evidenced by the SPLM/A-IO resolutions in Nasir and Pagak, this fixation on revenge remained throughout the peace process in 2014 and 2015 despite the fact that: (i) the African Union had been tasked with investigating allegations of serious violations; (ii) the government confirmed its commitment to transparently cooperate with the Commission of Inquiry; (iii) the government had made a series of concessions in order to engage with the opposition; and (iv) the regional and international community invariably put forward favourable proposals for power sharing in an effort to include the opposition. As a result of its hard-line approach, deadlines to reach comprehensive settlements between the government and opposition were either missed,²³⁸ undermined,²³⁹ or rejected outright by the opposition.²⁴⁰

Delays in the conclusion of any sustained peace process further arose from the fractured basis of the opposition. Although Riek Machar was endorsed as the leader of the opposition in **April 2014**, he only loosely commanded the coalition of anti-governmental elements. Each of these elements held competing interests and objectives. In particular, certain factions of the opposition objected to the SPLM/A-IO's continued participation in peace negotiations alongside and associated, with the government and pushed for a military victory.²⁴¹ As such, where the opposition did engage in the peace process, this was subsequently reneged upon as:²⁴² (i) the SPLM/A-IO could not claim to speak on behalf of the opposition as a whole; and (ii) the SPLM/A-IO collectively criticised both the actors and processes employed by the various peace mechanisms to alleviate internal divisions.

The SPLM/A-IO further sought to fuel on-going hostilities in an attempt to stall the conclusion of peace negotiations and/or strengthen its bargaining power in the run up to the scheduled elections in **May 2015**, in preparation of Riek Machar's election as the next President of South Sudan. In its first Nasir Convention between **15 – 18 April 2014**, the SPLM/A-IO committed itself to addressing the "Juba genocidal killings".²⁴³ Within days, violence across Unity State and Upper Nile intensified, with hate messages broadcast by members of the opposition.²⁴⁴

²³⁸ See in general IGAD, *Lessons for IGAD Mediation arising from the South Sudan Peace Talks*, August 2019.

²³⁹ At the conference held in Nasir in April 2014 the SPLM/A-IO sought to undermine international and regional efforts for SPLM intra-party reconciliation see Young, J, *A Fractious Rebellion: Inside the SPLM-IO*, September 2015, p. 43.

²⁴⁰ Office of the President Republic of South Sudan, *Statement by H.E. Salva Kiir Mayardit, 69th Session of UNGA*, 27 September 2014.

²⁴¹ See International Crisis Group, *Armed and Unarmed Opposition Groups – Crisis Group Africa Report No. 243*, 20 December 2016; IPI, *A Poisoned Well: Lessons in Mediation from South Sudan's Troubled Peace Process*, April 2018, p. 17;

²⁴² E.g. IGAD, *Press Release From Office Of The IGAD Special Envoys For South Sudan*, 20 July 2014; European Union, *South Sudan: Statement By the Spokesperson On the Resumption of Fighting in Bentiu, in South Sudan*, 31 October 2014 (following an IGAD summit held on 22 October 2014); IGAD, *IGAD Mediation Extremely Dismayed, Yet Again, At The Heavy Fighting Continuing In Malakal, Upper Nile State Of South Sudan*, 16 May 2015.

²⁴³ Young, J, *A Fractious Rebellion: Inside the SPLM-IO*, September 2015, p. 42.

²⁴⁴ E.g. UN, *UN mission in South Sudan condemns ethnic killings in Bentiu*, 21 April 2014.

The SPLM/A-IO remained relentless in its effort to incite violence and by **December 2014**, the SPLM/A-IO sought to mobilise its supporters and adopted a resolution for the existence of two separate armies as part of a proposed permanent ceasefire “until when elections are conducted”.²⁴⁵ This was subsequently expanded upon during the second Pagak Convention in April 2015, whereby the SPLM/A-IO encouraged individuals to join it in its efforts remove the government and resolved to “identify, train and engage SPLM/SPLA cadres to a varying positions [sic] depending on commitment, capacity and experiences”.²⁴⁷

Request for Material Support

In furtherance of the SPLM/A-IO’s calls to mobilise anti-governmental elements, and in an attempt to exert a degree of control over opposition forces, the SPLM/A-IO leadership sought a supply of ammunition and material support from various foreign entities. International reports demonstrate that the SPLM/A-IO reached out to “a foreign adviser to the leader of the Séléka rebellion in the Central African Republic, outreach to a Lebanese arms dealer based in the Canary Islands, and overtures to a second arms dealer based in the Balearics.”

The largest procurement of foreign arms came from Khartoum as a result of personal efforts undertaken by Riek Machar. For example, public reports establish that Riek Machar travelled to Khartoum to meet with President Omar Al-Bashir in **August 2014**.²⁴⁸ This visit was arranged outside normal diplomatic channels, and went ahead despite express concerns of the government that it could disturb the peace.²⁴⁹ Whilst Riek Machar denies that he procured arms from Khartoum, going even insofar as refuting any links to President Al-Bashir,²⁵⁰ this is directly contradicted by public statements issued by Sudanese ministers, leaked correspondence sent by dissident members of the opposition and intercepts maintained within the government’s holdings:

- Public statements of former Sudanese ministers - Major General Hashim Abdalla Muhammad, former Chief of Joint General Staff of Sudan confirmed that Riek Machar, Taban Deng and Dhieu Mathok personally visited him in Khartoum and requested support in military intelligence, training in the operation of tanks and artillery and advanced armaments.²⁵¹ Major General Bakri Hassan Salih, the former First Vice President of Sudan, further confirmed that Machar has personally visited him on 11 August 2014 and “requested assistance in all respects”.

245 Sudan Peoples’ Liberation Movement General Headquarters, SPLM/SPLA Conference – Resolutions of the Conference, Pagak Upper Nile State, 6 – 12 December 2014

246 Sudan People’s Liberation Movement General Headquarters, Pagak SPLM/SPLA Leadership Conference – Resolutions of Conference, 19 – 23 April 2015

247 Conflict Armament Research, Weapon Supplies into South Sudan’s Civil War, November 2018

248 Sudan Tribune, Machar concludes talks with President Bashir in Khartoum, 12 August 2014.

249 Sudan Tribune, South Sudan rebel leader Machar due to visit Khartoum, 24 May 2014

250 East African, Who is arming Riek Machar’s soldiers and how?, 16 July 2016.

251 Bodansky, Y., Sudan’s Hidden Agenda Toward South Sudan Emerging as Khartoum Plays the Role of Mediator Between President Salva Kiir and Riek Machar, January 2015



Efforts To Destabilise The Government Of South Sudan

Efforts To Destabilise The Government Of South Sudan Between 2014 – 2016

- Correspondence of dissident members of the opposition - Following a split amongst the SPLM/A-IO leadership in **June 2015**, Simon Gatwech Dual, as Chief of General Staff of the opposition, issued a signed request to President Al-Bashir, for all arms to be sent directly to SPLM/A-IO field commanders from then on rather than going through Taban Deng Gai.²⁵²
- Intercept dated 3 May 2016 between Riek Machar (in Juba) and Maj. Gen. Micheal Chiengjiek (in Khartoum) - Weeks ahead of the second attempted coup of **13 July 2016**, in a telephone conversation with Maj. Gen. Micheal Chienjiek, SPLM/A-IO logistic coordinator and supplier based in Khartoum, Machar tells Chienjiek to inform Gen. Mohamed Atah, Sudan Director General of National intelligence and Security Services, “to start the implementation of what they had agreed on with the big man [President Al-Bashir]” with reference made to “military supply” to the SPLM/A-IO forces and the delay in “transport[ing] the forces as because some of the Trucks that they wanted to use have fault in tyres”.²⁵³

252 Young, J, A Fractious Rebellion: Inside the SPLM-IO, September 2015, Chapter XIII, p.59

253 C2-01 – Intercepted communication dated 3 May 2016 between Riek Machar (in Juba) and Maj. Gen. Micheal Chiengjiek (in Khartoum).

C Conclusion

The government's efforts to restore peace and stability in South Sudan following the attempted coup in **December 2013** were immediately swept aside as the opposition took advantage of its position within the protracted peace negotiations throughout **2014 to 2016**. These were significant efforts made by President Kiir to ensure peace and repeated attempts to reach out to the opposition and notable concessions put forward. The government remained engaged and fully committed to peace negotiations even where legitimate and reasonable concerns arose with respect to infringements of governance.

In contrast, the opposition made no attempt to return the goodwill or to progress efforts to stabilise South Sudan. At each stage of the peace negotiations, the primary goal of the opposition led by Riek Machar was to undermine the government and to overthrow President Kiir. These efforts were concretely put in motion with military assistance from foreign entities and continuous attempts to delay, stall and compromise peace efforts.

Ultimately, Riek Machar's signature of ARCSS in **August 2015** was triggered only by internal factions within SPLM/A-IO and not by a genuine attempt to power share as evidenced by his own words a month before on **8 July 2015** when he declared that should President Kiir not resign then the "*citizens have every right to rise up and overthrow his regime*".

This imbalance of efforts was overlooked by the international community and the opposition gained significant traction as Riek Machar was provided with extensive powers as First Vice-President in 2016. Yet even then, Riek Machar was still plotting to overthrow President Kiir in furtherance of his own grand ambitions to be President of the Republic of South Sudan. This culminated in the attempted coup on **8 July 2016**.



The political divisions apparent in South Sudan before, during and after the attempted coup of **15 December 2013** did not come to an end with the frustration of the aims of the plotters. The conflict continued, fired by Riek Machar's ambitions, exacerbated by ethnic and tribal hostilities utilised by him and others and by the political and material assistance given to him by other governments. Not even the signing of COH agreements (23 January 2014), a further ceasefire (9 May 2014) or ultimately the Peace Agreement (August 2015) were sufficient to quell his intentions because the SPLM/A-IO did not view them as providing politically what they required. Nor was the formation of a TGoNU on **22 February 2016** and Riek Machar's return as First Vice President on **26 April 2016** enough to bring an end to the violence which had followed the failed coup of 2013. It is significant that Riek Machar's return to Juba was delayed by two weeks because he had wanted to bring with him laser-guided missiles, anti-tank weapons and heavy machine guns.²⁵⁴

254 The East African, "Who is arming Riek Machar's soldiers and how?" July 16 2016

255 Response of the Transitional Government of National Unity (TGoNU) Council of Ministers to the IGAD Communique of IGAD Council of Ministers on July 13 2016: https://embrss.org.uk/sites/default/files/Attachments-embassy-news/response_to_igad_communique.pdf; see also Eye Radio Interview of Defence Minister, Kuol Manyang Juuk, 8 July 2016 <https://eyeradio.org/defence-minister-clears-juba-security-situation/>

256 Response of the Transitional Government of National Unity (TGoNU) Council of Ministers to the IGAD Communique of IGAD Council of Ministers on July 13 2016: https://embrss.org.uk/sites/default/files/Attachments-embassy-news/response_to_igad_communique.pdf

257 Jeff Koinange KNT Interview with President Salva Kiir 3 August 2016: <https://www.youtube.com/watch?v=hOQEyFk-4do>

A. Events at J1 (Presidential Headquarters) on 8 July 2016

On 7 July 2016, soldiers in an SPLM/A-IO convoy fatally shot two National Security officers, two Military Intelligence officers and a medical doctor at a checkpoint near Lou Clinic, Juba.²⁵⁵ Two other officers were also wounded by shots fired by SPLM/A-IO soldiers.²⁵⁶

During the afternoon of **8 July 2016**, a meeting was held at the presidential headquarters by President Kiir with the First and Second Vice-Presidents (Riek Machar and James Wani Igga). The purpose of the meeting was to discuss the security situation and restate their commitment to the terms of the recently signed Peace Agreement.

President Kiir described in a TV interview what happened at the meeting that afternoon:

Riek Machar arrived in a motorcade for the meeting with a convoy of 10 vehicles. He was told he could enter with his motorcade although his bodyguards would have to stay outside. Whilst in the meeting 20 Toyota pick-ups came full of forces and one ambulance with arms. A colonel from the ambulance who was directing the forces, shot one of the Presidential Guard. The colonel was then himself shot by a Presidential Guard. Their objective was to kill President Salva Kiir. Riek Machar had a pistol. The President took the two Vice-Presidents into his office. Information about what was happening came from the telephone.²⁵⁷

When asked whether he had issued an arrest warrant for Riek Machar, the President replied that he had not but that he had “declared a ceasefire and issued so many appeals asking him to come back as Vice-President to Juba, so we can continue with the implementation of the Peace Agreement”.²⁵⁸ President Kiir had in fact called for calm on **8 July 2016** immediately following the outbreak of violence.²⁵⁹

258 Ibid.

259 <https://www.reuters.com/article/us-southsudan-security-fighting-idUSKCN0ZO1S5>

260 Author's parenthesis.

261 The effect of this gunfire can be seen in the course of the above-cited KNT interview.

Before that TV interview took place and by means of a *note verbale* dated **13 July 2016**, The Permanent Mission of South Sudan to the United Nations also set out an account of what had occurred in response to an IGAD communique:

(a) On Thursday 7 July 2016, at approximately 7.45 p.m., Lieutenant Colonel David Rieu from the Sudan People's Liberation Army in Opposition (SPLA-IO) shot dead five people (two National Security, two Military Intelligence and a medical doctor) conducting routine security checks at a checkpoint near Lou Clinic, a distance from the centre of Juba Town, (at a time when the capital was)²⁶⁰ in preparation for the fifth Independence Celebration day.

(b) The following day, on Friday, 8 July 2016, the President called on the First Vice President and the Vice President for a meeting in the Presidential Palace (J-1) to discuss how to de-escalate the situation.

(c) On 8 July 2016, it was observed that the First Vice President came to the meeting with a convoy of 20 Land Cruiser Picks, estimated to be carrying over 300 well-armed soldiers. The meeting, nevertheless, commenced and continued undisturbed to the point where the three leaders made credible resolution on the way forward, except for a few minor points that were to be ironed out the at 11 a.m. on Saturday, 9 July 2016.

(d) Before the three leaders could conclude their meeting in the President's meeting Hall, gunshots rained unabated at the Southern Gate to J -1.²⁶¹ Despite all that happened, the President issued a Republic Order, No. 17/2016, for an immediate cessation of hostilities with immediate effect from the date of the signature, as from 6 p.m. GMT, 11 July 2016.



(e) The three leaders were taken by surprise and caught unaware as to the cause of the shooting that was taking place inside, outside and around the Palace. Indeed, they were paralysed and unable to control the situation until the Minister of National Security intervened.

(f) As the Presidential Guards gradually contained the assault, it finally transpired that Lieutenant Colonel David Rieu of SPLA -IO, who shot dead the five people on Thursday, 7 July 2016, had imposed himself to enter the Palace and, upon resistance by the Presidential Guards, shot dead First Lieutenant Kouch Kouch, and that ignited the fighting.

(g) As the President took control of the situation, the First Vice-President revealed that the lieutenant colonel who ignited the fight was not among the officers who were to accompany him for the meeting.

(h) From there on, the President, throughout the hours of fighting:

(i) Personally protected the First Vice President and the Vice President in his office, and the three;

(ii) Called on his personal armoured vehicle to be brought from his residence, covered the First Vice President from reach by his own guards;

(iii) Opened the door for him and got him seated in the vehicle and then instructed the driver to take him safely up to the checkpoint at Lou Clinic so that he could walk to his residence under the protection of his own guards;

(iv) Before he was driven away, the President requested that he should call him to confirm that he had arrived safely. Indeed, the First Vice President called on arrival to his residence and thanked the President for the leadership he had shown to personally protect him during the unfortunate incident.

7. Prior to the evacuation of the First Vice President, the three leaders had agreed to meet on Saturday, 11 July 2016, at 11 a.m. to further discuss the aggravated situation, but since then the First Vice President is yet to confirm his intention to come for the meeting, although he has made contact with the President.

8. As we write this response, the President is patiently awaiting contact from his First Vice President in order to continue working with him and the other leaders of South Sudan to de-escalate the situation and focus in the implementation of the Agreement on the Resolution of the Conflict in the Republic of South Sudan because it is the only sensible mechanism to return the country to political and security stability.²⁶²

262 Note verbale dated 13th July 2016 from the Permanent Mission of South Sudan to the United Nations addressed to the President of the Security Council, which contained the official response dated 13th July 2016 of the Council of Ministers of the Transitional Government of National Unity to the Communique of the Council of Ministers of the Intergovernmental Authority on Development

A report from the UN Panel of Experts on South Sudan to the Security Council set out a rather different narrative.²⁶³ It represented the killing on **7 July 2016** of the five officers at a checkpoint near Lou Clinic, Juba, as “a shoot-out between SPLM/A in Government and SPLM/A in Opposition” resulting in 300 fatalities.²⁶⁴ In general terms, the UN Panel of Experts blamed the situation at the time on both the government and the SPLM/A-IO and their respective leaders for their continued belligerence and commitment to military rather than political means of achieving their aims. They characterised the conflict as being ethnically based including targeted killings of civilians. The report refers to “*Salva Kiir, Cabinet Ministers....and the Jieng Council hav[ing] consistently displayed hostility towards the United Nations and misrepresented its work and intentions, creating a context in which attacks against United Nations personnel and facilities can be construed as a defence of SPLM/A in Government and the sovereignty of South Sudan.*”²⁶⁵

263 Letter dated 19th September 2016 from Panel of Experts on South Sudan addressed to President of the Security Council, p.16

264 Letter dated 19th September 2016 from Panel of Experts on South Sudan addressed to President of the Security Council

265 Letter dated 19th September 2016 from Panel of Experts on South Sudan addressed to President of the Security Council

266 Letter dated 19th September 2016 from Panel of Experts on South Sudan addressed to President of the Security Council, Summary.

For its part, the UN Panel of Experts report ignores the fact that the GoSS was the legitimate government and entitled to defend itself against armed insurrection aimed at its overthrow, particularly against an insurrection, which took hold in large areas of the country. Following the events in Juba on **8 July 2016**, the UN Panel of Experts characterised Riek Machar’s departure, as a “flight” from Juba.²⁶⁶ Earlier and later events and communications cast it in the light of a re-grouping, following a failed second attempted coup.

B. Preparation for the July 2016 Attempted Coup – Telephone Intercepted Communications

As will be seen, a different picture emerges from telephone intercepts involving Riek Machar and close associates within the SPLM/A-IO before, during and after the insurrection in Juba in July 2016. The timing and frequency of these intercepts show his planning and command over insurrectionist activity, deployment of forces, encouragement of the recruitment of youth militia and sourcing of arms and ammunition from the government of Sudan. Riek Machar’s objective was to stage a further armed coup, despite being the First Vice President.

(i) May – June 2016

Following his return to Juba as First Vice-President in April 2016, Riek Machar was organising supplies of military equipment from Sudan for his



The Attempted Coup Of 8 July 2016

his forces and pursuing an agreement made with President Al-Bashir of Sudan, the implementation of which was to be set in motion to attack the government forces.

On **3 May 2016** at 10:28,²⁶⁷ Riek Machar in Juba called Major General Michael Chiengjiek in Khartoum, the SPLM/A-IO logistics coordinator and supplier Khartoum.

Chiengjiek informed Riek Machar that he was going to meet with Gen. Mohamed Atah, the Sudanese Director General of National Intelligence and Security Services, that night. Riek Machar told him to tell Atah to “start the implementation” of what had been agreed with the “BIG MAN” (President Al-Bashir of Sudan). Riek Machar asked if the “forces had been transported to the location” but was told they had not because of problems of trucks with faulty tyres. He told Chiengjiek that he should start implementing what had been agreed on before. Chiengjiek said the areas under John Malual Biel²⁶⁸ and the Shilluk lands had not received any military supplies. Riek Machar responded that “The assets must be taken. The work we discussed about those things must be done, this is what will bring peace. If we do not do it peace will not be there. If Ochan²⁶⁹ is prepared well, they will be forced to accept peace.”

On **19 June 2016** at 07:19,²⁷⁰ General Gabriel Lam Paul, the SPLM/A-IO military spokesman in Juba, called an associate in Magwi, East Equatoria. Lam stated the forces were on standby in Jebel (SPLM/A-IO barracks in Juba). They discussed weapons that had been hidden in Magwi by “old man who is a former soldier of the Lord’s Resistance Army”. Lam said it was time to collect the weapons because the government still thought it could win the war against SPLM/A-IO.

On **26 June 2016** at 15:48,²⁷¹ Col. David Wang Chany, the SPLM/A-IO intelligence officer in Juba called Brig. Abu Hadid, the SPLM/A-IO Military intelligence officer in Raja County. Wang Chany asked about forces and civilians. Abu Hadid answered his forces were based in Wau, waiting for an attack by government forces but lacked ammunition for the operation. Wang said that ammunition will be supplied slowly, similarly to the Raja operation because they were fighting a guerrilla war.

267 Audio C2-01.

268 John Malual Biel was an instigator of the 15 December 2013 attempted coup.

269 This is a reference to Maj. Gen. James Ochuan Puot Deputy Commander of SPLM/A-IO Division and head of SPLM/A-IO political and military Council.

270 Transcript of audio intercept C2-03.

271 Transcript of audio intercept C2-03

On **27 June 2016** at 08:44,²⁷² Maj. Gen. Alfred Futuyo, the SPLM/A-IO Commander in Yambio, West Equatoria called Maj. Gen. James Thoi Chany, the SPLM/A-IO Director of Security in Juba. During the call, Thoi Chany instructed Futuyo to use the money that had been sent to buy bullets and then to command his forces to attack Yambio. Futuyo said he was looking for bullets and would then attack government forces.

272 Transcript of audio intercept C2-02.

273 Transcript of audio intercept C2-02.

274 Transcript of audio intercept C2-02.

275 Transcript of audio intercept C2-02.

On **28 June 2016** at 20:41,²⁷³ Maj. Gen. James Thoi Chany, the SPLM/A-IO Director General of Security called an associate in Sudan. Thoi was told that forces under Salah Mumuki (Raja State Governor) would reach Khor Tombak on 29 June 2016. Tap Yal was instructed to receive the convoy. Commander Ashabh Fayal's troops were to attack Wau again and that they were close to the south of Wau and had many captured cars and youths with them.

On **29 June 2016** at 06:40,²⁷⁴ Maj. Gen. Futuyo, the SPLM/A-IO Commander in Yambio, West Equatoria called Brig. Gen. Martin Kenyi Terensio, the SPLM/A-IO Deputy Chief of Staff for Moral Orientation. Futuyo was planning an operation to destroy Yambio so that the forces in town would join them in the bases. Kenyi Terensio said he was attending a meeting that morning with Riek Machar and would inform Futuyo of the outcome later.

On **30 June 2016** at 23:18,²⁷⁵ Riek Machar called Lt. Gen. Faiz Ismail Fatur, the SPLM/A-IO commander in Khartoum. Fatur told Riek Machar that they had attacked Raja and Wau and that his forces established a base near Raja with 500 new recruits. Fatur had been provided with a satellite phone by his people in Khartoum, but he was not in contact with SPLM/A-IO military high command for directives and command. Fatur said he had spoken to Commander Ashabh Fayal and was told there were 2,000 new recruits in Wau and requested logistic supply. The food sent by Chiengjiek had not been delivered to the base, because of lack of money to pay for transport from Redom. Riek Machar told Fatur to establish a military barracks between Redom and Khor-Tombak after receiving the food. Fatur told Riek Machar to ask the Sudan government, who had delivered military supplies at border to Maj. Gen. Thoi Chany in **April 2016**, to supply more guns, ammunition and heavy weapons. Riek Machar told Fatur confirmed that they would do it but that he should coordinate directly with him and Chiengjiek concerning supply of ammunition and guns. Fatur complained about casualties suffered in the Raja and Wau operations and the lack of financial support.



The Attempted Coup Of 8 July 2016

Riek Machar asked if he had established an airstrip. Fatur said he was still planning this. Riek Machar told him that Nyala was the nearest airstrip to Fatur's forces and Fatur said he would speak to the people there and report back to Riek Machar.

276 Transcript of audio intercept C2-03.

277 Transcript of audio intercept C2-03.

278 Transcript of audio intercept C2-03.

(ii) July 2016

On **1 July 2016** at 21:41,²⁷⁶ An SPLM/A-IO associate officer in Raja Western Bahr el Ghazal called Maj. Gen. James Thoi Chany. The officer said that he has talked to Abu Hadid's people and that they had complained because of casualties suffered at Wau, and that there were wounded soldiers at the airstrip that needed to be transported. Abu Hadid's people had told the associate that they lacked ammunition, because the initial supply had finished during the war and Pul Makuach's forces had not returned. Thoi Chany was asked to contact Pul Makuach and Faiz Ismail because of the guns and ammunition that were hidden in their military store at the border. Thoi Chany was told that Abu Hadid's people wanted Thuraya units (satellite phones) for communications and asked if Chiengjiek was in Khartoum. Thoi Chany said he had communicated with Peter Pal in Sudan about ammunition and guns that were supposed to be delivered three days ago. Thoi Chany said that he would ask the general in charge of logistics to bring ammunition and guns to Abu Hadid's forces.

On **2 July 2016** at 10:06,²⁷⁷ Maj. Kalisto Francis, the SPLM/A-IO commander in Yambio, W. Equatoria called Maj. Gen. Alfred Futuyo, the SPLM/A - IO Commander in Yambio Kalisto Francis told Futuyo that there was no food for the soldiers. Futuyo said they should collect food left by the civilians who had run away from their homes. Kalisto Francis said that the plan was to attack government forces in Rangu. Futuyo said he had some ammunition. Kalisto Francis requested machine guns for their operation in order to block the road. Futuyo told him to get machine guns from anyone by force, and to cut trees to block the road and then lay an ambush near the blockage.

On **3 July 2016** at 10:29,²⁷⁸ Maj. Gen. Thoi Chany called Lt. Gen. Faiz Ismail Fatur, the SPLM/A -IO Commander in Khartoum. Fatur told Thoi Chany that he spoke to Riek Machar two days before and told him what they needed. Fatur told Chany that Salah Mumuki's recruits had arrived at the new base and Ashabh was on the way with escort soldiers and an arrangement was needed for the supply of ammunition and guns.

Chany told Fatur to take the guns and ammunition they had in store at the border. Chany said he would talk to Michael Chiengjiek concerning the transport for food which he had sent that had not arrived at Fatur's base because there was a lot of rain and the truck owners wanted a lot of money to transport the items.

279 Transcript of audio intercept C2-03.

280 Transcript of audio intercept C2-03.

281 Transcript of audio intercept C2-03.

282 Transcript of audio intercept C2-03.

On **6 July 2016** at 14:34,²⁷⁹ Col. Mario Olika, (the SPLM/A-IO officer in Torit) called Angelo Oyumo. Mario Olika informs Angelo Oyumo that they have attacked government positions at 13:00 at Tirangore (Torit, Eastern Equatoria.)

C. Telephone Intercepts After 8 July Attempted Coup

The following intercepts establish that Riek Machar and SPLM/A-IO forces continued in their coordinated efforts to destabilise the state, despite the ceasefire and call for calm issued by the government and in flagrant violation of ARCSS.

On **11 July 2016** at 11:36,²⁸⁰ Riek Machar called Maj. Gen. Michael Chiengjiek (in Nairobi). Michael Chiengjiek confirmed that he had booked his flight to Khartoum for the next day. Machar instructed Chiengjiek that the first military supply should go to Maj. Gen. Wesley Welebe in the Mundri area. Machar said he had communicated with the "Big Man" [President Al-Bashir] in Khartoum. Chiengjiek replied that information had been confirmed to him .

On **12 July 2016** at 18:19,²⁸¹ Riek Machar called Michael Chiengjiek. Chiengjiek confirmed that he had arrived in Khartoum and met with an enabler for an appointment with the "Big Man". Machar gave orders that supplies should be delivered to two locations: Eastern Equatoria under Maj. Gen. Marko Lokidor and Western Equatoria under General Welebe. Chiengjiek asked if Riek Machar was possibly evacuating to Khartoum. Machar said he was staying in Equatoria. Chiengjiek requested a Thuraya phone for communication with Machar.

On **13 July 2016** at 11:48,²⁸² Riek Machar called Maj. Gen. Yoanes Okich. Riek Machar asked about forces on the ground. Okich replied they were ready. Machar asked when they would begin the operation.



The Attempted Coup Of 8 July 2016

Okich said that there were delays due to logistics supply from Khartoum but that Chiengjiek had arrived in Khartoum from Nairobi to finish the coordination of other logistics because they had already received some ammunition. Okich said the forces were near to their target.

283 *Transcript of audio intercept C2-03.*

284 *Transcript of audio intercept C2-03.*

285 *Transcript of audio intercept C2-03.*

On **13 June 2016** at 12:13,²⁸³ Riek Machar called Lt. Gen. Johnson Ulony Tabuo SPLM/A-IO commander in Khartoum. Ulony said he was waiting to meet Michael Chiengjiek in Khartoum. Machar instructed Ulony to go to ground before the government put him under pressure, because a new development was under way. Machar said it was a golden chance to take over Malakal (land of the Chollo people). Ulony asked Machar to talk to Khartoum concerning the urgent supply of ammunition and weapons. Machar said he had already done so. Ulony said that war will be of good advantage to them but not for the Salva Kiir government.

On **13 July 2016** at 14:06,²⁸⁴ Riek Machar called Dak Duop Bishok, the SPLM/A-IO Minister of Petroleum. Machar asked about the “*final solution*” from the Sudan government. Duop said that he had spoken to them before and told them to bring anything that can destroy tanks. Machar told Duop to let them supply ammunition to Wisely Welebe because of the size of the airstrip. Duop told Machar that Rev. Mathew Mathiang advised not using Thuraya because it showed his location.

On **18 July 2016** at 20:56,²⁸⁵ Riek Machar called Maj. Gen. Chiengjiek in Sudan. Chiengjiek told Machar he had met with Mohammed Athah, the Sudanese Director General of National Intelligence and Security, who said that Machar should leave his current location and be far from the frontline immediately, so that the “*work*” could be carried out swiftly. Machar told Chiengjiek to relay to Sudan that he could not go because does he did not want his forces to scatter, so he had to be with them. He stated that his presence provided big encouragement and a lot of people were coming out from Greater Equatoria to join them. Chiengjiek asked Machar about the outcome of the meeting in Rwanda and Machar told him that they had agreed to bring forces. Kenya and America were standing with them and he had told the Americans not to isolate Sudan because it was good for Sudan to be a part of the operation.

On **19 July 2016** at 12:19,²⁸⁶ Riek Machar called Hon. Henry Odwar, a senior SPLM/A-IO member. Odwar told Machar that he was worried because the government had sent troops to “*that location*” on three fronts. Odwar asked Machar to tell Alfred Ladu Gore to leave Juba because there was no need to stay in the capital. Machar then spoke to Ceresio Zahariah, a Bari chief, whom he thanked for getting out of Juba and for past mobilisation. Machar directed him to return back as military officers and to continue with the mobilisation. Machar also said he had instructed all his forces not to return to Upper Nile because the main aim was to return to Juba either in peace or by war.

286 Transcript of audio intercept C2-04.

287 Transcript of audio intercept C2-04.

288 Transcript of audio intercept C2-04.

289 Transcript of audio intercept C2-04.

On **19 July 2016** at 20:57,²⁸⁷ Riek Machar called Maj. Gen. Chiengjiek. Machar asked for updates concerning the supply of logistics from Khartoum. Chiengjiek replied that they had not met because the relevant individual was engaged in a meeting. He was to meet him the following day in the morning.

On **19 July 2016** at 14:31,²⁸⁸ Riek Machar called Maj. Gen. Alfred Futuyo, the SPLM/A-IO Commander in Yambio, West Equatoria. Futuyo said his forces defeated and killed 36 government forces and captured 11 AK47s. Machar said he was in the bush and not going to Upper Nile but would be in Greater Equatoria. Futuyo told Machar to send ammunition and guns soon because if the government discovered their location it will spoil their work. Machar said he was going to commence it soon.

On **21 June 2016** at 17:48,²⁸⁹ Riek Machar called Maj. Gen. Peter Puok Koang, the Military Deputy Governor of Phow State. Machar told Puok Koang that he had reached a place where they could fight and defend themselves. Machar told him the war was going to end in Juba and he would tell Puok’s forces to come. He said he was looking for ammunition and guns and if he obtained them he would give the order to start their movement, unless the UN deployed its troops first. The UN was bringing 14,000 soldiers to Juba and was to remove government forces from Juba. Puok Koang told Machar that if there was to be a place where he would get ammunition and weapons, that they should not be mixed with those destined for Bieh. Puok Koang said it was important for ammunition and weapons to be delivered because that would motivate the forces and many youths will be mobilised. Machar promised supply would take place.



The Attempted Coup Of 8 July 2016

On **22 July 2016** at 16:51,²⁹⁰ Riek Machar called Maj. Gen. Peter Puok Koang. Puok Koang said he was at a meeting with Ayod chiefs and asked Machar to speak with one of them. Machar told the chief that he had withdrawn from the place where they were fighting and had reached somewhere where they would regroup and prepare to come back for another war. The chief said that he was in a meeting concerning the movement of the White Army from Gadiang to Agot-Makur and confirmed they would receive Machar like they had in 2013. The chief said that not all the population was happy when they heard news about the incident in Juba but added that the god of the Nuer would help Machar. Machar told him that they had fought a big battle and that the government's forces were now afraid of his forces. The chief asked if Puok Koang had been mandated to mobilise the youth, Machar confirmed that he had so ordered because he had assigned Duop Lam as a minister in Juba. The chief asked Machar to send food for the families of the youths who would be going to Juba, Machar confirmed he had communicated with humanitarian aid to supply food.

290 Transcript of audio intercept C2-04.

291 Sudan Tribune, Machar calls for forgiveness and reconciliation in South Sudan, 9 May 2016. <https://sudantribune.com/article57210/>

292 Sudan Tribune, Machar's Sunday prayer in ethnic Dinka church attracts controversy, 23 May 2016. <https://sudantribune.com/article57350/>

293 Sudan Tribune, Machar to take charge of file for Sudan-South Sudan cooperation agreements, 6 June 2016. <https://sudantribune.com/article57492/>

D. Conclusion

Following his return to Juba in April 2016, Riek Machar purported to promote peace, unity and solidarity with the government. On **8 May 2016**, he called for "*forgiveness and reconciliation in South Sudan*".²⁹¹ On **22 May 2016**, Riek Machar attended prayers at a predominantly ethnic Dinka church on Sunday, telling the congregation "*that peace and reconciliation will enable national healing and ensure stability*."²⁹² He even took on more responsibility in his role as First Vice-President and on **5 June 2016**, he took charge of the file for the implementation of the September 2012 cooperation agreements between South Sudan and Sudan, with consensus from President Kiir.²⁹³

However, the evidence from telephone intercepted communications from the same period reveal that Riek Machar as First Vice President of the Transitional Government of National Unity plotted a coup to seize power on 8 July 2016 to fulfil his ambition to become the President of South Sudan. Whilst he was presenting a unified front for the international community, in the background he was at the same time preparing forces in support of the SPLM/A-IO to carry out the coup and used support from a foreign government, the Republic of the Sudan, to provide his forces with the necessary arms and ammunition.

As the coup failed at its first attempt during his meeting with President Salva Kiir and Second Vice President James Wannu Igga in the President's office, Riek Machar never returned to resume the reconciliation talks that had been taking place between the leaders of the TGoNU. Instead, he continued the conflict that caused great loss of life including the deaths of civilians, knowing from his experience over many years of conflicts in South Sudan and Sudan that such killings were bound to take place.

The institutions of the United Nations were bound by the narrative they had followed from the time of the first attempted coup in December 2013, to continue with the same humanitarian agenda they had invoked against the GoSS. This narrative remained locked in the notion that the conflicts were ethnically driven, and responsibility was shared between the protagonists. It did not recognise that the coup attempts were the result of the pursuit of an ambition that stoked and utilised ethnic divisions. It also failed to recognise adequately the rights of a sovereign state to control its territory and prevent the unlawful and violent attempts to usurp the lawful structures of power and government.

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