

# AFRICA PROGRAM OCCASIONAL PAPER

## Targeted Sanctions and Anti-Money Laundering Measures in Support of Peace in South Sudan

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Sanctions and other financial pressure instruments have been a primary foreign policy tool in addressing the crisis in South Sudan, but their efficacy has spawned debate among policymakers and stakeholders. In a recent paper published by the Wilson Center, Syracuse University professor Jok Madut Jok lays out a broad assertion that sanctions are not an effective tool for policy change in South Sudan.<sup>1</sup> This assertion is inaccurate and overlooks the innovative application of sanctions and other tools of financial pressure in recent years and the impact that this has had on changing hardline positions of South Sudanese leaders. This brief serves to correct the record on the efficacy of sanctions and summarize The Sentry's work, which has helped lay the groundwork for many recent policy actions, which we believe have contributed to forward movement in peace efforts.<sup>2</sup>

Sanctions policy, particularly in Africa, continues to be viewed through the lens of the poorly designed and implemented programs of the past, and, in this, Jok is not alone. However, financial pressures have been modernized since the bad old days of sanctioning an entire country's economy, or lower-level officials with few assets. The current approach involves targeted network sanctions directed at government officials, their business networks, and their international collaborators, with the objective of altering the behavior of the targeted official and providing leverage for peace, human rights, and good governance. Sanctions are not a tool to be used alone, and no one is advocating for them to be the entire pressure strategy; they are most effective when utilized in conjunction with diplomacy, public messaging, anti-money laundering efforts, technical

assistance, asset forfeiture measures, travel restrictions, and other tools of financial and diplomatic pressure. Solely focusing on sanctions does not acknowledge the advances that have been made in diplomatic leveraging and financial pressure tactics.

In South Sudan, targeted network sanctions, robust anti-money laundering efforts, bank enforcement actions, asset forfeiture measures, and other financial pressures have built leverage needed for diplomatic efforts to move the parties to form the unity government and take halting steps towards peace. Our discussions with diplomats suggest that recent U.S. targeted network sanctions contributed to influencing the calculations of South Sudanese officials in favor of peace.<sup>3</sup> It is difficult to provide specific evidence on the impact of targeted sanctions on particular individuals or entities because the actions by banks and governments to implement sanctions are protected by privacy, and sanctioned individuals don't like to reveal what assets have been impacted and prefer the bravado of calling sanctions illegal and ineffective. In the case of South Sudan, as in others, evidence comes from policymakers across the international community and the anecdotal information gathered from the ground. Discussions with South Sudanese officials, civil society, and international community representatives have consistently indicated that these pressures affected the finances of those targeted and impacted their thinking. For years, this leverage was missing, and many politicians and military commanders believed that they would not face consequences for continued looting, human rights abuses, and war. Targeting their ill-gotten wealth helped to fundamentally change the equation, making war less profitable for those in power.

## Shifting Sanctions from Sledgehammer to Scalpel

It is important to acknowledge some of the shortcomings we have seen historically in the applications of sanctions and how these persist in the myths about what sanctions are and how they work. The Sentry has pointed out shortcomings in past sanctions regimes to governments and to the United Nations Security Council. We have argued for a rethink of Africa sanctions policy, identifying four key problems to be addressed.<sup>4</sup> First, past sanctions in Africa usually targeted lower-ranking politicians and commanders who were often perpetrators of violence, but not the orchestrators. Second, sanctioned individuals often lacked connections to the global financial system. Third, UN member states have erratic records of enforcing the sanctions resolutions of the Security Council. Sanctioned individuals move freely, weapons continue to reach conflict regions, and illicit funds continue to flow through regional banks.<sup>5</sup> Lastly, policies failed to utilize corruption as a basis for sanctioning individuals and entities involved in violence, but the two often go hand in hand.

To counter the issues stymieing sanctions' effectiveness, The Sentry has advocated for network sanctions directed at the highest levels of political decision-making, targeted at those with significant financial footprints.<sup>6</sup> The term "network sanctions" refers to a tranche of sanctions that freezes assets of not just one individual but also individuals or entities who act on their behalf or provide support for the primary individual's activities. Targeted network sanctions can be incredibly effective when designed, implemented, and enforced thoughtfully and transparently, in conjunction with a clearly defined diplomatic strategy.

The good news is governments are beginning to reevaluate how they apply sanctions. Targeted actions combining financial pressures with anti-money laundering measures, as enacted by the U.S., the United Kingdom, and the European Union, are finally beginning to show results. In South Sudan, we have begun to see a shift in how sanctions are applied and how South Sudanese politicians have responded to targeted pressure.

## Sanctions History in South Sudan

The United States, the United Nations (UN), and the European Union (EU) have incorporated sanctions into their broader pressure strategies to address the crisis in South Sudan, mainly by holding high-level officials accountable for gross human rights abuses and theft of public money. Last year, The Sentry conducted a study on sanctions' effectiveness in South Sudan as part of a broader look at sanctions across several Sub-Saharan countries.<sup>7</sup> The results showed that targeted network sanctions, when combined with consistent diplomatic efforts and other tools of financial pressure, were effective in encouraging peace and accountability.

We will first focus on reviewing sanctions-specific actions, since that is the core focus of this discussion, before moving to review other pressures. Sanctions efforts have been more effective because of the balance of anti-money laundering measures and other pressure tools used in tandem. In recent years, the U.S., UN, and EU have maintained continued and sustained financial pressure on South Sudan's senior leadership. In September 2017, the U.S. designated senior South Sudanese officials Malek Reuben Riak, Michael Makuei, and Paul Malong Awan,<sup>8</sup> and in December 2017 it sanctioned a close associate of President Salva Kiir, Benjamin Bol Mel.<sup>9</sup> Additionally, the U.S. designated several companies owned by Riak and Bol Mel, making the sanctions more effective by targeting their corporate profiles as well as their personal accounts.<sup>10</sup> The UN and EU also designated Riak in 2018.<sup>11, 12</sup> European authorities have sanctioned several senior officials since 2014 and have worked closely with regional partners to encourage the peace process.<sup>13</sup>

Regional pressure strategies have also contributed to the broader international pressure. The Intergovernmental Authority on Development (IGAD) has brokered numerous ceasefires and worked with the South Sudanese government, the opposition, the African Union, and the international community to coordinate pressure strategies to end the civil war and maintain the peace agreement.<sup>14</sup> The UN and EU also have arms embargoes in place.<sup>15</sup>

To further ramp up the pressure, the U.S. announced in March 2018 that it was acting against 15 South Sudanese oil-related entities "whose revenues have contributed to the ongoing crisis in South Sudan,"<sup>16</sup> adding them to the "Entity List," which is maintained by the U.S. Department of Commerce for broader export controls. It does not freeze assets, but rather requires that U.S. and foreign exporters reexporting U.S.-origin goods and technology get a license from the Commerce Department. This listing effectively warned businesses and financial institutions that these are high-risk companies and ministries necessitating further due diligence, without crippling the oil sector entirely.

After these initial rounds of stronger actions, the U.S. Treasury Department's then-Under Secretary Sigal Mandelker visited Uganda and Kenya in June 2018 to stress these actions and work to highlight anti-money laundering measures taken in September 2017. Mandelker met with senior government and banking officials, as well as civil society and media, to stress that the region needed cooperative enforcement to protect their domestic and international financial systems from abuse by illicit actors.

In December 2018, the U.S. announced another set of network-focused sanctions.<sup>17</sup> This round of sanctions was notable because it was imposed not reactively during the high point of a crisis, but proactively to support peace deal implementation. In late 2019, the U.S. again implemented sanctions against senior South Sudan officials to increase pressure and ensure the peace process continued. In October 2019, the U.S. sanctioned "Al-Cardinal," a businessman involved in facilitating grand corruption in South Sudan, just

days after The Sentry published a report on his network, one of several targets of sanctions that The Sentry has featured in reports.<sup>18, 19, 20</sup> In December 2019, the U.S. sanctioned seven more officials for human rights abuses and obstructing the peace process.<sup>21, 22</sup> In January 2020, the U.S. also sanctioned First Vice President Taban Deng Gai for “his involvement in serious human rights abuse, including the disappearance and deaths of civilians.”<sup>23</sup> The United Nations has also documented his faction’s role in child soldier recruitment.<sup>24</sup>

The pressure was effective, when combined with intensive regional and international diplomatic efforts and local South Sudanese civil society peace advocacy. In February 2020, President Kiir and Riek Machar broke the deadlock and agreed to form a unity government. It is too early to tell if the fragile truce will hold, but it is clear that sustained diplomacy combined with network sanctions, arms embargoes, anti-money laundering efforts, and other pressure tools had a significant impact on the peace process. South Sudanese political actors recognize the impact of this new, robust application of financial pressures on their hardline policies, consistently acknowledging the impact directly to The Sentry and through discussions with key interlocutors.

Critics often refer to the purported negative impact of sanctions on the broader population in South Sudan, but this criticism does not hold up under scrutiny. There have never been public demonstrations against sanctions.<sup>25</sup> Financial institutions may have raised their due diligence obligations, requiring more personal information from customers, but that has not prevented them from banking customers in South Sudan. The large South Sudanese diaspora communities in Europe, Australia, the U.S., and Canada continue to send significant remittances to South Sudan. Anecdotal information indicates some individuals face delays in sending funds. While this can be frustrating for those not connected to the underlying sanctions, it demonstrates that financial institutions are taking their obligations seriously.

## The Role of Stakeholders

Targeted sanctions are just one part of a comprehensive financial and diplomatic pressure strategy to protect human rights and fight global corruption. Sanctions actions should be followed up with continued work on combatting illicit financial flows. Global and regional banks are often at the frontline of this fight. Corrupt actors need to launder their money so that they can use their ill-gotten gains to enjoy a life of luxury. This laundering primarily happens in dollars, euros, or British pounds, as these are the preferred currencies in the global financial system, making them easy to move across borders. The Sentry has engaged numerous banks, urging them to put appropriate due diligence measures in place to disrupt conflict and corruption-connected illicit flows from South Sudan. In September 2019, Sentry staff along with co-founder George Clooney met with the leaders of major global banks and money service businesses to further this effort. Crucially, both the United States and the United Kingdom have issued advisories to their financial institutions alerting them to illicit flows connected to South Sudanese political corruption. Financial institutions have and should continue to strengthen their scrutiny of transactions originating from South Sudan and bolster their monitoring of accounts for suspicious activity.

There is an effort by the U.S. Treasury Department and some European governments to build capacity among regional financial institutions, in hopes that the institutions will be able to recognize illicit funds originating from South Sudan making their way out of the country. The Sentry has engaged directly with Kenyan banks and has provided training through global banks on illicit finance. There is also an effort to

encourage large Western financial institutions to work closely with their correspondent banks in Kenya and Uganda to improve sanctions compliance.

Law enforcement efforts also play a part in financial pressures. In 2018, the Australian Federal Police (AFP) seized a million-dollar Melbourne mansion owned by General James Hoth Mai, former South Sudan army chief of staff.<sup>26</sup> Australian law enforcement pursued the case against Hoth Mai after The Sentry published a report shedding light on his luxury property in Melbourne.<sup>27</sup> In the investigation, the AFP uncovered fraud and a money laundering scheme involving bank accounts in several different countries.

Government officials in many different countries often urge us to publish our findings, which then can be used to take action and build pressure. Jok argues that, instead, The Sentry and others should hand over evidence to South Sudan's government to "test the limits of their judicial system and the willingness of oversight institutions such as the Parliament, Audit Chamber, and Anti-Corruption Commission to live up to their mandates."<sup>28</sup> In some cases, that is exactly what The Sentry has done. The Sentry met with South Sudan's Finance Minister in Washington in the spring of 2018 and offered to do this. We also sent a follow-up letter recommending specific actions and offered cooperation, but we are still awaiting a reply. It is also important to note that since its creation in 2011, South Sudan's Anti-Corruption Commission has not prosecuted a single corruption case. The Audit Chamber has not issued an audit report of government accounts since 2008. In fact, since independence in 2011, no audit reports of any government businesses have been made public, which is a direct contravention of the constitution.<sup>29</sup>

## Next Steps

Were sanctions the only reason for the tenuous peace in South Sudan? No, and they are not supposed to be. Sanctions are just one part of a comprehensive diplomatic and financial pressure strategy to realize peace, protect human rights, and fight corruption. The targeted sanctions actions in South Sudan over the past few years demonstrate what a reasonably consistent and escalating approach looks like when coupled with enforcement and diplomacy, and they illustrate the integrated role that sanctions can play moving forward.

To be fully effective in thwarting the profit-driven calculations of leaders who may choose to violate the peace deal, additional network sanctions, anti-money laundering measures, prosecutions, and enhanced travel bans must be applied in a concerted and comprehensive manner. The international community must deter greed-driven spoilers of sustainable peace and governance to support peace and prosperity in South Sudan. Sanctions and other financial pressures can provide necessary leverage for diplomatic efforts to this end.

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Cover Image: President Salva Kiir and opposition leader Riek Machar at the signing of the Revitalized Agreement on the Resolution of the Conflict in South Sudan (R-ACRSS) in 2018. Photo courtesy of UNMISS via Flickr Commons. <https://www.flickr.com/photos/unmiss-multimedia/44655347371>.

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