State Fragility, Regime Survival and Spoilers in South Sudan

Ivan M. Ashaba, Sebastian A. Paalo, and Samuel Adu-Gyamfi

This paper draws on the notion of state fragility in three dimensions – Authority failures, Service delivery failures and Legitimacy failures as developed by Stewart and Brown. Using Stewart and Brown's analysis of fragile states, the authors examine how recent events in South Sudan push the country into being the most fragile state. In furthering this three-dimensional approach, we attempt two important questions. How has South Sudan succumbed to fragility since attaining independence? Who influences peace in the country? The authors grapple with these questions by investigating events in South Sudan from the period of signing the Comprehensive Peace Agreement (CPA 1 2005), independence in 2011, signing CPA 2 in 2015 up to present. The paper singles out the desire for regime survival as the major cause of fragility. The authors further argue that insecurity and instability are exacerbated by spoiling behaviour of certain powers and individuals, whose activities undermine state authority and creates disorder.

1. Introduction

South Sudan attained independence in 2011 after a referendum[1] voted overwhelmingly in favour of secession making it the youngest and 54th African country. Before independence from the centralized authoritarian rule of the North, there had always been violent ethnic conflicts and this is blamed partly on the history of state creation by the colonizers. According to Sarwar (2012), concentration of government business was in the North, while the South did not receive its fair share of the resources. Southern citizens were also left out of key government appointments, while the Khartoum government sought to Islamize and Arabize them.[2] Sarwar (2012) adds that, fearing complete dominance and further marginalization by the Arabic and Islamists, and with the already increasing southern socio-political grievances, they (South) fought for self-determination (See also Twijnstra and Titeca 2016: 264). This move by the Southerners deteriorated the North-South relations further on various fronts, as they complained of their rights being compromised by the heavy-handed

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[1] For official results, see http://southernsudan2011.com/. Accessed 25.04.17.

[2] Ajak Peter Biar, 'Why elections may be the only answer for South Sudan', African Arguments, July 9, 2016. http://africanarguments.org/2016/07/09/why-elections-may-be-the-only-answer-for-south-sudan/. Accessed 27.6.2017.

Northern rule; which culminated into 17 years of first Sudanese civil war in 1955, resolved by 1972 Addis Ababa Agreement. This agreement secured the southerners the right of self-rule.

International pressure (US-led) mounted on the Government of Sudan (GoS)-National Congress Party (NCP) and its Southern based rebel group-the Sudanese People's Liberation/Army (SPLM/A) at the dawn of 2000, strongly calling on them to cease hostilities through mediation, considering the protracted gross human rights violations. Fearing that continuous armed conflicts could destabilize peace in the great lakes region and beyond, the sub-regional body - IGAD took the lead in extensive peace mediation from 2002. This mediated peace talks yielded the CPA, signed by the SPLM/A (led by John Garang) and Bashir's NCP in 2005. Backed by Western observers (Italy, Norway, Britain and US) in drafting the CPA and peace talks, IGAD secured temporal peace and allowed for a referendum and eventual South Sudanese independence in 2011 (Onyango 2012). The CPA is in fact always used as a 'quality peace agreement, despite the challenges of implementation that it faced during the transition period, as well as the difficulties the two Sudans still have today after the independence of South Sudan' (Mason 2012: 20).

Citing Sidahmed, Onyango (2012) contends that the implementation of the Sudan's CPA with the six-year interim period, from January 2005 to July 2011, produced crucial political changes never heralded during the decades of conflicts spiral. The main provision of the CPA was the formation of the Transitional Government of National Unity (GNU), which entailed North-South power and wealth sharing, as well as joint security. The CPA 'made extensive concessions to the rebels' (Rolandsen 2015, p. 356). On power sharing, the mediation team prescribed and supervised the following, during the interim period: a semi-autonomous Government of Southern Sudan (GoSS) in 2005, leading to southern independence in 2011; and executive power sharing, which ensured John Garang of the SPLM became first deputy to Bashir, and was succeeded by Kiir after the former's demise (Ahmed, 2009; Onyango 2012). The CPA ensured a similar arrangement on wealth sharing to the power sharing: national land commission, SS land commission and state land commissions were to be established while two branches of the central bank were created (North and South) with two separate currencies, reflecting their cultural diversity. This confirms the longstanding expression that political power is non-existent without economic power.

The most sensitive element for the mediation team was the composition of Joint Integrated Units (JIUs), for the troops of warring parties. Chapter six of the CPA provides principles for proportional downsizing of the forces on both sides (GoS and SPLM/A forces). And in order to reduce the risk of reoccurrence of the conflict and antagonism between government and rebel forces, the CPA in principle called for DDR programs in the regions. This would integrate forces in the opposite

sides into units and ranks, hence bridging their differences (Onyango 2012; Kasaja 2015). The greatest achievement, therefore, for the CPA was the independence of SS. To support this view, Ylönen (2016) indicates; at least the mediation process witnessed some variable success, once it oversaw the July 2011 independence of SS. Nonetheless, the attainment of independence did not end conflict within SS as a polity.

Parties, however continued to fight, though in low intensity. This mandated IGAD to call the parties to the latest Agreement on the Resolution of Conflicts in the Republic of South Sudan (ARCRSS) – Addis Ababa (2015). The ARCRSS was similar to its predecessor (CPA), which ensured Southern independence; with opposing rebel groups sharing power in government and civil/military services. It prescribed the Transitional Government of National Unity (TGoNU), with rebel groups sharing power in government and military/civil service (Sandu 2014). Nevertheless, the ARCRSS has over the years proven not to be an assurance for peace and, inter alia, stable statehood, as the socio-political atmosphere gets murkier each passing day. Riek Machar's return from exile to the seat of the vice-president did not boost the peace deal, as he was replaced in 2016 with fellow SPLM-IO 'loyal' Taban Deng by president Kiir. This further spurred mutiny and bloodshed between SPLA and SPLM-IO leading to thousands of deaths and displacements of civilians.

While significant amount of literature covers the history and recent crisis in South Sudan, there is rare research on the enabling and constraining factors of the state of being of the polity and how these factors together or individually sustain the conflict. The relevance of this paper lies in its attempt to tease out the myriads of visible and invisible hands in the crisis and how or how far each of them rationally sustains and benefits from the state of fragility in the East African country. This is not to suggest that all state and non-state actors engage in unbridled undermining of state authority: the weakness of state bureaucracies coupled with complex identity relations and foreign influence give agency to individuals and groups to protract the conflict-creating a seemingly perpetual state fragility.

In the next section, we begin by defining fragility using two perspectives: donor and scholarly definitions. We then delve into the three dimensions of fragility using a framework, illustrating in each case how peace spoilers have sustained such conditions. These three case studies enable us analyse South Sudan and draw some general conclusions. Regarding the question of why South Sudan, a 2016 fragile states index places the country as the most fragile and unstable, positioning it on a 'very high alert', which is not very different from the 2015 index. According to the Fund for Peace index, South Sudan replaced Somalia and has consecutively topped the fragility index table

since its inclusion in the ranking in 2013. And any positive change in it status is far from certain due largely to ongoing conflict, ethnic cleansing and deepening food insecurity (Haynie 2017).

2. Methods and Data

This research draws upon literature on 'fragility' (Stewart and Brown 2010) as well as that of regime survival. Using the main explanatory framework developed by Stewart and Brown, we analyse the case of South Sudan from the three dimensions proposed- Authority failures, service delivery failures and legitimacy failures. The selection of South Sudan as a case study is premised on the corruption perception and fragile states indices of 2015 and 2016 which place South Sudan as highly fragile. The methodology employed was mainly a review of existing literature and in some cases interviews.

3. Conceptualizing State Fragility

We define fragility as applying to a country that is failing or at high risk of failing and we differentiate between three dimensions of such fragility: authority failures, service delivery failures, and legitimacy failures. ….."Fragile states are thus to be defined as states that are failing, or at risk of failing, with respect to authority, comprehensive basic service provision or legitimacy (Stewart and Brown 2010: 9).

There are many other scholarly and donor definitions of state fragility. "A state in a fragile situation has by definition not yet established a stable political and security environment in which the government can extend its influence and deliver core services over the entire territory" (Dix et al. 2012: 1). Another way of understanding fragility has been the fragile states index, which ranks countries on an annual basis. The Fund for Peace has developed twelve primary social, economic and political indicators for failed states. Social indicators are demographic pressures, refugees and IDPs, group grievance, human flight and brain drain. Economic indicators include uneven economic development, poverty and economic decline. Political and military indicators according to the fund are state legitimacy, human rights and rule of law, factionalized elites, public services, security apparatus and external intervention.

Categorizing a state as fragile is problematic due to scholarly and donor disagreements on what constitutes fragility. The labelling of fragility is usually contested from the recipient side but only accepted in cases of political gain (Grimm et al. 2014: 198). From the mid-1990's, Helman and Ratner in their article attracted academicians and policy makers with their definition. State failure occurs when government structures are overwhelmed by circumstances (Helman and Ratner 1993). In more

recent times, development partners like OECD, DFID, USAID and the World Bank together with academicians have made the topic on fragility and failure more prominent. Subsequently, debate around failed and weak states has come to encompass a failure of the social contract where states fail to provide services to a big portion of the population. Using South Sudan as a case study, a 2016 fragile states index places the country on a 'very high alert' and this is no different from 2015. For the purposes of this article, we discuss fragility in South Sudan using a framework developed by Stewart and Brown[3] by looking at the three dimensions, illustrating how the triad of Authority failures, Service delivery failures and Legitimacy failures are sustained under the current socio-political atmosphere.

4. Discussions

4.1. Authority Failures

In discussing authority as one of the dimensions of fragility in South Sudan, we will focus on several issues which include – The state's lack of full territorial control, no/limited state monopoly on the use of violence, organized political violence (civil war), periodic inter-community violence as well as uncontrolled criminal violence. One indicator of authority failure Stewart and Brown 2010 highlight is the extent of physical conflict in a country. In South Sudan, the level of violence that has turned out to be ethnic pushes the country as fragile in respect to authority. The SS conflict which started as a political one turned ethnic, as the Nuers (Machar's side) and Dinka (Salva Kiir's tribe) factions continue to engage in bloodshed (Medani 2011; Sandu 2014). Others are in agreement that conflict started... 'When a political dispute that overlapped with pre-existing ethnic and political fault lines turned violent' (Blanchard 2016: 1). In discussing authority failures in South Sudan, we relate with other similar indicators developed by the Fund for Peace. These include fear, tension, and violence between groups, discrimination, ethnicity and sectarianism.

The Kiir regime in Juba cannot claim to have a monopoly of the legitimate use of force in South Sudan. Since the sacking of deputy vice-president Riek Machar in December 2013 over coup claims, groups competing for power especially the SPLM in opposition rebels continue to attack several parts of the country, specifically oil rich regions like Upper Nile state, Unity state. As Mustafa and Sandu indicate, since 2013 continuous insurgencies launched by Tiger Battalion and SPLM/A-United plus other unrecognized rebel movements in new-born SS seriously undermine the mediation process and

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[3] One should keep in mind that although Stewart and Brown's framework was developed in 2010, it offers valid discussion points for South Sudan which only attained its independence in July 2011.

outcome. Today in South Sudan, internal conflict, small arms proliferation, rebel activity, militancy, political prisoners, and conflict related fatalities are all evident-with the government being helpless or contributing to the chaos (The Economist 2014; Abu-Zaid 2017).

According to Mason (2012), warring parties in South Sudan have perpetrated war crimes, genocide and crimes against humanity. Whiles masses die through direct/physical brutality from perpetrators, many more perish through secondary effects of the war- from adversities like famine, diseases/sicknesses and forced displacement owing to the conflict. Responding to such grave humanitarian issues usually leads to the call for or action for ceasefire agreements between antagonists to transit from foes to friends through alternate and peaceful means. And mediation has increasingly become the 'darling' of peace-oriented organizations and experts, as a bait to water down tensions and pave way for tackling structural violence (including horizontal inequalities).

Establishing authority in young states is hard and this is worsened by the issue of trust/suspicion among opponents or what de Waal terms as crisis of confidence' (De Waal 2016: 6). As tensions smear between warring parties, establishing trust in such an environment is hectic, especially if the deal includes disarmament – the fear of losing their arms in case of any immediate reoccurrence of the war. Sometimes, peace remains elusive because the conflict has not reached ripeness, what scholars call a mutually hurting stalemate.[4] Some have for example argued that peace negotiations worked in the case of Sudan (Khartoum) and South Sudan due to a mutually hurting stalemate (Weinnmann 2009: 1127). Hence, parties believe they can win by military means (Kasaija 2015). Mediators therefore, must accept this hard reality and exhibit flexibility in reaching a compromise (Lindenmayer and Kaye 2009; Wilen 2015).

Another challenge to establishing authority in SS, is the activities of 'spoilers' (to be discussed in great detail subsequently). These may consider success of the mediation process as a threat to their personal/group interest. "Spoilers mainly engage in violence as a strategy to access power and control resources" (Onyango 2012: 179). Spoiling has also been conceptualized by Wennmann 2009 and de Waal 2009 to include conflict entrepreneurship or the desire for economic gains from armed conflicts, instead of achieving political/ideological gains. In consequence, intra-state conflicts become increasingly protracted and self-financing. Conflict financiers (domestic and foreign) act as spoilers, fuelling armed conflicts by providing factions with funds or illicitly supplying arms (Wennmann 2009). They further add that conflict entrepreneurs' agency is also strengthened by easy access to natural resources by belligerents, which they trade in; thereby sustaining the conflict. This

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[4] These include William Zartman (2000); Sinisa Vukovic (2014) and others.

political economy perspective of armed conflict is therefore critical, and should be considered, instead of solely focusing on the political or military aspects.

4.2. Service Delivery Failure: Reconciling Regime Survival vis-à-vis Service Delivery Budget

From the Social Contract theory of Hobbes, Locke and Rousseau, individuals surrender their rights to be governed and in return, the provision of public goods and services is a key role of the state. Going through several years of protracted war is always bound to impact on service delivery and pose serious development challenges. The implication of such a history is that institutions have to be built from scrap and implementation of service delivery programs is always going to be limited (World Bank 2016). Infrastructure outside the administrative seat – Juba remains undeveloped and the country ranks poorly on most human development indicators. In fact, the only paved road outside South Sudan's administrative seat is that from Juba to Uganda (Rolandsen 2015), a large subsistence economy and majority of citizens employed in the informal sector (World Bank 2016). South Sudan relies heavily on oil exports and a decline in global oil prices heavily impacts on service delivery. The shutdown of oil production in 2012 did not only render South Sudan bankrupt (De Waal 2014), it also affected distribution to key government sectors and reduced money for patronage that sustains the regime in Juba. As a solution, the government borrowed $4.5 billion from financial lending institutions and foreign governments.[5]While it would be out of place to expect such a young state to develop overnight, continuous conflicts and politically motivated violence weakens the country's potential to deliver essential social services.

Fighting between factions loyal to President Salva Kiir and those of Riek Machar has pushed the country into a civil war and almost emptied the government's coffers.[6] The economy is struggling with hyper-inflation and soaring food and commodity prices- pushing many on the brink of hunger. World Bank (2016) notes that annual inflation increased by 730% between August 2015 and August 2016. Others suggest that 'South Sudan is going over a fiscal cliff. Its hard currency reserves are almost used up. Government revenue is near zero' (De Waal 2016, p. 4). Therefore, although dropping oil prices cannot be entirely blamed on the regime in Juba, inflation, unpaid salaries and a struggling South Sudan economy are regime made.

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[5] Sudan Tribune, 'S. Sudan silent on $4.5bn loan obtained after oil shutdown', 22 November 2013, http://www.sudantribune.com/spip.php?article48903. Accessed 22.06.2017.

[6] Twijnstra Rens and Titeca Kristof, '5 years on, South Sudan is at a critical juncture…again', 8 July 2016, http://africanarguments.org/2016/07/08/5-years-on-south-sudan-is-at-a-critical-juncture-again/. Accessed 20.06.2017.

Spending in South Sudan is divided into three- private security spending, patronage spending and public goods spending, the first and second receiving more preference from the government and political cronies while the last is barely a priority (De Waal 2014). The implication, therefore, is that prioritizing patronage and private security spending is done at the expense of public service provision. Patronage networks that only benefit a small section of society are more harmful (Dix et al. 2012). As North et al. 2009 argue, the nature of political settlement determines the extent of service delivery as well as who benefits and who is left out. Therefore, for regimes like the one in Juba, public goods' provision is highly dependent on the political gains the regime gets in return. Economic decline as an economic indicator of fragility continues to strain the delivery of services to South Sudanese. All economic pressures taking the forms of economic deficit, government debt, inflation, low GDP growth and spiralling unemployment are manifest in South Sudan. In fact, for the second year running, the regime in Juba cannot afford independence celebrations due to financial constraints.[7]

Cash reserves in Juba have now been dedicated to regime protection and maintaining clientelistic networks to keep political elites in check. One such regime survival strategy has been increasing South Sudan states from 10 to 28 (Stimson Centre2016).[8] The elites are concerned with political survival in a situation of extreme unpredictability" (De Waal 2016: 5). In essence, state resources are used to secure loyalty and to compete with rivals[9] and oil revenue is therefore a source of income for elites and their networks both civil and military (Rolandsen 2015: 355; World Bank 2016). Accessing the national projects depends on demonstrated loyalty and challenging the establishment is a license for harassment and violence (Ylonen 2016).

It is hard to discuss service delivery failures in South Sudan without discussing the impact of corruption and extravagance of political elites. Relating this to the Fund for Peace political indicators of fragility, several corruption related pressures have been identified that include- government inefficiency, an illicit economy, power struggles, selective political participation and drug trade. Following years of oppression by Khartoum, independence in 2011 was greeted with great job as

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[7] Jerry Owilli, South Sudan government cancels Independence Day celebrations for second consecutive year, 26 June 2017, https://africa.cgtn.com/2017/06/26/south-sudan-government-cancels-independence-day-celebrations-for-second-consecutive-year/. Accessed 27.06.2017.

[8] Adeba Brian, 'Splitting South Sudan into 28 states: right move, wrong time?' African Arguments, October 7, 2015.http://africanarguments.org/2015/10/07/splitting-south-sudan-into-28-states-right-move-wrong-time/. Accessed 27.06.2017.

[9] See e.g. African Arguments 'Two rationales for imposing sanctions on South Sudan', August 24, 2015.
 http://africanarguments.org/2015/08/24/two-rationales-for-imposing-sanctions-on-south-sudan/.

evidenced in the landslide vote of 98.83 % in favour of secession. For the country's political elites, it was a case of 'it is our turn to eat' and as the 2016 corruption perception index shows, South Sudan ranks 175 out of 176 with a score of 11 (highly corrupt). Rolandsen (2015: 357) highlights the increased demand for luxuries such as expensive cars, accommodation and imported goods by South Sudan political elites. Corruption and self-enrichment has been embedded in the South Sudan system and this dates back to the signing of the 2005 CPA.[10] "In post-war South Sudan, corruption binds and reinforces the system of political and class domination" (Pinaud 2014: 210).

Corruption takes several forms in South Sudan as Figure 1 below shows. The impact of corruption on service delivery is tax waste and diversion of resources from crucial sectors like agriculture, education and health. As De Waal notes, in highly corrupt states ''governance transactions are highly monetized, and the cash flow to the ruler is the heartbeat of governance'' (2014, p. 348). The lack of public budgetary discipline means that most of the budget goes to those who wield political bargaining power and little remains for investment in public services such as education and health (De Waal 2014). Political will to fight corruption has also been lacking in South Sudan. Whereas Salva Kiir fired his deputy in 2013 accusing him of corruption among other things, he has also been accused of perpetuating his grip on power using patronage, rents and favouritism of his fellow Dinka kinsmen. The major problem with fighting corruption in South Sudan, like most African states, is apathy which even dates back to the pre-independence days (Sudan Tribune 2011). A 2014 African Union Commission report on South Sudan concluded that the struggle for political power, control of natural resources (especially oil), corruption and nepotism were the major underlying factors behind the 2013 conflict.

In linking corruption, regime survival and service delivery failures, the role of security agencies cannot be ignored. Since the 2013 sacking of Deputy President Riek Machar and the fighting that ensured, President Salva Kiir has greatly relied on a faction of the army loyal to him for his survival. In Fact, in 2014 Kiir requested president Museveni to deploy the Uganda People's Defence Forces (UPDF) to guard key installations like the airport in Juba. The UPDF has since withdrawn from Juba but President Kiir continues to rely on the SPLA for his political survival. The question though is; what is the motivation for protecting the regime? The budget for military spending in South Sudan has been growing and there is no doubt that opportunities for self-enrichment are a strategy of keeping the rank and file content. The challenge for such clientelistic spending is diversion of service

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[10] Sudan Tribune, 'Text: Minutes of Historical SPLM meeting in Rumbek 2004', 12 March 2008, http://www.sudantribune.com/spip.php?article26320. Accessed 19.06.2017.

delivery resources. As De Waal notes "…. the higher the demands on the security and political budgets, the less is left over for public services, development, and institution building" (2014: 349). The desire to capture resources is therefore a continuous motivation for the military. "The military elite that found itself in power after the war established its hegemony through the capture of resources during the war itself" (Pinaud 2014: 193).

President Kiir runs his personal security detail – the Tiger Battalion and a private army that hails from his home town.[11] President Kiir in justifying the formation of the militia referred to it as a reserve force. In understanding the role of pro-government security groups in regime survival, one has to relate back to the timing. The force was created after clashes between forces loyal to Kiir and those of Machar in the presidential guard in December 2015. The regime survival project in some cases has meant use of the army to remove and side-line army commanders from their positions that are seen as political rivals.[12] In other cases, regime survival has taken the form of recruiting extra soldiers from each state[13] and allocating extra funds to the military (SPLA).[14]

The fact that corruption is institutionalized and pays dividends for the Kiir regime makes us conclude that it is a regime survival strategy which diverts money from service delivery. As De Waal notes, "Kiir's strategy of rewarding loyalty with licence to commit fraud also meant that South Sudan achieved independence as a kleptocracy" (2014: 358). Although in the past President Kiir has instructed government post holders and civil servants to declare their income and assets, corruption remains the achilles heel in Juba with hundreds of corruption cases not heard in years.[15] Apart from accusing government officials of theft[16], the rhetoric of fighting corruption hasn't seen Kiir walk the

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[11] See for example Sudan Tribune, 'South Sudan president admits forming private army', 18 February 2014, http://www.sudantribune.com/spip.php?article49993. Accessed 19.06.2017.

[12] South Sudan News Agency, 'There was no attempt against president Kiir', 19 December, 2013, http://www.southsudannewsagency.com/index.php/2013/12/19/there-was-no-coup-attempt/. Accessed 19.06.2017.

[13] See e.g. Sudan Tribune, 'Military mobilization in E. Equatoria attracts extra recruits', 15 February 2014, http://sudantribune.com/spip.php?article49964. Accessed 22.06.2017.

[14] Sudan Tribune, 'S. Sudan cabinet approves extra budget for army', 1 February 2014, http://sudantribune.com/spip.php?article49794. Accessed 22.06.2017.

[15] Sudan Tribune, SPLA top generals asked by anti-corruption to declare their assets', 27 February 2012, http://www.sudantribune.com/SPLA-top-generals-asked-by-anti,41727. Accessed 19.06.2017.

[16] President Kiir in 2012 accused government officials of stealing US$4 billion from government coffers. Global Witness, 'Attack on activist threatens anti-corruption efforts in South Sudan', Press Release 12 July 2012, https://www.globalwitness.org/en/archive/attack-activist-threatens-anti-corruption-efforts-south-sudan/. Accessed 19.06.2017.

talk. Nepotistic and clientelistic networks created after the war in South Sudan continue to be used by the ruling elite to preserve power (Pinaud 2014: 194-195).

Table 1. South Sudan Corruption and link with Regime Survival

Institution	Form of Corruption	Link with Regime Survival
Presidency/First family	Stakes in key sectors like oil, buildings in neighbouring countries.	Rents for donations, patronage-client relations.
SPLA (Military)	Procurement deals, predation, luxurious villas abroad.	Reduce army discontent and entrench the political economy of war.
Police	Bribery, extortion	Police is vital for checking actors challenging Kiir's power.
Civil Service	Flawed procurement deals, payroll manipulation	Administrative machinery is vital source of rents.
Judiciary	Bribery	Adjudication is vital for the regime's future.

Sources: The Sentry 2016;[17] Transparency International 2013; Sudan Tribune 2011.

We conclude the discussion of service delivery failure in South Sudan by looking at how political turmoil has impacted on human flight. The Fragile States Index developed by the Fund for Peace categorizes refugees and Internally Displaced Persons (IDPs) as social indicators of state fragility. Population displacement leads to a strain on public services and can be a potential source of insecurity. The refugee crisis in South Sudan has been described as the worst humanitarian crisis in the world by United Nations. Millions of people are in need of humanitarian assistance and this impact has been felt by refugee recipient countries like Uganda. Northern Uganda districts of Arua, Adjumani, Lamwo, Yumbe are overstretched with thousands of refugees arriving from South Sudan

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[17] The Sentry report focused on top South Sudanese officials including the president, deposed former vice president, ministers and top army (SPLA) generals.

to various Refugee Settlement camps.[18] In June, UN Chief Antonio Guterres visited Uganda for a solidarity summit on refugees aimed at raising US $8bn towards the humanitarian and refugee crisis in Uganda. This visit was followed up in August by that of the International Committee of the Red Cross (ICRC) president - Peter Maurer to remind the international community about their pledge to support the refugee cause. While in Kampala, ICRC president argued that the South Sudan stalemate needs a political and not military solution. This scepticism on the possibility of a military solution calls for restricting belligerents to the conflict.

This section has discussed service delivery failures in South Sudan by making a connection to corruption as a tool for regime survival. We have illustrated how President Salva Kiir has concentrated on regime survival than service delivery in the world's youngest nation. As De Waal notes, the struggle by actors challenging Kiir's incumbency is one driven by the desire to… "reorder the hierarchy of kleptocracy in their favour (2014: 365). One other danger with volatile environments is the investment climate especially given the role the private sector plays in development. South Sudan ranks 186 out of 190[19] in the 2017 World Bank Ease of Doing Business Report.[20]

4.3. Legitimacy Failures

Stewart and Brown posit that legitimacy failures occur where the state lacks legitimacy. The state may enjoy only limited support among the citizens; it is typically not democratic, often with the military ruling directly or strongly supporting and dominating the government (Stewart and Brown 2010: 10). In the case of South Sudan, we will focus on state enjoying limited popular support, limited rule of law and human rights and military supremacy over civilian rule. According to Mc Evoy and LeBrun 2010, inability of GoSS to maintain law and order or to develop accountable, democratic state institutions (Ylonen 2016) coupled with weak and contested land policies, reduces public trust and support of the people and further explains why elections are usually flawed, while state legitimacy is constantly contested. This institutional weakness could, however, make it possible for incumbents to practically control the political system, the security apparatus and resources: "More specifically, legitimacy is popular approval of the state's 'rules of the game', or the system of rules and expectations on which government actions are based" (Mcloughin 2015: 1).

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[18] Personal communication, 22 May 2017.

[19] This is not different from the 2016 report that ranks South Sudan 187 out of 189. See e.g. http://www.doingbusiness.org/~/media/WBG/DoingBusiness/Documents/Annual-Reports/English/DB16-Full-Report.pdf.

[20] See http://www.doingbusiness.org/~/media/WBG/DoingBusiness/Documents/Annual-Reports/English/DB17-Report.pdf.

Other legitimacy failures in the assessment of South Sudan take the form of state enjoying limited popular support. As some scholars have noted, although the CPA of 2005 ended the North-South conflict, it left unanswered issues for the future (Mason 2012). The state enjoying limited support is caused by a multiplicity of factors. This may be a result of state repression, ethnic politics and discrimination. "State-sanctioned discrimination, which all human rights instruments regard as a violation, does appear to be a conflict risk factor" (Thoms and Ron 2007: 692). Although the 2011 referendum results voted overwhelmingly in favour of seceding from the North, South Sudan post-independence leaders have succeeded in playing the ethnic cards to divide the masses (Justin and De Vries 2019). This has greatly been pushed by the desire to control the country's vast resources especially oil. ''The leaders of South Sudan's warring parties manipulate and exploit ethnic divisions in order to drum up support for a conflict that serves the interests only of the top leaders of these two kleptocratic networks and, ultimately, the international facilitators whose services the networks utilize and on which they rely'' (The Sentry 2016: 4). State discrimination increases grievances and the potential for violence (Thoms and Ron 2007). The major challenge however is that political elites may use such discrimination for political capital to mobilize people politically and justify violence (Thoms and Ron 2007).

Respect for human rights and the rule of law is one of the political indicators of fragility developed by the Fund for Peace. Human rights violations are an indicator of a state failing to protect its citizens from the state of nature. According to the Fund, human rights pressures may be related to political prisoners, political freedoms, torture, executions, civil liberties, press freedoms and incarceration. The issue of human rights violations, including cases of war crimes committed by both parties to the conflict is worth exploring in the analysis of legitimacy failures in South Sudan. In the case of the ruling SPLM, public officials are ex-military men, which makes it hard to separate the military from the public sphere. Human rights violations have taken the forms of mutilations, burnings, draining human blood, torture, rape and abductions in Bor, Malakal, Bentiu and other places[21]. Looting, pillage and rape have become the norm for unit commanders and ordinary soldiers (De Waal 2016: 2).

Mistrust exists between warring parties, as rebel and ethnic factions continue to suspect one another in myriads of sensitive issues. Mc Evoy and LeBrun (2010) observe that communities' and for that matter rebels' mistrust of the GoSS is embedded in their perceived tribal biases. This is also

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[21] See for example African Union Commission of Inquiry on South Sudan.
http://www.salo.org.za/wpcontent/uploads/2016/02/auciss.executive.summary.pdf. Accessed 10.06.2017.

premised on the fact that South Sudan has a history of ethnic violence and divided military loyalties.[22] Similarly, DDR programs in SS were met with serious resistance, as rebel groups accused the incumbent of not doing a comprehensive disarmament but targeting factions they deemed as threat to government (Lindenmayer and Kaye 2009). This mistrust hurts sustainable peace. This work observes that the incumbent regime stirs mistrust due to its closed authoritarianism and the excessive desire for regime survival, while rebels also fuel mistrust to sustain the conflict for political gains. For instance, Wennmann (2009) notes that armed groups usually target oil rich regions (e.g. the Nile region), ostensibly to gain control and derive revenue, but not to win the war necessarily. In a similar vein, rebels have more incentives to wage wars, as they benefit from power sharing.

Finally, the discussion of legitimacy covers three main issues. First, government of South Sudan today has not got the undoubted blessing of the average citizen to govern them, due to state-supported repressions. Second, the undemocratic nature of governance due to institutional failures, has reduced public trust in the government. Third, the ethno-political atmosphere causes significant suspicion among citizens and state officials alike. All discussions above regarding rule of law, respect of human rights point to the question of how democratic South Sudan is. As some have noted, if the developing electoral system of South Sudan develops further to open, fair one, democratization process can indirectly build civil society, while improved state legitimacy enhances human resource development (Hagarain 2011; Medani 2011). Democratizing can address the dilemmas of limited political participation, respect for civil rights, and freedom of expression, assembly and association (Thoms and Ron 2007: 699). Empirical evidence shows a link between repression and more conflict and it is no surprise that CPA 2 emphasizes power sharing to ensure political participation of different actors in South Sudan.

5. Spoilers of Peace and 'Perpetual' Fragility

From the struggle for political independence and sovereignty from Sudan to the ongoing protracted conflicts over the control of the state machinery in South Sudan, a number of factors can be cited as 'spoiling' the attempts to instil sustainable peace and improve state capacity in the youngest state. Experiences in some other African countries such as Democratic Republic of Congo, Central African Republic and Cote d'Ivoire demonstrate, once peace is uncertain, regimes are most likely to continue with repression, which most often than not breeds state fragility, as the 'centre cannot hold'.

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[22] See e.g. Associated Press, 'South Sudan rebels hold key oil-producing city', 23 December 2013, http://www.foxnews.com/world/2013/12/23/south-sudan-rebels-hold-key-oil-producing-city.html. Accessed 28.6.2017.

Strained relationship between the state and the masses redirects resources towards authoritarian tendencies- breeding more repression, further weakening state control and reducing the legitimacy of regimes and governments. In the context of South Sudan, the authors have broadly grouped peace spoilers into three categories:politics of identity, failure of DDR program and activities of conflict entrepreneurs, the third being most crucial.

First, the politics of identity, is a major factor which has inhibited the prospect of peace since feud broke out between President Salva Kiir and his deputy Riek Marchar in 2013. The role of antagonizing identities in African politics and violent conflicts is very evident over decades now, including the 2007 post-electoral violence in Kenya and similar others across the continent. A condition created largely by colonial demarcation territories in the continent (Mamdani 1996), uncontrolled identity politics perpetuates suspicion and hurting relationship among ethnic groups especially the Dinka vs Neuer extractions who fiercely antagonize in their support for Kiir and Machar respectively. This scenario has plunged groups and polities into protracted conflicts in several countries e.g., Kenya 2007, Northern Nigeria and Northern Ghana. However, the mere existence of ethnic differences does not always ignite conflicts, as some equally multi-ethnic African states are relatively peaceful and have legitimate state control.

Ethnicity is thus instrumentalized by group leaders and influential people in most cases to gain advantage (e.g. economic or political) for their social groups or individuals within it. The continued accusation by Kiir and Machar of the other inciting their respective ethnic groups, is in most cases a powerful tool to draw support from their kith and kin for their parochial interest, such as gaining political power or acquiring public property, as it the case in other parts of Africa. This suggests that for social identities to integrate for state building, there must be conscious political commitment, including inclusive development programmes, and collective accountability by all parties involved, as OECD partly admonished in its 2011 report on the growth path of South Sudan. By preventing pockets of exclusion, state agents would be seen by all or most as acting legitimately, and this increases stability and reduces fragility, while mutual accountability reduces the likelihood of impunity-a condition which encourages more participation in conflict.

Secondly, the ineffectiveness of Disarmament Demobilization and Reintegration (DDR) program, is a major reason why rebels and ex-combatants keep weakening the prospect of stability. The prescription by the CPA and the international peacekeeping Missions to fully and meaningfully downsize and integrate the opposing armies has suffered huge in-adherence by antagonizing camps, which leaves the republic of South Sudan a quotidian vulnerable state. The failure by warring factions to lay down their arms is largely due to the prevalence of mistrust and insecurity between the

government and opposition rebels as well as existential ethnic tensions (Wilen 2015). It can also result from the lack of improved service delivery, which forces rebels and frustrated citizens to join the violence, as we indicated earlier. DDR has always proved to be a difficult political process which witnessed success in only very few places including Rwanda, where the post-1994 state building process forged a national identity 'devoid' of differences (Wilen 2015). This seem to have yielded a legitimate central state which survived further fragility. The general overarching reason for most DDR failures relates to our previous argument that most governments are very much concerned about regime survival, thus would capitalize on the ongoing confusing to target opposition and rebel leaders who are usually threats to authority. As a result, opposition to the regime would hardly fully surrender their arms and manpower, especially where there is limited carrots to lure rebels. Similarly, the regime understanding the stakes, also targets enemy camps for disarmament while protecting its backyard and stashing arms against any relapse. Since conflict broke out in Juba in 2013, the SPLM-IO have consistently indicated that DDR only targets its members while forces loyal to the government continue to perpetuate violence with impunity.

Failed DDR programs have resulted in more chaos than expected, including prolonged fighting between state security and rebels, which mostly results in increased IDPs, food insecurity and refugees as witnessed in South Sudan. One of the main reasons being that as opposing rebel groups are not properly integrated and downsized, fighters continue to resort to individual discretions, using the gun either in opposition to the state or for their personal interest while state allied forces engage in unaccountable targeted attacks as well.What makes the case of South Sudan uncertain revolves around three main factors. First, the state and government has not got enough resources that would serve as tempting carrots to persuade the SPLM-IO members to lay down or to surrender their arms. Similarly, AU with its supposed paucity of financial resources cannot afford same, and the powerful international conflict mediators (e.g. UN, EU, US, UK etc.) seem not committed to providing enough resources for institutionalization to curb mutiny and impunity compared to the provision of peacekeeping troops, food and medical aids. Second, the heightened nature of identity politics at the state level has inevitably created a hurting partisan society, containing feuding rebels. Third, the continued supply of arms to rebels reportedly from foreign syndicates serves as a crucial barricade to the peace deal in the country, as more arms and ammunitions become more accessible to antagonists across the country, who use them to perpetrate crime. Still on external factors, the complicity of some neighbouring countries, as in showing support for one camp against the other and also the involvement of rebels from close-border countries such as DRC and CAR makes the situation far more unpredictable. This situation most often weakens state capacity, as the existence and active

operations of parallel security to state security forces results in large-scale civil strife and general human insecurity.

The third and most crucial factor, which impedes peacebuilding and sustains state fragility in South Sudan, is the phenomenon of conflict entrepreneurs across society in both domestic and international settings. This prolongs the thorny situation which tears the state apart, making it to fall short of service delivery and protection of fundamental human rights. De Waal indicates that conflict entrepreneurs are a category of spoilers involving individuals or groups who mostly seek economic or material gains from conflicts. Thus, by partaking or inciting conflicts, one benefits from it. The Seleka and the anti-Balaka Movements in CAR have been cited to be involved in longstanding conflicts and ensure that the atmosphere of fear sustains, for them to extract minerals from the rich forests across the country. Similarly, the Niger Delta Movement in Nigeria is also noted for embracing chaos as a way to own and possess part of the oil extraction. This scenario is not dissimilar in the case of South Sudan. Government forces have continuously faced fierce battles with known (SPLM-IO) and unknown rebels for control of oil-rich Upper Nile region and other surrounding important environs.

We also argue that the reluctance of some of the rebels to lay down their guns might be due to the fact that they are aiming to be given political appointments, public offices or material gains as carrots to end the fighting. If this happens without strong legal system to fight impunity or a strong security system to stop rebels, a lot more people would be encouraged to cause chaos. The activities of entrepreneurs in conflict situations are worsened by weak institutions such as the absence or lack of robust rule (as witnessed in most of Africa) and weak, unprofessional or under-resourced security. By their activities, conflict entrepreneurs weaken state capacity and in severe cases like South Sudan contribute to state fragility. The implication is that there is need for the donor and international community to focus more on the state building process, which avoids exclusion of whichever kind. State fragility could also be reversed if the work of various international organizations acting in the name of peace are well-coordinated and prioritize early warning and conflict prevention.

6. Concluding Observations and Way Forward

"In Doha, I stated that the terminology around 'fragile states' should only be used with caution. […] I strongly feel that it is not a neutral terminology. Apart from the emotional implications, it has financial and political implications. Moreover, it gives us a bad image in the eyes of foreign investors we so badly need. My first proposition therefore is to replace the terminology around 'fragile states'

by words of hope and partnership, of constructive relationships where we treat each other with respect"[23]

Throughout the article, the authors have reflected on one pertinent question that arises from the concerns of different leaders in the global south. How sure are we that South Sudan is fragile? From the arguments made in the paper and the debate on what constitutes fragility notwithstanding, we have discussed the three dimensions below and how they apply to South Sudan.

Authority failures. Political leadership is lacking in South Sudan from both the Kiir administration in Juba and the SPLM in opposition.

Service delivery failures. Fluctuating oil prices on the world market, inflation, corruption and fiscal indiscipline have pushed the country to the bottom of most world development indicators. Service delivery is also hampered by regime survival which diverts money meant for crucial sectors like health and education.

Legitimacy failures. Human rights violations have been committed by both parties to the conflict in South Sudan. These include mass crimes, detention without trial, rape, ethnically targeted attacks and killings.

One conclusion the South Sudan case study demonstrates is the undermining of the social contract. Political elites have prioritized regime survival over service delivery, exerting authority and legitimacy. As evidenced in 2013 through the sacking of Machar and several cabinet ministers, President Kiir's grip on power and desire to ensure political survival of the regime in Juba is top priority. Coercion, dismissals, corruption, clientelism, patronage and other carrots have all been employed in the regime survival project. As De Waal (2016) notes, the challenge is that the use of oil rents to maintain political allegiance is unsustainable in the long run. The use of co-optation, marginalization and repression only leads to grievances, political instability and armed conflict (Ylonen 2016). As the Fund for Peace also indicates, power struggles, defections and competition are political and military indicators of fragility. As shown above, political elites in South Sudan have engaged in all these activities to maintain power. In the case of Kiir, state resources especially oil have enabled him pay political rents to maintain his regime though this is unsustainable in the long run.

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[23] President Pierre Nkurunziza's speech at the United Nations General Assembly Thematic and Interactive Debate on "access to education in emergencies and post-crisis and transition situations caused by man-made conflicts or natural disasters", 18 March 2009, New York. http://www.un.org/ga/president/63/interactive/education/burundi_president.pdf. Accessed 28.6.2017.

There have been several efforts aimed at finding long lasting peace in South Sudan although implementation remains elusive. In the short term, there is need for political leadership to balance the regime survival budget with service delivery. This involves addressing corruption and political rents that lead to diversion and wastage of state resources. The international community can play a big role in humanitarian assistance to famine prone South Sudanese but most importantly, checking political elites that wield power in South Sudan. This can be through targeted sanctions, travel bans and asset freezing. A security sector reform in South Sudan is vital in building a cohesive and national army. Following the 2013 firing of Machar, the civil war showed tendencies of turning ethnic with human rights organizations documenting several cases of deliberate and coordinated attacks against Kiir's Dinka and Machar's Nuer people. Therefore, avoiding the conflict turning ethnic and large scale war termination should be a priority for all stakeholders in South Sudan. Ultimately, the major challenge for South Sudan is implementing vital elements of the 2015 Comprehensive Peace Agreement and the Transitional Government of National Unity (TGoNU).

On May 22, 2017, South Sudan organized a national dialogue in Juba under the theme 'Redefining the basis of our unity and sense of common purpose.' In his remarks, President Salva Kiir announced a unilateral ceasefire to create an environment for inclusive dialogue and facilitate smooth humanitarian assistance to famine prone areas. Although the president showed commitment to ending the conflict by instructing the Prosecutor General to look into files of political prisoners and the possibility of releasing some, uncertainty still lingers regarding the president's willingness to work with his political nemesis Riek Machar. Mistrust among warring parties in South Sudan remains a big hindrance to peace in South Sudan or what De Waal calls "a crisis of confidence in the South Sudanese political market" (2016: 5). For South Sudan to embark on the process of reconstruction, there is need for combined efforts from both the ruling SPLM and that in opposition like the case was in fighting against Khartoum and subsequent secession. This however calls for political leadership – an attribute that is lacking in South Sudan.

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Ivan M. Ashaba is a teaching assistant and Ph.D candidate at the Institute of Development Policy (IOB), University of Antwerp, Belgium. He holds an MA in Political Science (2012) and Msc. in Governance & Development (2016). Before joining IOB at the end of 2017, I worked at Uganda Christian University in the department of Public Administration and Governance since 2013. As a research and teaching assistant, he is actively involved in tutoring and facilitating the students' overall learning process. His doctoral research looks at illegal wildlife trade and the nature of the Ugandan state. Outside his Ph.D work, he follows closely the politics in his home country Uganda and the East African region at large. He has written short pieces on Uganda, Rwanda and Kenya in *African Arguments* and *Democracy in Africa.* He can be reached at: Ivan.Ashaba@uantwerpen.be.

Sebastian A. Paalo is a PhD candidate in the Department of Political Science and International Studies, University of Queensland (Australia). His PhD project focuses on 'Local Ownership in Peacebuilding in Africa', with specific attention on the role of NGOs. Paalo holds MSc. in African Studies (focused on African politics, conflict and peace) from University of Oxford (UK) and MSc. Governance & Development from University of Antwerp (Belgium). Currently, he is the Policy, Networks and Partnerships Coordinator for YouthLED Africa (YOLA, an NGO). Some selected previous engagements of his include the following: a steering committee member of the Oxford network for Peace Studies (OxPeace) ; an affiliate of the Oxford student consultancy services ; and a Teaching/Research Assistant at Kwame Nkrumah university of Science and Technology (NUST- Ghana). Finally, Paalo's research interest cuts across peacebuilding, conflict resolution, governance, political economy and state capacity with particular interest and expertise on Western and Eastern Africa.
He can be reached at: sebastianpaalo@gmail.com.

Samuel Adu-Gyamfi, PhD, lectures at the Department of History and Political Studies of the Kwame Nkrumah University of Science and Technology (KNUST)- Kumasi-Ghana. His research focus is on evolutions in social and political development of Africa, evolutions in health, public health and health policy, environment, policy in science and technology, traditional and integrative medicine research and public opinion. He is also a member of Ghana Studies Association, Historical Society of Ghana among others. He is also the Head of Programmes, Research and Educational Facilitator for the Association of Global Citizens-Ghana and Deputy-Director for Action –Oriented Centre for Social and Environmental Awareness (ACSEA)-Ghana. Again, he is also a member of the Research and Publications Committee of the Faculty of Social Sciences of the Kwame Nkrumah University of Science and Technology (KNUST). In addition, he is a member of Poverty Alleviation, Local Governance and Sustainable Development (CoPALGSD-Ghana) and International Society for Development and Sustainability (ISDS)-Japan. The others include Ghana Studies Association and Historical Society of Ghana. Dr. Adu-Gyamfi is a major discussant on socio-economic, political, cultural and religious issues on major media platforms and landscape in Ghana. He has equally made significant contributions in terms of research output and is equally available for collaborative research toward this end. He can be reached at: mcgyamfi@yahoo.com, or sadu-gyamfi.cass@knust.edu.gh.