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Oil and Sustainable Peace in South Sudan

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Contents

Summary

- The newly independence nation of South Sudan displays all the telltale signs of the resource curse. The conflict that erupted in December 2013 has only compounded the problem.
- Unless urgent measures are put in place to ensure greater transparency and accountability over the use of oil revenue, the economic crisis facing South Sudan may ultimately inflict as much damage on the young nation as the war itself.
- South Sudan's petroleum laws are widely considered to reflect many aspects of good practice and provide a starting point for more extensive reforms. However, as with most laws in South Sudan, they remain almost completely unimplemented.
- The Petroleum Revenue Management Bill, 2013, for example, provides for a future generations fund that could ensure that the people of South Sudan enjoy the benefits of the country's oil wealth long after the oil is exhausted. If it were established, the future generations fund could reach as mcuh as $50 billion when existing oil fields run dry 36 years from now.
- In addition to implementation of existing laws, a robust international oversight mechanism can help to ensure that revenue from oil is channeled towards the nation's

development priorities and not squandered on excessive military spending and corruption. South Sudan should draw lessons from other countries' experiences with international oversight mechanisms to design a system suited to the South Sudanese context.

- The conflict that erupted in December 2013 has caused unimaginable suffering and pain for the people of South Sudan, but it has also generated opportunities for reform. The challenge moving forward is to take advantage of the opportunity by working to generate political will and public support for the reform agenda.

Introduction

Long before a brutal conflict erupted in December 2013, South Sudan was already displaying all the telltale signs of the resource curse. Ninety-eight percent of the government's annual operating budget and 80 percent of its gross domestic product (GDP) is derived from oil, making South Sudan the most oil dependent country in the world.[1] Since the government gets all of its revenue from oil, it has little incentive to invest in human resources or promote the development of a middle class that could provide a sustainable tax base.

Conflict is another symptom of the resource curse. Globally, oil-producing countries spend three times more on their militaries than developed countries and ten times more than underdeveloped countries.[2] The 56 percent of annual revenue that South Sudan allocated to military spending in the 2014-15 budget is a testament to this fact.[3] When poverty and trauma from decades of civil war are factored in, the risk of protracted conflict increases. Studies have shown that countries in which resource exports constitute 33 percent or more of GDP have a 22 percent risk of conflict, compared to 1 percent risk for countries with no such exports.[4]

The conflict that has raged for the last year has only made matters worse. Reports from the Ministry of Petroleum and Mining indicate that petroleum production fell to 50 percent of its pre-conflict levels in 2014, before increasing to 169,000 barrels per day, or 70 percent of pre-conflict levels, by the end of the year.[5] At the same time, oil prices on international markets have dropped 60 percent since June 2014.[6] South Sudan has no stabilization mechanism to protect it from fluctuations in international markets, and the drop in oil prices has had a devastating impact on the economy.

A 2012 agreement that South Sudan negotiated with Sudan over the use of the Sudanese pipeline to the Red Sea has further complicated the economic outlook. The amount that South Sudan pays to Sudan was calculated according to oil prices in 2012, and no mechanism exists for adjusting the rate in response to changes in oil prices.[7] This has resulted in huge losses for a country that is confronted with large-scale civil conflict and one of the most serious humanitarian catastrophes in the world. South Sudan is thought to be borrowing desperately to try to compensate for budget shortfalls, but little information is publicly available about the terms of the loans or how the borrowed funds are being used.[8]

Unless urgent measures are put in place to control government spending, ensure greater transparency and accountability over the use of oil revenue, and reign in corruption, the economic crisis facing South Sudan may ultimately inflict as much damage on the young nation as the war itself. If a peace agreement is ever concluded between the warring parties, there will be a strong incentive for the government to channel oil revenue to military forces on either side of the political divide. While some degree of accommodation may be necessary, it would be a mistake to view the buying off of political and military elites as anything other than a short-term measure. In order to consolidate peace and set the country on the road to sustainable growth the medium- to long-term, government spending must be channeled towards the nation's development priorities.

This paper examines different ways in which South Sudan might harness oil revenue as a driver of peace during any transitional period that follows the end of the conflict. The paper is organized in three sections. Section one provides some context on the current situation in South Sudan, including the humanitarian situation, the role of oil in South Sudan's economy, and the prospects for peace in the ongoing mediation effort sponsored by the Intergovernmental Authority for Development (IGAD) in Ethiopia. Section two summarizes the regulatory framework, with a focus on the Petroleum Act, 2012 and the Petroleum Revenue Management Bill, 2013. Section three provides options for South Sudan to consider in building a more transparent and accountable petroleum sector. The conclusion considers the challenges moving forward.

Background Context

The conflict in South Sudan is now more than one year old. Since December 2013, nearly two million people have been displaced, including 1.5 million internally displaced persons (IDPs) and 500,000 that have sought refuge in neighboring countries.[9] Two-and-a-half million people face crisis levels of food insecurity. The conflict has had a particularly devastating impact on children. Children compromise more than half of the displaced population, and more than 235,000 children are thought to be suffering from severe acute malnutrition.[10] Reliable statistics are not available for the number of people killed during the conflict, but the figure is thought to be in the tens of thousands or higher.

Peace talks mediated by the Intergovernmental Authority for Development (IGAD) in Ethiopia have made little progress towards either a permanent ceasefire or a longer-term political settlement. The two warring parties—the Government of the Republic of South Sudan and the Sudan People's Liberation Movement-in-Opposition (SPLM-IO)—have signed a string of agreements to cease hostilities, all of which were violated days or hours after signing.[11] Most recently, on 1 February 2015, the parties signed an agreement entitled, *Areas of Agreement on the Establishment of the Transitional Government of National Unity in the Republic of South Sudan.*[12] The agreement states that the transitional government shall be established no later than 9 July 2015, and that it will have a term of 30 months, preceded by a three-month pre-transitional period. Meanwhile, the fighting continues unabated on the ground.

Regulatory Framework

The regulatory framework for the petroleum sector in South Sudan is drawn from a number of pieces of legislation, including the Transitional Constitution, 2011 and the Petroleum Act, 2012. The Legislative Assembly passed a Petroleum Revenue Management Bill in 2013, but the legislation has stalled awaiting the signature of the president and it is not entirely clear whether government institutions consider it to be applicable law. South Sudan's petroleum laws are widely considered to reflect many aspects of good practice. However, as with most laws in South Sudan, they remain almost completely unimplemented.

Petroleum Revenue Accounts

The Petroleum Revenue Management Bill requires all revenue from oil to be deposited in a single petroleum revenue account. Transfers are to be made from the petroleum revenue account to two accounts: a consolidated fund, from which the national budget is drawn, and reserve funds, consisting of an oil revenue stabilization account and a future generations fund.[13]

According to the Bill, ten percent of annual revenue is supposed to be allocated to the stabilization account, the purpose of which is to act as a "financial buffer" to cushion the economy against volatility in oil revenue.[14] The government can only draw on funds in the stabilization account if quarterly revenue falls below 25 percent of what is required to fund the national budget.[15]

The purpose of the future generation fund "is to provide savings for the long-term and support the welfare of future generations."[16] The Bill requires 15 percent of annual revenue to be allocated towards the future generations fund.[17] Revenue in the future generations fund would not be accessible for five years after the Petroleum Revenue Management Act is signed into law.[18] After five years, the government could withdraw up to five percent of the fund balance per year to invest in "capital investment that shall benefit future generation projects."[19]

Allocation to Communities in Oil Producing Areas

In order to compensate people living in oil producing areas for the environmental and social harms that they have experienced as a result of oil production, the Transitional Constitution requires that two percent of oil revenue be given to oil producing states. The Petroleum Revenue Management Bill reaffirms this two percent to oil producing states, and calls for an additional three percent to go to local government councils in oil producing states. It is not entirely clear in the Bill whether the three percent goes to all local government councils or just those that are on or near oil fields. Table 1 summarizes the revenue distribution as envisaged in the Petroleum Revenue Management Bill, using a rough estimate of four billion dollars for annual oil revenue.[20]

Table 1: Revenue Distribution in Petroleum Revenue Management Bill

Purpose	% Oil Revenue	Average Annual Amount
Consolidated fund	70	$2.8 billion
Future generation fund	15	$600 million
Oil revenue stabilization account	10	$400 million
Oil producing states	2	$80 million
Communities in oil producing areas	3	$120 million
Total	**100**	**$4 billion**

Status of the Petroleum Revenue Management Bill

As noted above, South Sudan has not yet begun implementing the Petroleum Revenue Management Bill. Part of the problem may be traced to certain legal uncertainties regarding the status of the law. The Legislative Assembly passed the Bill in October 2013, but the president never signed the legislation into law. According to the Transitional Constitution, if the president does not sign a bill into law within 30 days after it passes parliament, the bill is deemed to be applicable law.[21] Indeed, in his 2014-15 budget speech to the Legislative Assembly, the then Minister of Finance and Economic Planning referred to the Petroleum Revenue Management Bill as though it were binding law:

> "Under the terms of the Petroleum Revenue Management Act, we are …required to pay …five percent of our oil revenues to oil producing States and communities. The Petroleum Revenue Management Act also requires us to set aside twenty five percent of our oil revenues for the Oil Revenue Stabilisation Fund and the Future Generations Fund. …Given the difficult circumstances we currently face, I consulted with the Council of Ministers on the way forward. The Council decided that our contributions to the Oil Revenue Stabilisation Fund and the Future Generations Funds should be deferred, to enable sufficient funds to be available to finance the budget."[22]

As this quote suggests, the more fundamental problem preventing implementation of the Bill may lie in the political and economic crisis facing the country. Nonetheless, some sort of statement from the executive or legislative branch could help to dispel the uncertainty regarding the current status of the legislation.

Transparency and Accountability

The Transitional Constitution vests ownership of all subterranean natural resources, including oil and gas, in the people of South Sudan. As owners of South Sudan's oil wealth, the people have a right to know the terms under which oil is being produced and sold. Both the Petroleum Act and the Petroleum Revenue Management Bill include strong provisions on transparency and accountability, including requirements for public reporting of contracts, revenue and expenditure data.[23] For example, the Petroleum Revenue Management Bill, if passed in its current form, would require the Ministry of Finance and Economic Planning to publish quarterly and annual records of all petroleum revenues.

The Petroleum Act also requires the Ministry of Petroleum and Mining to publish all exploration and production sharing agreements (EPSAs), and all licenses online and by any other appropriate means. None of this information has been made public to date. The legislation calls for a Petroleum Registry to be established within the Ministry of Petroleum and Mining, which would maintain all agreements, licenses and authorizations and make them available for public review, but more than two years after the legislation was passed, the Registry has not yet been established.

In addition to the opportunities to promote transparency and accountability through national law in South Sudan, there are other international initiatives that could help support these efforts. In December 2011, shortly after independence, the President of South Sudan declared that South Sudan would be seeking membership in the Extractive Industries Transparency Initiative (EITI).[24] It would take many years for South Sudan to become EITI compliant, but this message suggests that the government acknowledges its responsibility to publish data on the oil sector. In the meantime, as the government works towards EITI compliance, the requirements set forth in the Petroleum Act and the Petroleum Revenue Management Bill provide a strong foundation on which to begin building a transparent and accountable petroleum sector.

Policy Considerations

In order transform its oil and gas wealth from a cause of insecurity to a driver of peace, South Sudan must develop mechanisms and processes to more effectively implement its petroleum sector legislation and promote a broader reform process. The subsections below explore some of the relevant issues that would have to be considered in any effort to improve management of oil revenue.

Activating the Future Generations Fund

As noted above, the purpose of the future generation fund is to invest a portion of South Sudan's oil revenue in secure low risk investments so that long after oil fields have run dry, the revenue that has been generated can continue to provide returns. Similar funds have been used in other contexts. The Alaska Permanent Fund, for example, is a trust designed to manage oil revenue on behalf of the state of Alaska. Each year, a portion of the state's oil revenue is set aside to accrue in secure low risk investments, the interest of which is used to provide yearly dividends to state residents.[25] The Fund serves three basic functions: one, it provides an investment base from which to generate future income, so that when oil revenues diminish, a stream of revenue will remain for the state; two, it removes a significant portion of the revenue from government, thereby reducing the opportunity for excessive spending; and three, it takes non-renewable wealth and transforms it into renewable wealth.[26] Reserve funds such as the Alaska Permanent Fund are increasingly being used on the African continent as well, as summarized in Table 2.

Table 2: List of African Reserve Funds[27]

Country	Fund Name	Assets (USD, millions)	Since	Notes
Algeria	Fund for the Regulation of Receipts (FRR)	77,200	2000	Funded by oil and gas profits
Libya	Libyan Investment Authority (LIA)	65,000	2006	Funded by oil and gas profits
Botswana	Pula Fund	6,900	1994	Funded by diamond profits
Angola	Fundo Soberano de Angola (FSDEA)	5,000	2012	7.5% of fund to social projects
Nigeria	Nigeria Sovereign Investment Authority	1,000	2011	Funded by oil profits, flows to 3 funds: Stabilization, Future Generations, Infrastructure Fund
Rwanda	Crystal Ventures	500	2009	Owned by Rwanda Patriotic Front (RPF)
Gabon	Fonds Souverain de la Republique Gabonaise (FSRG)	380	—	Funded by oil profits
Mauritania	Fonds National des Revenus des Hydrocarbures (FNRH)	300	2006	Funded by oil and gas profits
Kenya	—	120	2014	Mining Bill 2013 proposed, 10 billion Ksh initial start-up expected, funded by minerals
Equatorial Guinea	Fund for Future Generations	80	2002	Funded by 0.5% of all oil revenues
Ghana	Petroleum Holding Fund	72	2012	Funded by oil profits, flows to Ghana Heritage Fund and Stabilization Fund
Chad	Oil Revenue Management Plan	—	2003	Created with World Bank, scrapped in 2008
Sao Tome and Principe	National Oil Account	—	2004	If oil discoveries are made, profits will go towards this account
South Sudan	Oil Revenue Stabilization Account, Future Generations Fund	—	2013	Will be funded by oil and gas revenue once legislation is passed
Tanzania	Natural Gas Reserve Fund	—	2013	Funded by gas profits

If effectively implemented, South Sudan's future generations fund could ensure that the benefits of South Sudan's oil wealth are available for people long after the oil is exhausted. Extrapolating from past levels of production and known fields, current projections indicate that known oil reserves may run out in 36 years, without additional finds. If 15 percent of oil revenue, or approximately $600 million, is put into the permanent fund each year, the principle could grow to nearly $50 billion when existing oil fields run dry 36 years from now.

Revenue Oversight Mechanisms

The government of South Sudan has been receiving revenue from oil produced in the country for nearly ten years. In all this time, it has not managed to put in place sound revenue management procedures. There is no reason to believe that a transitional power sharing government established by a peace agreement would succeed where past governments have failed. The negotiating parties should therefore consider the benefits that international oversight mechanisms might offer in ensuring that oil revenue is distributed in accordance with the law and not squandered on excessive military expenditure or lost to corruption.

Part of the challenge in designing such a mechanism is that comparative experiences from other countries do not offer much 'good practice' to draw from. Iraq's oil-for-food program, for example, was established through a series of United Nations (UN) Security Council resolutions and a memorandum of understanding (MOU) between the UN and the government of Iraq in the 1990s. Revenue from the sale of Iraqi oil was paid into an escrow account managed by the French bank, BNP Paribas. A portion of the revenue was used to pay for coalition and UN operations in Iraq and for war reparations to Kuwait. The remainder was given to the Iraqi government to purchase food and other items that were not restricted under the existing sanctions regime.[28] Despite the good intentions, throughout its existence, the oil-for-food program was dogged by allegations of bribery, corruption and kickbacks involving thousands of companies and a number of high profile international politicians.[29]

A revenue management scheme developed by the World Bank and Chad in the late 1990s and early 2000s gave rise to a similar set of complications. In 1999, as a requirement for World Bank financing of its oil pipeline to Cameroon, the government of Chad enacted a Revenue Management Law, which required 10 percent of oil revenue to be deposited in a future generations fund, and channeled the bulk of the remainder to priority sectors such as public health, social welfare, education, infrastructure, rural development and the environment.[30] Oil revenue was deposited in an escrow account at Citibank in London and expenditures were placed under the supervision of a joint government and civil society revenue-oversight committee.

In 2005, amid allegations that revenue was being channeled towards arms purchases rather than investments in priority sectors, the government of Chad decided that the arrangement was too restrictive and eliminated the future generations fund.[31] The World Bank responded by suspending the disbursement of development funds to Chad and placing an automatic freeze on the escrow account. The Chadian president then closed the escrow and channeled future funds into the Bank of Central African States, out of World Bank reach.

South Sudan can draw lessons from these experiences in designing a mechanism that is well suited to the South Sudanese context. The issue has already arisen as a topic for consideration in the IGAD-led peace talks, though the agreements coming out of the process thus far have not provided any details on what such an oversight mechanism might look like.[32] The political implications will also need to be considered, as the transitional government is likely to encounter a strong demand to channel revenue towards the military as a way of rewarding its supporters and appeasing potential spoilers. Robust international oversight over the use of national oil revenue can help to moderate military expenditures and redirect revenue towards humanitarian relief operations and longer-term development priorities.

Moratorium on Oil Contracts

If the parties manage to secure a peace agreement in the coming months, the transitional government will have a difficult task. Over the space of 30 months, the government will have to establish security, resettle displaced populations and ensure humanitarian access, in addition to proceeding with the terms of the political settlement, including the conduct of elections, the constitutional development process, and instituting a program of transitional justice and national reconciliation. The task will be made all the more difficult by the extreme mistrust that exists among the competing factions of the political and military elite.

Due to the complexity of the political landscape and the uncertainty that will characterize the transitional period, there is a high risk that the government could find itself entering into long-term commitments on unfavorable terms with suboptimal partners in the petroleum sector. As the international advocacy organization, Global Witness, recently wrote:

> "The conflict has fragmented systems of authority and undermined democratic structures, heightening the risk of corruption, and creating an extremely unstable investment environment, which is likely to dissuade the most responsible companies and the most favourable deals."[33]

In order to minimize this risk, South Sudan should consider putting in place a moratorium on oil contracts.[34] For the 30 months of the transitional period, the oil sector institutions should focus on bringing the oil fields back to full production and implementing the existing laws. A moratorium would send a signal to international capital that South Sudan is committed to putting its house in order, and creating an environment that appeals to serious businesses interested in socially responsible investments. The moratorium would also demonstrate to the people of South Sudan that the transitional government is going to break with the corrupt and inefficient practices of the past.

Moratoriums have already been used to good effect in other business sectors in South Sudan. When the regionally autonomous government of Southern Sudan was established in 2005, it put in place a moratorium on forest concessions so that it could review concessions entered into during the war and clarify the existing forest law.[35] The Ministry of Petroleum and Mining also put in place a moratorium on mining concessions in 2010 pending the passage of a Mining Act.[36] When the Act was passed in 2013, the Ministry lifted the moratorium. A strong petroleum sector is the key to sustainable peace and long-term prosperity, but South Sudan cannot build such a sector if it enters into long-term obligations based on the short-term demands with which the transitional government will be confronted.

Disbursement of Revenue in Oil Producing States

For the five percent of oil revenue that goes to states and local government councils in oil producing areas, there is an urgent need for some sort of formal structure to manage funds effectively. Current practice is to disperse the funds in lump sum cash payments to local authorities, with little by way of oversight and accountability. These disbursements are not properly accounted for and do little to raise the standard of living for communities residing in oil producing areas.

The use of community trust models may help to promote a more equitable and efficient allocation of these resources at the local level. In a community trust, oil revenue is vested in the community in its collective capacity. A group of trustees is designated to make decisions about the use of the resources for the benefit of local populations. Trustees are bound by a fiduciary relationship and are legally obligated to act solely in the community's best interest.[37] Proceeds are invested back into the community through direct payments to community members or through the financing of development projects designed to meet the particular needs of the community. Through institutional arrangements with local government, community trusts can also help to promote democratic accountability and the incorporation of traditional institutions into the formal system of governance.

At least one community in South Sudan has already started experimenting with the community trust model. In a series of meetings in 2009, the Ngok Dinka of Abyei developed a proposal for a body called the Abyei Common Trust (ACT). The Ngok Dinka got so far as developing a terms of reference for the ACT, which was to serve as a basis for implementing legislation for the body. Unfortunately, the political impasse between the governments of Sudan and South Sudan over the status of Abyei and attacks on the civilian population in 2007-8 and 2011 have prevented the community from moving forward with their plans.

Concluding Remarks

The speed and intensity with which the conflict engulfed South Sudan has made clear that independence was no panacea for war in the country. If South Sudan is to emerge from this crisis and set itself on a path to sustainable peace, a fundamental restructuring of existing social, political and economic systems is required. Such an undertaking requires an ambitious and carefully planned reform agenda.

The aim of this paper is to scope some of the issues that would need to be considered if South Sudan were to harness its oil revenue as a driver of peace and sustainable development. The conflict that erupted in December 2013 has caused unimaginable suffering and pain, but it has also generated opportunities for reform. The challenge moving forward is to take advantage of the opportunity by working to generate political will and public support for the reform agenda.

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[1] Revenue Watch, *Resource Governance Index*: *South Sudan Overview* (2013), *available at* http://www.resourcegovernance.org/countries/africa/south-sudan/overview.

[2] Jason Hickel, 'Constituting the Commons: Oil and development in post-independence South Sudan', in Winderquist Karl and Howard, Mike (eds.), *Exporting the Alaska Model: Adapting the Permanent Fund Dividend for Reform Around the World* (2012), *available at* http://www.academia.edu/1878666/Constituting_the_Commons_Oil_and_Development_in_Postindependence_South_Sudan.

[3] Richard Nield, *South Sudan draws up war budget, but oil production targets unlikely to be reached*, African Arguments (18 Jul. 2014), *available at* http://africanarguments.org/2014/07/18/south-sudans-war-budget-by-richard-nield/.

[4] Paul Collier and Anke Hoeffler, *Greed and Grievance in Civil War*, Policy Research Working Paper 2355, The World Bank, Development Research Group (May 2000), *available at* http://www-wds.worldbank.org/servlet/WDSContentServer/WDSP/IB/2000/06/17/000094946_00060205420011/Rendered/PDF/multi_page.pdf.

[5] Revenue Watch, *supra* note 1.

[6] *Oil: The Big Drop*, Financial Times (3 Feb. 2015), *available at* http://www.ft.com/indepth/living-with-cheaper-oil.

[7] According to the Minister of Petroleum and Mining, South Sudan received $3.376 billion in oil revenue in 2014. Of this amount, $884 million—more than a quarter of its annual revenue—was paid to Sudan for the use of its pipeline to the Red Sea and $781 million was used for repayments of loans, leaving just $1.711 billion to finance the budget. Sudan Tribune, *South Sudan to renegotiate oil fees with Sudan: Official* (31 Jan. 2015), *available at* http://www.sudantribune.com/spip.php?article53840.

[8] According to Jorgic and Blair, as of June 25, South Sudan owed $256 million to China's National Petroleum Corporation (CNPC) and $78 million to Trafigura. They report that the government also had plans to borrow $1 billion from oil firms in 2014/15, or about ¼ of forecast revenues. Drazen Jorgic and Edmund Blair, *South Sudan*

conflict drives idea of oil wealth monitoring, Reuters (1 Aug. 2014), *available at* http://www.reuters.com/article/2014/08/01/us-southsudan-security-oil-idUSKBN0G145520140801.

[9] United Nations Office for the Coordination of Humanitarian Affairs (UN OCHA), *South Sudan Crisis: Situation Report No. 70* (22 Jan. 2015), *available at* http://reliefweb.int/sites/reliefweb.int/files/resources/South_Sudan_Crisis_Situation_Report_No_71_as_of_23_January.pdf.

[10] United Nations Children's Fund (UNICEF) website, South Sudan summary, *available at* http://www.unicef.org/appeals/south_sudan.html.

[11] Intergovernmental Authority on Development (IGAD), Agreement on Cessation of Hostilities Between the Government of the Republic of South Sudan (GRSS) and the Sudan People's Liberation Movement/Army (in Opposition) (SPLM/A in Opposition) (23 Jan. 2014), *available at* http://www.sudantribune.com/IMG/pdf/signed_agreement_cessation_of_hostilities_.pdf; IGAD, Recommitment on Humanitarian Matters in the Cessation of Hostilities Agreement Between the GRSS and the SPLM/A in Opposition) (5 May 2014), *available at* http://cewarn.org/attachments/article/252/Recommittment%20to%20Humanitarian%20Matters%20of%20COH,%205%20May'2014.pdf; IGAD, Agreement to Resolve the Crisis in South Sudan, Addis Ababa (9 May 2014), *available at* http://www.sudantribune.com/IMG/pdf/agreement_to_resolve_the_crisis_in_south_sudan.pdf.

[12] IGAD, Areas of Agreement on the Establishment of the Transitional Government of National Unity (TGoNU) in the Republic of South Sudan (1 Feb. 2015) [hereinafter Areas of Agreement], *available at* http://www.gurtong.net/LinkClick.aspx?fileticket=reaNmg1rToQ%3d&tabid=124 .

[13] The two reserve funds were initially called for in the Transitional Constitution. Article 176 states: (1) The National Government oil revenue shall derive from the net oil revenue after payment to the Oil Revenue Stabilization Account and the two percent payment to the oil producing states in accordance with this Constitution. (2) An Oil Revenue Stabilization Account shall be established from government oil net revenue derived from actual export sales above an agreed benchmark price. The benchmark price will be established annually as part of the national budget. (3) The National Government shall establish a Future Generation Fund from its share of net oil revenue. Transitional Constitution, § 176 (2011), *available at* http://www.sudantribune.com/IMG/pdf/The_Draft_Transitional_Constitution_of_the_ROSS2-2.pdf.

[14] Petroleum Revenue Management Bill, § 13, 14 (2013) [on file with author].

[15] *Id.*, § 15(1).

[16] *Id.*, § 13(5).

[17] *Id.*, § 14(4).

[18] *Id.*, § 15(3).

[19] *Id.*, § 15(4)(d).

[20] Revenue in 2014 was reported at $3.38 billion, despite considerable losses due to the conflict and the drop in oil prices on international markets. *South Sudan oil revenue at $3.38 blm, hit by conflict and price falls*, Reuters (3 Jan. 2015), *available at* http://www.reuters.com/article/2015/01/03/southsudan-crude-idUSL6N0UI02D20150103.

[21] Transitional Constitution, § 85(1).

[22] Aggrey Tisa Sabuni, Minister of Finance & Economic Planning, *2014-2015 Budget Speech*, Presented to the National Legislature (25 Jun. 2014), *available at* http://www.grss-mof.org/wp-content/uploads/2014/07/Budget-speech-2014-15.pdf.

[23] Global Witness, *Blueprint for Prosperity: How South Sudan's New Laws Hold the Key to a Transparent and Accountable Oil Sector* (Nov. 2012), *available at* http://www.globalwitness.org/library/blueprint-prosperity-how-south-sudans-new-laws-hold-key-transparent-and-accountable-oil.

[24] Revenue Watch, *supra* note 1.

[25] The Alaska Constitution sets the amount of revenue dedicated to the Alaska Permanent Fund at 25 percent of the yearly oil revenue. This leaves 75% available for appropriation by the state legislature. Alaska Constitution, Art. IX, § 15.

[26] Allan A. Warrack & Russell R. Keddie, *Alberta Heritage Fund vs. Alaska Permanent Fund: A comparative analysis* (2001), at 8.

[27] Investment Frontier, *List of African Sovereign Wealth Funds* (13 Dec. 2013), *available at* http://www.investmentfrontier.com/2013/12/20/list-african-sovereign-wealth-fund-2013/.

[28] United Nations, Office of the Iraq Programme, About the Oil-for-Food Programme, *available at* http://www.un.org/Depts/oip/background/.

[29] Paul A Volcker, Richard J. Goldstone and Mark Pieth, *The Management of the United Nations Oil-for-Food Programme: Volume I – The Report of the Committee*, Independent Inquiry Committee (7 Sep. 2005), *available at* http://news.bbc.co.uk/2/shared/bsp/hi/pdfs/08_09_05_volume1.pdf; The Economist, *Rolling Up the Culprits: The UN's Oil-for-Food Scandal* (13 Mar. 2008), *available at* http://www.economist.com/node/10853611.

[30] Ian Gary and Nikki Riesch, *Chad's Oil: Miracle or Mirage? Following the Money in Africa's Newest Petro-state*, Catholic Relief Services (CRS) and Bank Information Center (BIC) (Feb. 2005), *available at* http://internationalbudget.org/wp-content/uploads/Chads-Oil-Miracle-or-Mirage.pdf.

[31] *Id.*

[32] In July 2014, Smail Chergui, the African Union's Commissioner for Peace and Security was quoted as saying, "This is one of the points of the agenda that has been put forward by IGAD negotiators, that is the management of national revenue and national resources. When the two parties will achieve that level of advancement in the negotiations, this (agreement) might come. It has the support of the international community." Jorgic and Blair, *supra* note 8.

[33] Global Witness, *South Sudan: The Call for a Moratorium on New Oil Contracts* (Jun. 2014), *available at* http://www.globalwitness.org/library/south-sudan-call-moratorium-new-oil-contracts.

[34] *Id.*

[35] David K. Deng, *The New Frontier: A baseline survey of large-scale land-based investment in Southern Sudan*, Norwegian People's Aid (NPA) (Mar. 2011), *available at* http://www.commercialpressuresonland.org/research-papers/new-frontier-baseline-survey-large-scale-investment-southern-sudan.

[36] David Deng, Paul Mertenskoetter and Luuk van de Vondervoort, *Establishing a Mining Sector in Postwar South Sudan*, United States Institute of Peace (USIP) (Apr. 2013), *available at* http://www.usip.org/publications/establishing-mining-sector-in-postwar-south-sudan.

[37] Trustees are bound by a number of legally enforceable rules. They must act with undivided loyalty to beneficiaries. Unless authorized to act otherwise, trustees must preserve the corpus of the trust. It's okay to spend income, but not too diminish principal. Trustees must ensure transparency by making timely financial information available to beneficiaries. Peter Barnes, *Capitalism 3.0: A Guide to Reclaiming the Commons* (2006), at 83.