



THE SENTRY

Untapped and Unprepared

Dirty Deals Threaten
South Sudan's Mining Sector

April 2020

THE
TAKING
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SUDAN

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Table of Contents

Executive Summary	1
Invitation to Exploitation	4
Beneath the Battlefield: Mineral Development During Conflict	12
Indications of Possible Money Laundering	19
Recommendations	20

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Executive Summary

South Sudan's mining sector has seen rapid development in recent years, and preliminary reports suggest that the industry could become an engine for major economic growth. However, ineffective accountability mechanisms, an opaque corporate landscape, and inadequate due diligence have exposed the sector to abuse by bad actors within South Sudan's ruling clique. The Sentry has found that existing laws have proven insufficient bulwarks against abuse, raising concerns that the country's mineral wealth could do little more than spur the kind of violent competition that has ravaged the oil sector.

Although South Sudan took welcome steps to reform the mining sector in 2012, some government officials, their relatives, and their close associates have fostered a weak regulatory environment susceptible to exploitation. In one example of how the privileged few have apparently exploited kleptocratic arrangements, President Salva Kiir's daughter partly owns a company with three active licenses, while another company with three licenses lists former Vice President James Wani Igga's son as a shareholder. Ashraf Seed Ahmed Hussein Ali, a businessman commonly known as Al-Cardinal who was placed under Global Magnitsky sanctions in October 2019, reportedly owns the company currently holding the greatest number of licenses.¹ In the gold-rich region of Kapoeta, state government officials have begun issuing licenses independently of the central government. Meanwhile, the military has developed problematic mining interests in an effort to address budgetary shortfalls.

In order to shield the mining sector from exploitation by corrupt actors in the top echelons of government, a variety of stakeholders must take swift action to bolster its transparency, accountability, and oversight standards. South Sudan should enforce and enhance existing laws, as well as empower oversight institutions and include civil society in the process. Companies seeking to do business in the country should adopt industry best practices, particularly by disclosing information about ongoing due diligence efforts, public payments, and human-rights sensitive security policies. Government bodies in the United States and the United Kingdom should implement policies that encourage responsible investment in South Sudan's mining sector. International financial institutions should conduct enhanced due diligence and transaction reviews, as well as ongoing screening and monitoring.

Key findings

Failing oversight or accountability. Unimplemented accountability and oversight mechanisms prevail in South Sudan's mining sector, despite its robust legal framework. The artisanal mining sector remains de facto informal. A dearth of information surrounding the approvals process, public payments to the government, and community agreements further illustrates the inadequacy of existing transparency measures. An opaque licensing process in the mining sector has eroded the public trust, impaired key accountability mechanisms, and facilitated corruption.

Mining in conflict zones. Many exploration licenses have been awarded in active conflict zones, precluding meaningful engagement with affected communities and amplifying the threat of interference by armed actors.



Armed groups seeking to finance their operations informally control other sites. Similarly, the South Sudanese army holds an interest in some mining companies.

Mining companies owned by the president's inner circle. Memoranda and articles of incorporation reviewed by The Sentry reveal that politically exposed persons—both Kiir's close associates and lower-level ministers—have held shares in no fewer than 32 South Sudanese companies established to extract minerals. Similarly, a number of companies that received provisional gold dealing licenses in 2016 were controlled by politically exposed persons, including Lawrence Lual Malong Yor Jr. and current Deputy Defense Minister Malek Reuben Riak Rengu, who was placed under sanctions by the United States and the United Nations (UN). Lual has claimed family ties to former army chief of staff Paul Malong Awan, though the exact nature of their relationship is unclear. The lack of public registers disclosing the owners of mining companies and the process by which they received mining licenses raises significant questions about who benefits from the development of South Sudan's mineral wealth.

Indications of possible money laundering. Reports of illicit mining activity, smuggling, corruption, and theft across South Sudan's nascent mining sector reveal signs of possible money laundering. In some cases, license applications were approved within days of receipt, raising concerns about the Ministry of Mining's screening and deliberative processes. Children have been identified as shareholders in two companies actively exploring for gold, a possible contravention of the 2012 Mining Act's provision against titles held by minors, and the governor of Eastern Equatoria has allegedly funneled the proceeds of South Sudanese mining operations into luxury real estate in Kenya.

Analysis

Weak transparency and accountability frameworks have left South Sudan's mining sector vulnerable to exploitation, raising significant concerns about the government's willingness to oversee responsible development.

Rapid development in a high-risk environment. Since the revitalized peace agreement was signed in September 2018, South Sudan's Ministry of Mining has escalated its efforts to draw foreign investment into this burgeoning sector. However, the industry remains highly susceptible to the violent competition, corruption, and mismanagement that have marred South Sudan's oil sector and heretofore rendered peace elusive. Illicit mining activities are inflaming tensions in Eastern Equatoria, the army holds interests in exploration licenses, and opposition groups informally control artisanal mining sites. These factors have fueled violent competition over the country's resource wealth, underscoring the need for immediate reforms.

Recommendations

If the development of South Sudan's mineral wealth is to enjoy a better fate than the oil sector, its government must swiftly implement and enforce regulatory frameworks that encourage corporate transparency, ethical business practices, and responsible engagement with affected local communities. The Sentry makes the following recommendations, the full text of which appears at the end of this report.



South Sudan

- **Create a public register disclosing beneficial ownership.** Key company ownership information remains inaccessible to the public. This veil of secrecy has facilitated significant acts of corruption in South Sudan over the past decade, such as the multimillion-dollar “Dura Saga” grain swindle and the widespread mismanagement of the government’s \$922 million letters of credit program. A regularly updated public online register would serve as a vital accountability tool for anti-corruption advocates, civil society, and political parties. Moreover, such a move would encourage legitimate investment and demonstrate the government’s commitment to building a more transparent system.
- **Conduct a retroactive audit of the mining sector.** Numerous red flags in South Sudan’s mining sector highlight the country’s susceptibility to state capture. In order to assess the effectiveness of the process of awarding licenses to technically competent, legitimate enterprises, the Ministry of Mining should hire an independent external party to retroactively audit all mining companies currently operating in South Sudan. The ministry should further investigate the beneficial owners of mining companies and determine whether politically exposed persons have unfairly profited.

United States

- **Issue responsible investment reporting requirements.** The US Department of State should encourage responsible engagement in South Sudan’s mining sector by implementing investment reporting requirements for US persons. Much as it did in Myanmar, the agency should require companies to file publicly available reports detailing their due diligence, community engagement, human rights, anti-corruption, and environmental efforts within their operations and policies. These reports should focus on how companies are implementing the UN Guiding Principles on Business and Human Rights (UNGPs), the Organisation for Economic Co-operation and Development (OECD)’s Due Diligence Guidance for Responsible Sourcing of Minerals from Conflict-Affected and High-Risk Areas, Voluntary Principles on Security and Human Rights, Extractive Industries Transparency Initiative (EITI), and other similar frameworks and initiatives.
- **Issue a public advisory listing typologies and enhanced due diligence measures.** Recognizing that the US Department of the Treasury’s Financial Crimes Enforcement Network (FinCEN) has issued two anti-money laundering (AML) advisories referencing political corruption in South Sudan,² the United States should consider issuing an update or a separate advisory sharing with financial institutions the latest methods and trends used to launder the proceeds of illegal mining and the extractives industry. The advisory should recommend that financial institutions undertake enhanced due diligence measures.
- **Expand US sanctions authorities.** South Sudan’s conflict dynamics have evolved significantly since then-US President Barack Obama issued EO 13664 in 2014. The US president should issue a new executive order, or amend EO 13664, to provide additional authorities for targeting illicit financial activity.
 - **Update sanctions designation criteria to include family members.** The current order should be amended to permit the designation of individuals who are the spouses or dependent children of (i) any person whose property and interests in property are blocked pursuant to EO 13664 or (ii) any South Sudanese person blocked pursuant to EO 13818.



- **Target captured business sectors.** A new executive order should limit or prohibit US persons from conducting business with foreign persons who are active in key sectors of South Sudan's economy that are captured by regime elites, including the mining and oil industries. Business prohibitions or requirements to report publicly on due diligence measures could emanate from this effort.

United Kingdom and European governments

- **Issue a public AML advisory to financial institutions warning about the extractives industry's corruption risks.** The UK's National Crime Agency and relevant national authorities across continental Europe should issue public AML advisories on corruption in the extractives sector, citing the risks of laundering the proceeds of corruption in oil, gold and other natural resource sectors requiring licenses. In order to assist financial institutions in updating their customer due diligence and ongoing monitoring frameworks, an advisory should include typologies and red flags identifying methods that bad actors could use to siphon illicit funds out of South Sudan. These advisories would complement the alert issued by the NCA in February 2020 on illicit money flows related to South Sudanese political corruption.



Invitation to Exploitation

Presidential links and politically exposed persons

In August 2016, a mining company owned by South Sudanese President Salva Kiir's then 20-year-old daughter Winnie received its first two licenses to explore in mineral-rich areas of Central and Eastern Equatoria, according to the Ministry of Mining's online repository of mining licenses, or cadaster.^{3,4} Conflict raged in those zones at the time. Six weeks after Fortune Minerals and Construction Ltd received its license near the town of Mundri, South Sudan's army launched a sustained military campaign in the area, destroying healthcare centers,⁵ committing mass rapes,^{6,7} and forcibly displacing tens of thousands of people in the months that followed.⁸ The United Nations Commission on Human Rights found that sexual violence in South Sudan had reached "epic proportions," documenting a "staggering" 61% jump in reported sexual or gender-based violence cases between 2015 and 2016.^{9, 10} In March 2017, Mundri was singled out as "the epicenter of the problem."¹¹



In March 2016, President Salva Kiir's 20-year-old daughter Winnie formed a mining company alongside several Chinese investors.

Although The Sentry has seen no indication that Fortune Minerals' acquisition of mining rights triggered escalating violence in Mundri and the surrounding area, this mining deal illustrates broader challenges to South Sudan's mineral sector. The public lacks access to key details about transactions related to license allocations, despite the existence of a public mining registry listing each recipient company. Neither the terms of license acquisitions nor the payments that companies have made are publicly available, and vital information regarding firms' beneficial owners or controllers remains inaccessible. Poor transparency raises the risks of corruption. In this

opaque landscape, a company owned by the president's daughter received the rights to exploit South Sudan's natural resources without ever disclosing her involvement or how much she and her business partners may have paid to the government.

The Sentry's review of corporate records revealed that Fortune Minerals is just one example of how the relatives of parliamentarians, presidents, vice presidents, and other members of South Sudan's elite political circles have benefited from the country's opaque *modus operandi* in natural resource development. Although The Sentry could identify the shareholders of only 20 of the 40-some mining companies currently licensed for exploration, several of them included the family members or associates of individuals holding prominent public posts. Politically exposed persons (PEPs) such as these draw attention from government watchdogs because they occupy positions that "can be abused for the purpose of committing money laundering (ML) offences and related predicate offences."¹²

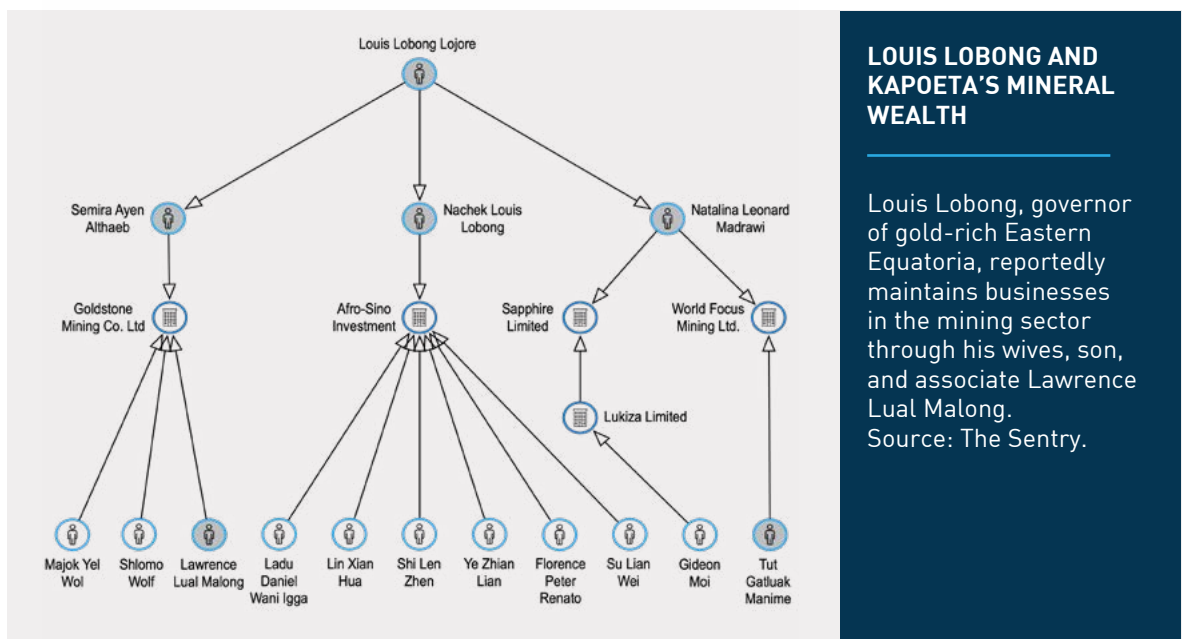
Although key information on corporate structures is not publicly disclosed, documents reviewed by The Sentry indicate that Winnie Salva Kiir was listed as an 11% shareholder in Fortune Minerals, a Chinese-owned



company with three active exploration licenses.¹³ Similarly, the son of former Vice President James Wani Igga, Emmanuel Maring Wani Igga, was listed as a 4% shareholder of Manajem Company Ltd, a company exploring for minerals in three licenses across the Equatorias.¹⁴ Agyedho Adwok Nyaba, daughter of then-Minister of Higher Education, Science, and Technology Peter Adwok Nyaba, was listed as a 50% shareholder of Consolidated Minerals & Energy Resources in 2012.¹⁵ CMERIC was the only company to successfully renew its bid in South Sudan after the 2010 moratorium on exploration licenses was lifted; it currently holds one license in Central Equatoria.

The lack of transparency present in these license acquisitions amplifies challenges to the responsible development of South Sudan’s burgeoning mining sector. The absence of a public register listing company shareholders lies at the heart of transparency concerns and undermines scrutiny about those profiting from mineral development. Key oversight institutions, such as the National Audit Chamber, lack the capacity, autonomy, and access necessary to fulfill their mission and mandate. The Ministry of Mining regularly allocated licenses for areas plagued by violence during the ongoing civil war, effectively undermining the ability to meaningfully obtain free prior and informed consent from the local community, as recommended by best practices. These trends tilt the playing field in favor of those with strong political and military connections. Armed opposition groups who profit from the illicit mineral trade, namely by selling gold in neighboring Uganda, informally control other mining sites, especially artisanal mines.¹⁶

There are also indications that government officials with significant discretion over the mining sector may have benefited financially from South Sudan’s minerals. Since becoming governor of gold-rich Eastern Equatoria state in May 2010, Louis Lobong Lojore has developed ties to numerous businesses through his relatives. The wives of this former brigadier general, Semira Ayen Althaeb and Natalina Leonard Madrawi, as well as his son, Nachek Louis Lobong, all have held shares in companies established for the purposes of mineral extraction.^{17, 18, 19, 20} One of these firms, Goldstone Mining Co. Ltd is linked to Lawrence Lual Malong Yor Jr. This controversial figure has claimed family ties to former army chief of staff Paul Malong Awan, which



LOUIS LOBONG AND KAPOETA'S MINERAL WEALTH

Louis Lobong, governor of gold-rich Eastern Equatoria, reportedly maintains businesses in the mining sector through his wives, son, and associate Lawrence Lual Malong. Source: The Sentry.



Malong has denied.^{21, 22} Upon its incorporation in August 2015, Goldstone listed Semira Ayen Althab as an 11% shareholder.²³ While Goldstone does not hold any active licenses, the company reportedly acquired a provisional gold dealer's license from the Ministry of Mining on January 27, 2016.²⁴ Photos posted online by Lual show two of Goldstone's shareholders—himself and Shlomo Wolf—standing alongside Lobong on a trip to purportedly visit mining sites in Kapoeta. According to several sources with direct knowledge of Kapoeta's mineral development, Kapoeta South County Commissioner Martin Lopir Lotubai also has personal interests in gold.²⁵

In July 2015, several members of South Sudan's parliament accused Lobong of corruption and petitioned, albeit unsuccessfully, for his removal from office.²⁶ The Sentry has identified a home in Nairobi owned by Lobong. Situated within a gated community of the upscale Karen neighborhood, the house includes more than eight bedrooms and a detached building for staff or guests. The property is valued at more than \$1 million—which raises questions about how the governor can afford this asset, considering his modest government salary.



The Sentry identified an eight-bedroom home in Nairobi's upscale Karen neighborhood as one of Lobong's properties. Photo: The Sentry.



























Recipients of provisional gold dealers' licenses from the Ministry of Mining have also been linked to PEPs. All Energy Investment Ltd., a company controlled by current Deputy Defense Minister Malek Reuben Riak Rengu, who has been placed under US and UN sanctions, received a license in 2016.^{27, 28} Other recipients were JPL Gold & Diamond Co. Ltd and Gold Stone Mining Co. Ltd, companies in which Lawrence Lual Malong held 17% and 10% of shares, respectively.^{29, 30, 31}




Additionally, The Sentry identified dozens of South Sudan-registered mining companies with ties to PEPs, but the government has yet to make public key information about their ownership structures, activities, and open applications for licenses.



Who Benefits?

Multiple mining companies incorporated in South Sudan have been linked to politically exposed persons, often alongside military officials or foreign officials. However, key information about these companies has not been disclosed, undermining public scrutiny. Source: The Sentry.

GI Mining and Minerals Corporation Ltd	Goldstone Mining Co. Ltd	All Energy Investments Ltd
 Arop Trading & Investment Co. Ltd  Anok Salva Kiir Mayardit, <i>President Salva Kiir's daughter</i>  MD Star Venture Co. Ltd  Hejar Senina for Trading & Investment Co. Ltd	 Semira Ayen Althaeab, <i>Governor Louis Lobong Lojore's wife</i>  Lawrence Lual Malong Yor, Jr, <i>self-proclaimed relative of Paul Malong Awan</i>  Shlomo Wolf  Majok Yel Wol	 Malek Reuben Riak, <i>Office of the President</i>  Riak Malek Reuben Rengu, <i>Malek Reuben Riak's son</i>  Gumwil Malek Reuben Riak, <i>Malek Reuben Riak's son</i>  Gor Malek Reuben Riak, <i>Malek Reuben Riak's son</i>  Henry Malek Reuben Riak, <i>Malek Reuben Riak's son</i>
Bawei Energy & Mining Co. Ltd	Pan-African Petrogas & Mining Company Ltd	Prime Energy & Mining Ltd
 Ajok Wol Atak, <i>Paul Malong Awan's wife</i>  Adhal A.A. Awan  Bol Aguer Dock Aguer, <i>Stephen Dhieu Dau's nephew</i>  Garwec Nyok Kekui Nyok  Edwin Paul Baba	 Ajok Wol Atak, <i>Paul Malong Awan's wife</i>  Garwec Nyok Kekui  Adhal A.A. Awan  Bol Aguer Dock Aguer, <i>Stephen Dhieu Dau's nephew</i>	 Bol Madut Chol, <i>National Security Service</i>  Emmanuel M. Ayuel  Halima Hassan Jallab  Alek Malek Madut
Sky Mineral Co. Ltd	Juba Mining Co. Ltd	Beek Mining and Petroleum Ltd
 Platinum Mile International Ltd  Bright Star International Corporation Limited	 Moses M.T. Malual, <i>director general, Ministry of Health</i>  Valerii Copeichin	 Robert Anei Salva, <i>Salva Mathok Gengdit's son</i>  Abdi Nyabure Guyo
World Focus Mining Ltd		
 Natalina Leonard Madrawi, <i>Governor Louis Lobong's wife</i>  Tut Gatluak Manime, <i>President Salva Kiir's security advisor</i>		

-  Shareholder is a politically exposed person
-  Shareholder is not a politically exposed person
-  Company has links to politically exposed persons
-  Company has no links to politically exposed persons



International investors have also formed companies alongside individuals closely linked to senior government officials, with Fortune Minerals being one such example. Some of these companies have yet to obtain licenses. Chinese national Su Lian Wei has held shares in mining companies alongside Louis Lobong Lojore's son, Nachek Louis Lobong, and John Okech Okello Okech, an administrator in the office of the vice president who the UN Panel of Experts has identified as a colonel in the NSS's General Intelligence Bureau.^{32, 33, 34, 35} Valerii Copeichin, a Moldovan national who the UN named as a facilitator of arms deals to South Sudan in 2016, held shares in Juba Mining Company Ltd., alongside Ministry of Health Director General Moses M.T. Malual.^{36, 37}

Failing oversight and accountability

The opacity of South Sudan's mining sector allows wealth to remain concentrated in the hands of a select few with political or military connections. Thorough, legitimate oversight requires scrutiny at every step of the sector's supply chain and relies upon the public disclosure of competitive tender processes, beneficial ownership structures, and active applications for licenses—all of which are currently lacking in South Sudan. The government has squandered billions of dollars in natural resource revenue. The oil sector, which accounts for 98% of government revenue, has been marked by widespread accusations of graft, negligence, and mismanagement.^{38, 39, 40} Violent competition over control of this wealth had cost an estimated 383,000 lives by April 2018.^{41, 42, 43} The burgeoning mining sector has the potential to reduce South Sudan's reliance on oil and spur economic development.⁴⁴ However, without substantial changes to the regulatory framework surrounding the mining sector and its accountability mechanisms, development of the country's mineral wealth may merely inflame conflict and corruption.

The opacity of South Sudan's mining sector allows wealth to remain concentrated in the hands of a select few with political or military connections.

Although little infrastructure exists to facilitate large-scale mining enterprises, artisanal and small-scale miners (ASM) have successfully operated across South Sudan for decades. As a resilient branch of the informal economy, ASM has played a critical role in financially supporting thousands of South Sudanese people, particularly in the midst of a civil war and economic crisis.⁴⁵ While intermittent conflict has prevented systematic assessments of the sector, efforts in the 1970s "successfully identified a number of mineral deposits, including gold, copper, lead, zinc, nickel, marble and various rare earth metals," according to the US

Institute of Peace.⁴⁶ Moreover, the country's proximity to regions of Uganda and the Democratic Republic of Congo rich in natural resources further substantiates claims of its vast mineral deposits. Larger-scale operations may therefore be highly profitable.^{47, 48} Accelerated development of South Sudan's mineral wealth could reduce the country's dependence on oil and support a more diversified—and thus, stable—economy.

When the government of pre-independence Southern Sudan began inviting foreign investment in mineral development in 2005,⁴⁹ the largely unregulated sector suffered from mismanagement, abuse, and a general state of jurisdictional confusion.⁵⁰ Sitting government officials sought licenses that violated constitutional restrictions on their commercial engagements,⁵¹ members of the military entered negotiations with foreign companies to cultivate independent revenue streams,^{52, 53} and the Ministry of Mining granted multiple companies exclusive access to the same plots of land.⁵⁴ The situation deteriorated until the Legislative Assembly imposed a moratorium on all mineral licenses in 2010.⁵⁵



Nearly two years later, Kiir signed the 2012 Mining Act into law, lifting the moratorium and inviting foreign investment back into the newly independent country.⁵⁶ Chief among its aims was the sector's formalization, requiring that all prospective companies or artisanal miners apply for licenses with the Ministry of Mining. At the time, the measure was hailed for its inclusion of several progressive initiatives, including its stated goal of achieving Extractives Industry Transparency Initiative (EITI) compliance.⁵⁷ However, watchdog organizations such as Cordaid identified numerous deficiencies in the new framework, specifically vague regulatory authorities and the absence of meaningful enforcement mechanisms.^{58, 59} In an effort to assuage outstanding concerns about legal ambiguities and shortcomings, the South Sudanese Legislative Assembly passed additional regulations in 2015 that established firmer protocols for licensing and mineral title processes.⁶⁰ The Ministry of Mining also launched an online cadaster in partnership with a reputable land-mapping company that same year.⁶¹ After several months-long gaps, the portal has been updated regularly since March 2019. Although critical, these measures have proven insufficient and have fallen well short of compliance with international transparency frameworks such as EITI.

Although the Mining Regulations of 2015 provide for a Mining Committee authorized to oversee competitive public tenders of mining licenses, a first-come, first-served policy remains in effect.⁶² The Sentry could find no evidence that the Mining Committee has supervised any public tenders in South Sudan. As Brigadier General Pagan Ocayi Tipo, a senior official in the Ministry of Defence and director of MED Construction for Development Co. Ltd, told The Sentry, "there is no competition" for mining licenses.⁶³ A consultant active in the sector similarly indicated that the ministry accepts most applications for licenses, as long as companies pay the requisite fees.⁶⁴

Given the already fragile state of the economy in corruption-plagued South Sudan, due diligence measures on potential investors prove all the more critical.

While common in the mining industry, these types of policies contribute to opacity and encourage exploitation.⁶⁵ In South Sudan, companies owned by individuals with little demonstrable experience in the mining sector have obtained licenses as a result.⁶⁶ Additionally, according to an Ebony Center risk assessment, neither Kano for Trading and Investment nor 4MB Mining had employed geologists to advise their small-scale operations, raising concerns that license recipients lack the technical competence required to carry out operations as required by the Mining Act of 2012.^{67, 68} The approval of MED Construction's licenses, despite glaring inconsistencies in the company's prospecting program and project propos-

al, serves as a third example.^{69, 70} Lastly, the government has swiftly approved some applications, which could suggest questionable due diligence practices.^{71, 72} For example, Guangxi Gui Zhong Mining Co. Ltd obtained a gold exploration license on June 12, 2019, just seven days after it submitted its application.⁷³ In another case, one of Alcardinal Mining Ltd's licenses received approval on June 10, 2018, only one day after the company applied.⁷⁴

Given the already fragile state of the economy in corruption-plagued South Sudan, due diligence measures on potential investors prove all the more critical. Government and international investors alike must take steps to encourage transparency, due diligence, and adherence to the rule of law in order for the country's mineral wealth to benefit anyone beyond political elites and their close associates.



Case study in Kapoeta

Several of the institutional failures that the 2012 Mining Act attempted to resolve have been reproduced as a consequence of state and local authorities' management of mineral resources.⁷⁵ In Kapoeta, which some operators label "Nugget Territory," mining companies seeking access to land have found that they must "pay twice," first with the central government—as is mandated by the 2012 Mining Act—and then with the state government.⁷⁶ Payments to the latter are illegal. One such instance involved New Kush Exploration & Mining Company Ltd, which has offices in the United Kingdom and South Africa.⁷⁷ An individual with direct knowledge of New Kush's experiences in Eastern Equatoria told The Sentry that local authorities have demanded as much as \$2,000 per year in recent years, compared to a required \$100 payment in the first year a company begins operations on an Eastern Equatoria license.⁷⁸

Moreover, companies whose licenses do not appear on the official cadaster have been operating in the southeastern Kapoeta region in recent years, local residents and mining company personnel told The Sentry.⁷⁹ Several persons active in Kapoeta's mineral development indicated that these companies have received exploration rights directly through the state, rather than through an application with the Ministry of Mining.⁸⁰ Whether these companies are operating outside the established legal framework, or whether the Ministry of Mining has simply omitted these operations from its online cadaster, the result is problematic. The state government is either—knowingly or not—permitting illegal mining to take place, or the national government is failing to disclose the activities of all mining companies that currently hold or have applied for licenses in South Sudan. In 2018, residents reported observing a company known as either Mega Wild Project or Omega World Wide exploring in the area. However, neither the national mining cadaster nor the think tank Ebony Center for Strategic Studies' 2019 risk assessment contain any mention of a company by either of these names receiving a mining license in South Sudan.^{81, 82} No such company appears on the corporate registry, and The Sentry was unable to confirm any beneficial owners or directors. Additionally, an individual close to the matter indicated that the company had been exploring on land awarded to New Kush Exploration & Mining Co. Limited.^{83, 84} According to people with knowledge of New Kush's operations, state Governor Louis Lobong granted these exploration rights to Mega Wild independently of the national mining authority. When

New Kush reported the incursion to the Ministry of Mining, however, neither Juba nor Kapoeta acknowledged any wrongdoing.⁸⁵ Similarly, Fortune Minerals, the company partly owned by Kiir's daughter Winnie, was also observed exploring within New Kush's license.⁸⁶

Apart from failing to clarify and enforce national and state actors' administrative roles and duties, the Mining Act of 2012 inadequately addresses information sharing between stakeholder groups.

Apart from failing to clarify and enforce national and state actors' administrative roles and duties, the Mining Act of 2012 inadequately addresses information sharing between stakeholder groups. Mining companies fail to communicate with communities affected by their operations, residents told The Sentry, which contradicts extractives industry best practices that require formalized processes for community development agreements.⁸⁷ Other sources close to

the matter noted that foreign investors have conducted initial sampling in mineral-rich communities, only to never return.⁸⁸ This conduct has amplified skepticism toward foreign investment, particularly in instances where companies promised jobs and mining-related opportunities to communities. The same has held true for the relationship between the national government and locals, which a source from Kapoeta characterized



as “very poor,” a consequence of officials reportedly lining their own pockets with government funds intended to finance desperately needed infrastructure, schools, and medical facilities.⁸⁹ On some occasions, residents opposed to foreign investment have reported receiving threats from government officials or military leaders.^{90, 91}

Persistent challenges to the formalization of ASM

In addition to establishing processes for the acquisition of exploration and large-scale mining licenses, the Mining Act of 2012 attempted to formalize activities in the ASM sector by requiring all prospective miners to procure a license.⁹² However, the resources required to apply for a license are prohibitively high for many communities dependent on artisanal mining for support.⁹³ Existing law does not reflect progressive standards such as the Code of Risk Mitigation for ASM engaging in Formal Trade (CRAFT), exposing the sector to illicit activity. Nearly all ASM in South Sudan thus occurs without a license, technically violating the Mining Act.⁹⁴ Additionally, the government in Juba exerts little control over ongoing enterprises.⁹⁵ In some cases, criminal networks have exploited this vacuum, seizing control of artisanal sites to finance their operations.⁹⁶ In April 2019, Mining Minister Gabriel Thokuj Deng publicized changes to South Sudanese law regarding ASM operations, which had previously required title holders to be South Sudanese and had prohibited the use of large-scale machinery or automation.⁹⁷ Deng said the new protocol would allow “business and investors to use bigger-scale equipment to boost the mining” in what he called a “small-scale zone” surrounding the capital.⁹⁸ It was not immediately clear whether this policy was a formal amendment to existing South Sudanese law, given the absence of publicly available documentation.

Regardless, several licenses granted before Minister Deng’s 2019 announcement appear to be held by non-South Sudanese nationals, including near the president’s military compound close to Luri, on the outskirts of Juba.⁹⁹ Notably, Alcardinal Mining Ltd, identified by the Ebony Center as a Sudanese company, holds one small-scale license in the area and is reportedly owned by Sudanese national Ashraf Seed Ahmed Hussein Ali.¹⁰⁰ Widely known as Al-Cardinal, he was designated by the US in October 2019 for conduct consistent with sanctions criteria under the Global Magnitsky Act.¹⁰¹

South Sudan has also failed to protect the land on which artisanal mining takes place. A 2019 study of mining enterprises in the resource-rich area of Gorom, just outside of Juba, found that a “lack of coordination among regulatory bodies, inadequate research, ineffective community participation, cumbersome and lengthy processes in registering small-scale mines, and lack of environmental education and awareness creation have been recognized as a contributory factors (*sic*) to the persistent environmental devastation caused by mining in South Sudan.”¹⁰² The findings conflict with the Ministry of Mining’s stated objectives of “the development and sustainable utilization of the minerals potentials in South Sudan... the restoration of land and resources affected by mineral development,” and “socially and environmentally assessed” mining and exploration projects.¹⁰³



Beneath the Battlefield: Mineral Development During Conflict

In order to examine the relationship between active mining sites and conflict in South Sudan, The Sentry overlaid data from the Armed Conflict Location and Event Data Project (ACLED), a disaggregated data collection and conflict mapping initiative, with South Sudan's online mining cadaster portal. The Sentry found that the overwhelming majority of areas in which mining licenses were ultimately awarded experienced significant conflict in the months (and in some cases, days) leading up to the license's allocation. The Ministry of Mining awarded 29 of the 70-some licenses currently active in South Sudan during periods of intense fighting in 2015 and 2016. The intermittent conflict has foreclosed sustained operations and raised concerns about engagement with local communities. Apart from the major escalation of conflict in and around Fortune Minerals' Mundri license zone, widespread cattle raids in Boma state, the area where Alcardinal Mining had applied for exploration rights, resulted in the reported destruction of 700 dwellings and the "massive displacement" of the local population just two weeks before the company's application was approved.¹⁰⁴ Major armed clashes also took place, including between the army and the Sudan People's Liberation Movement in Opposition (SPLM-IO), in the area in Torit eventually awarded to Manajem Company Ltd.¹⁰⁵

Many of these zones also experienced significant violence after licenses were awarded, prompting several companies to declare *force majeure* and leading the government to delay the start of gold mining until 2017.¹⁰⁶ In 2015, Epic Exploration, an Australian company with three active licenses, said the unstable security environment prevented the company from exploring in its Upper Nile license areas.¹⁰⁷ Two years later, "an offensive by South Sudanese militia... curb[ed] operations of the few juniors active in the south of the country," according to the Africa Mining Intelligence journal.¹⁰⁸ As an example, The Sentry found 102 reported instances of violence in New Kush Exploration & Mining's two active concessions through quantitative analysis of ACLED data. Civilians were hurt in at least 27 of those cases. One individual who worked for New Kush recalled that three major attacks took place during exploration, ultimately leading the company to freeze operations.¹⁰⁹ Given that threats of violence and insecurity permeate much of South Sudan's mining sector, the international guidelines known as the Voluntary Principles on Security and Human Rights could provide critical guidance for companies on how to mitigate potential risks associated with engaging security forces.

Military mining interests

Documents reviewed by The Sentry show that South Sudan's military controls a series of companies, several of which have been involved in the mining sector. For example, a company controlled by the Ministry of Defense—Mobile Engineering Dynamics (MED) Construction for Development Co. Ltd.—holds two gold exploration licenses and another for small-scale mining in the Gorom area just west of Juba.^{110, 111, 112} A second military-controlled company, SASS Energy Ltd., has also been linked to the project.¹¹³ South African investors and South Sudan's army established SASS as a joint venture in 2013.¹¹⁴ At one point, SASS held two licenses that were ultimately revoked because the company failed to make required payments, according to its representative, Brigadier General Pagan Oanyi Tipo.¹¹⁵

The military has also reportedly engaged in joint ventures in the mining sector with foreign companies. Several of these firms have active licenses. In 2010 and 2013, Bright Star International established joint



ventures with foreign companies from Ethiopia and South Africa.¹¹⁶ South Sudanese generals hold shares in Bright Star, suggesting de facto ownership by the Ministry of Defense. Australian company Epic Exploration launched two joint ventures with South Sudan's military prior to commencing operations, according to a 2015 report by the US Institute of Peace.¹¹⁷ An American company incorporated in Delaware in 2017, 4MB Mining, Ltd., entered into a joint venture with South Sudan's Military Intelligence.^{118, 119}

Between January 2018 and January 2019, MED Construction, one of several commercial entities controlled by the Defense Ministry's Directorate of Military Economic Corporation, received three licenses from the Ministry of Mining.^{120, 121} In response to questions from The Sentry, Tipo, who heads military production at the directorate, said that his office oversees this company and several others, including Bonga Transport Company Limited.¹²² MED Construction's listed shareholders are all directors within the directorate, Tipo told The Sentry by telephone. In addition to himself, they include Dau Aleer Abit, Deng Solomon Leek, Baak Ayuel Madut, and Majok Mayen Deng.¹²³ Most of the shareholders are senior army officials. MED Construction's shares ultimately "belong to the Ministry of Defense," the brigadier general said.¹²⁴ However, the company's May 2017 incorporation records give no indication that the Defense Ministry has a controlling stake. "The government cannot actually be involved in conducting business" in South Sudan, Tipo explained.¹²⁵ "So the branch of Military Economic Corporation, actually it is a branch that is authorized by the ministry to conduct business on behalf of the Ministry of Defense. The name of the Ministry of Defense cannot come in."¹²⁶ MED Construction's ambiguous status parallels military business interests in Myanmar, where private companies owned and run by military officers and other government officials have been major players in the mining industry.¹²⁷ Such obfuscation undermines public scrutiny of the Ministry of Defense's business interests and raises concerns about the reporting and oversight of ministry revenues.

Additionally, the transactions surrounding MED Construction's licenses raise questions about the government's ability to account for revenue generated by the mining sector and military-affiliated businesses. Payment for the mineral licenses went to a commercial bank account, rather than the central bank or Finance Ministry, according to Tipo, who said MED Construction paid around \$27,000 for the licenses it currently holds.¹²⁸ In order to finalize its acquisition, the company deposited the money into an account at a South Sudanese commercial bank and then delivered the receipt to the Ministry of Mining's cadastral department.¹²⁹ Defense Minister Kuol Manyang Juuk established the Directorate of Military Economic Corporation in order for the army to "generate money of its own," according to Tipo.¹³⁰ The brigadier general stated that any revenue generated by the directorate's businesses would serve to purchase uniforms, train troops, and fill other institutional needs.¹³¹ This practice ultimately creates an extra-budgetary pool of funds that may not be subject to scrutiny by key oversight bodies, including Parliament, the auditor general, and the Anti-Corruption Commission.

When asked about the process by which MED Construction acquired its mining licenses, Tipo said that the company "developed an application composed of 200 pages."¹³² MED then submitted the application to "the Ministry of Mining, [which] went through the application, checking all the details," he added. "When they got everything in place, they issued the license."¹³³ Although Tipo said that the full application file was too large to share with The Sentry, he provided copies of what he said were several of the proposals submitted with the company's application. A close review of those files raises several concerns about the company's functional capacity, as well as the Ministry of Mining's assessment of MED Construction's application. Documents addressing the company's environmental and community impacts are vague or appear to have been largely copied from other sources. As an example, MED Construction's Environmental Management Plan appears to



be a slightly modified version of an outline of the same name by South African company Fundudzi Consulting, available on the South African Heritage Resources Agency’s website.¹³⁴ The documents share a similar format and structure, along with many of the same headings.¹³⁵ Several tables appear nearly identical. Notably, both texts reference the same legislation: South African laws, such as the Mine Health and Safety Act of 1996 and a government notice from 2011, neither of which is applicable in South Sudan. An examination of document metadata further indicates that both MED Construction’s proposal and the South African Heritage Resources Agency file have been named “C Hoek 210.”¹³⁶ The file uploaded to the South African Heritage Resources Agency was created on February 24, 2017, more than two years before MED Construction was incorporated.

REPUBLIC OF SOUTH SUDAN
MINISTRY OF PETROLEUM AND MINING

ENVIRONMENTAL MANAGEMENT PLAN

Applicant: MED CONSTRUCTION FOR DEVELOPMENT CO.LTD

Mineral: Gold ore
Date: March 2018

Surface water:
There is Natural River which runs within the proposed prospecting area and few man made dams. Surface water will only be required for dust suppression. Storm water will be controlled and managed.

Ground water:
Water sustainability revolves around quality and quantity issues. Increasing demand place an increasing strain on natural water bodies. Water resources depletion and pollution is a threat to environmental degradation and thus social –economic conflicts deterioration and hence poverty propagation. Due to limited rainfall received surface water sources are very scarce. The Currently the six boreholes are serving a population of 3,600 people, as well as their livestock..

Air quality:
The air quality is essentially unpolluted but is can be disturbed by the movement of heavy earthmoving equipment which can generate dust and cause nuisance and health implication to workers and people living nearby. The prospecting operation will ensure that the dust suppression method is implemented.

Noise:
The surrounding areas are such as tractors and trucks. **The proposed operation will comply with the provisions of the Mine Health and Safety Act, 1996 (Act 29 of 1996)**
with ear plugs. All Prospecting vehicles will be equipped with silencers and maintained in a road worthy condition.

Sites of archaeological and cultural interests:
No sites of archaeological or cultural interest were identified.

Protected Areas:
There are no protected areas near the site or within 20 km. **The site is not within any threatened ecosystem as per government notice 1002 of 2011.**

Project motivation:
Prospecting sector contributes significantly to the economy. It is one of the major employers. Mineral exploration is required in order to sustain and also to increase the

MED Construction’s Environmental Management Plan bears striking similarities to a South African mining company’s environmental management plan. Both documents also cite the same South African laws, despite the fact that they hold no force in South Sudan. Photos: The Sentry.

Another document, MED Construction’s 20-page project proposal, listed activities inconsistent with those authorized by the Ministry of Mining. According to the cadaster, MED Construction only received approval for gold exploration. However, the proposal identifies diamond drilling as the company’s “principal prospecting activity.”¹³⁷ Several pages later, Imbawula Mining Pty Ltd., a South African mining company with no known activity in South Sudan, is listed as the company conducting exploration.¹³⁸ “Before any diamond drilling work commences,” the report states, “Imbawula Mining Pty Ltd will consult with the registered surface rights owners and notify them of the company’s intentions to prospect within their land/area.”¹³⁹ When asked whether MED Construction had ever sought a relationship with Imbawula Mining, Tipo said, “this company is new to



me... We don't have any connection with that company."¹⁴⁰ He similarly confirmed that MED Construction was licensed to explore for gold, not diamond.¹⁴¹

Tipo indicated that MED Construction lacks the finances to commence its exploration program, which raises concerns about the Mining Ministry's scrutiny of mining applications.¹⁴² In some cases, licenses have been "revoked because they [companies] failed to pay money," he added. The Mining Act of 2012 states that "an Exploration License Title Holder shall be a company, duly incorporated, or registered as a company, under the Companies Act 2012 or its successor legislation that has the technical competence and financial ability to fulfil the License obligations."¹⁴³ Tipo called this requirement "important." However, he added, the "Ministry of Mining does not ask people to put the money so that they know there is money in an account."¹⁴⁴ MED

Construction's proposed work program budgeted \$2.16 million to be "funded by Liketh Investments (Proprietary) Limited."¹⁴⁵ However, Tipo stated that the company had yet to receive anticipated startup capital from the government.¹⁴⁶ When asked whether MED Construction had ever received funding from Liketh Investments, Tipo stated, "never, never at all. I don't know that company."¹⁴⁷

South Sudan
The companies Act 2012
Statement of particulars required for Registration.
Pursuant to the same Act

A. The name: SKY MINERALS CO. LTD
B. The general nature of the business: Mining Company
C. The principal place of the business: Juba
D. All other places at which the business is carried out: All over South Sudan
E. The following particulars in the case of an individual and in the case of a firm of each of the individuals who are partners or members of the firm.

Full name	Nationality	Residence	Other business/occupation
BRIGHT STAR INTERNATIONAL CORPORATION LIMITED Represented By Pagan Ocayi Tipo	South Sudanese	Juba	Business
PLATINUM MILE INTERNATIONAL LTD Represented By Garang Diing Majok	South African	Juba	Business

I, Pagan Ocayi Tipo, Representing BRIGHT STAR INTERNATIONAL CORPORATION LIMITED, declare that the above statements are true to the best of my knowledge.

Dated at Juba this _____ day of _____, 2013

Sign: _____
Firm Signature and date:
Address:

Before me:

Philips Anyang Ngong
Advocate



2

There are also indications of National Security Service (NSS) involvement in South Sudan's mining sector. On February 14, 2019, MED Construction received an authorization from the Taxation Branch of the NSS's Internal Security Bureau, which stated that the "company is dully (sic) cleared and deserves all assistance it needs for business Operation."¹⁴⁸ That document was classified as "Top Secret."¹⁴⁹ Tipo explained that this document was a tax clearance, and that it is essential for all companies operating in South Sudan, not just mining companies. According to Tipo, members of the National Security Service are "employed within the Revenue Authority" to monitor company operations.¹⁵⁰ Additionally, an individual active in South Sudan's mining sector described an instance in which an NSS officer came to the mining site where he was working, detained him, and confiscated minerals he had recently

South Sudanese Brigadier General Pagan Ocayi Tipo has been listed as a director or representative of several mining companies established in South Sudan. Photo: Sky Minerals Co. Ltd. articles of incorporation, July 3, 2013.



unearthed, claiming it was SUDD Security's right to sell them.¹⁵¹ Reflecting on the experience, he said: "At the end of the day, someone is just sitting there [ready to] take it away from me for no reason. It is very painful."¹⁵²

Recurring violence disrupts not only mining operations but also transparency, inhibiting key oversight mechanisms and hampering any potential for free, prior, and informed consent (FPIC). When towns become battlegrounds and civilians are caught in the crossfire—as has been the case throughout South Sudan's civil war—they are unable to effectively dialogue with mining stakeholders. Any war crimes at the hands of state forces in a given community—particularly state forces previously known to hold local financial interests—further impede local engagement with government representatives. FPIC can play an essential role in conflict risk mitigation, but its effectiveness depends on the lack of armed conflict. A forcibly displaced community cannot engage with mining firms, while security risks often prevent company staff from visiting affected communities. Additionally, the absence of a safe, well-maintained road system leaves mining sites generally inaccessible, preventing journalists and government members from visiting them. As then-Commerce Minister Stephen Dhieu Dau was quoted as saying in September 2012, the voice of "civil society is of utmost importance in the fight against corruption in the oil and mining sector."¹⁵³

Opposition groups and security threats

Even with a peace agreement in place, violence still plagues mining companies operating in South Sudan and hinders sustained operations. The lack of security personnel to protect mining sites has discouraged international investment. Non-state armed groups and criminal networks deliberately target natural resources, including legitimate active mining sites. A shortage of police forces compounds these threats to legitimate enterprises. Without a sufficient police force to monitor the security of active mining sites, companies have enlisted the military, the National Security Service (NSS), or local guards for protection. These practices have taken place without public disclosure, exposing the sector to possible improper interference from armed groups.

In an April 2019 appeal to investors, Mining Minister Gabriel Thokuj Deng said the government would deploy an additional 1,000 police officers to active sites.¹⁵⁴ It is unclear whether the force would be sufficient, particularly in National Salvation Front (NAS) strongholds. In May 2019, the UN Panel of Experts on South Sudan reported strong evidence that armed factions, particularly the SPLM-IO and NAS anti-government rebels, control artisanal mining sites across Central, Western, and Eastern Equatoria.¹⁵⁵ According to the UN Panel, NAS forces had "mined gold and taxed civilian gold miners around Lobonok, around Wondoruba and along the Luri River" to draw revenue streams that could be used to support continued military operations.¹⁵⁶ Representatives of both militant groups confirmed their involvement in "occasional artisanal gold mining," and stated that they have taxed "civilians who mined gold in areas they controlled," according to the panel.¹⁵⁷ Although the panel noted that civilians were often coerced into supporting such operations, the national government has accused them of freely colluding with rebel forces. In December 2018, Kiir described residents of Lobonok as rebel sympathizers, stating, "You know very well that they are here. They are involved in gold mining."¹⁵⁸

In addition to mining activity disruptions caused by protracted conflict, "criminal networks who do not hesitate to use violence" control some artisanal mining sites in Kapoeta, according to Cordaid, a development group that published an extensive study of South Sudan's mining sector in 2016.¹⁵⁹ Heavily armed personnel operate on



numerous mining sites in South Sudan. In some cases, police officers provide protection alongside soldiers, while the army alone is present in others.^{160, 161} According to a former contractor for a company involved in mineral exploration in Kapoeta, employees used to enlist “local paramilitary police... county intelligence guys, if there is such a thing in South Sudan,” to travel safely to mining sites from Northern Turkana in neighboring Kenya.¹⁶² Other sources have corroborated this claim, noting that the NSS had barred access to Kapoeta’s Vaka artisanal mining site in 2015.¹⁶³



Indications of Possible Money Laundering

Several red flags for money laundering indicate that potential fraud, waste, and abuse mar South Sudan's mining sector. Minors have been listed as shareholders for two mining companies with active licenses. Individuals who have held public positions, or who have close ties to such individuals, hold others. The 35% shareholder of Jok Bell International Trading Co. Ltd was six years old when the company received its exploration license in March 2016, according to company documents.¹⁶⁴ In another instance, the Ministry of Mining awarded an exploration license in the mountainous terrain of Eastern Equatoria to Harmony International Company in February 2018.¹⁶⁵ A six-year-old child held 31% of the company's shares at the time its license was awarded, according to the company's articles of incorporation.¹⁶⁶ The Ebony Center's July 2019 risk assessment found that the same company also received a provisional gold dealers' license in May 2016.¹⁶⁷

Harmony International shareholder Ring Bulebuk Manyiel Akier denied that a child had held any shares in the company and stated that the age listed on Harmony's incorporation records was a typing error. When asked why one of the company's other shareholders, Ajak Abuk, signed on this individual's behalf on all of the company's internal documents, Akier indicated that Abuk was this individual's aunt and that she acted as his registered agent. Harmony International did not provide documentation confirming that its shareholders were all at least 18 years old. Akier shared documents with The Sentry illustrating that, in June 2017, the individual transferred 30% of his shares to Mohamed Haroun Adam, and 30% of his shares to Akier, reducing his own percentage of shares to 31%. Harmony International applied for and received its license in 2018.

In other examples, companies with active licenses are associated with individuals previously named in connection with fraud or other acquisitive crimes.¹⁶⁸ The company with the greatest number of mining licenses in South Sudan as of February 2020 is Alcardinal Mining Ltd, a business whose reported owner is a Sudanese national who is a close associate of political elites in both Sudan and South Sudan.^{169, 170} Al-Cardinal has been embroiled in two multimillion-dollar military procurement scandals and multiple instances of fraud across various jurisdictions over the past decade.¹⁷¹ In October 2019, the US Treasury Department placed him under sanctions in accordance with the Global Magnitsky Act for having "materially assisted, sponsored or provided financial, material or technological support for, or goods or services to or in support of, corruption."¹⁷² Yet the company he reportedly founded holds seven active licenses across Luri, Kapoeta, and Jonglei, including one close to the president's military compound near Luri.

Luckyfriends Trading and Construction Co. Ltd., which currently holds one exploration license and two small-scale gold licenses in the country, illustrates the critical need for greater due diligence across the sector. John Idris Lemi and Sam Lukudu own Luckyfriends, which began mineral development activities in 2015 after a previous focus on government procurement.^{173, 174, 175} The company was named in the Dura Saga scandal, which involved the theft of hundreds of millions of dollars intended to procure sorghum for food-insecure communities. In the aftermath of the Dura Saga debacle, the World Bank and United Nations Office on Drugs and Crime's joint's Stolen Asset Recovery Initiative (StAR) identified Luckyfriends as a major recipient of contracts.¹⁷⁶ Ministry of Finance documents indicate that Luckyfriends was blacklisted as a supplier with "severe documentation issues" and identified as having received payments unrelated to any contract on file in the Ministry of Finance and Economic Planning.¹⁷⁷ StAR concluded that either the paperwork existed but could not be located, the files were irrecoverably dilapidated due to poor storage facilities, or a fraudulent payment was issued.¹⁷⁸



Recommendations

The Sentry recommends that relevant parties leverage financial pressure on South Sudan and that the government make a variety of structural changes to encourage responsible mineral wealth development.

United States

Issue Responsible Investment Reporting Requirements for US companies wishing to invest in South Sudan's extractives industries. The US Department of State should encourage responsible engagement in South Sudan's mining sector by implementing investment reporting requirements for US persons. Much as it did in Myanmar, the agency should require companies to file publicly available reports detailing key information about their operations and policies related to due diligence, community engagement, human rights, anti-corruption efforts, and environmental issues, focusing on how companies are implementing the UN Guiding Principles on Business and Human Rights (UNGPs), OECD Due Diligence Guidance for Responsible Sourcing of Minerals from Conflict-Affected and High-Risk Areas, Voluntary Principles on Security and Human Rights, Extractive Industries Transparency Initiative (EITI), and other similar frameworks and initiatives.

Issue a public advisory listing typologies and enhanced due diligence measures. Recognizing that FinCEN has issued two anti-money laundering (AML) advisories referencing political corruption in South Sudan,¹⁷⁹ the United States should consider updating financial institutions on methods and trends used to launder the proceeds of illegal mining and the extractives industry. In order to assist financial institutions in updating their customer due diligence and ongoing monitoring frameworks, an advisory should include typologies and red flags identifying methods employed by bad actors to siphon illicit funds out of South Sudan. The advisory should also recommend that financial institutions undertake enhanced due diligence measures, including identifying all parties to transactions involving South Sudan's extractives industries and conducting supply chain due diligence to guard against forced labor, including child labor. Financial institutions should require information confirming the completion of environmental risk assessments and adherence to due processes in cases where land was evacuated for resource extraction and licensing processes. Additionally, financial institutions should request information about the length of time taken to obtain mining and exploration licenses, consult the official cadaster maintained by the Ministry of Mining to validate active titles, and identify conflicts of interest between companies and government entities.

Expand US sanctions authorities. South Sudan's conflict dynamics have evolved significantly since then-US President Barack Obama issued EO 13664 in 2014. The US president should issue a new executive order, or amend EO 13664, to provide additional authorities for targeting illicit financial activity.

- **Update sanctions designation criteria to include family members.** The current order should be amended to permit the designation of individuals who are the spouses or dependent children of (i) any person whose property and interests in property are blocked pursuant to EO 13664 or (ii) any South Sudanese person blocked pursuant to EO 13818.
- **Target captured business sectors.** A new executive order should limit or prohibit US persons



from conducting business with foreign persons who are active in key sectors of South Sudan's economy that are captured by regime elites, including the mining and oil industries. Business prohibitions or requirements to report publicly on due diligence measures could emanate from this effort.

United Kingdom and European governments

Issue a public AML advisory to financial institutions warning about risks of corruption in the extractives industries. The UK's National Crime Agency and relevant national authorities across continental Europe should issue public AML advisories on corruption in the extractives sector, citing the risks of laundering the proceeds of corruption in oil, gold, and other natural resource sectors for which licenses must be awarded. In order to assist financial institutions in updating their customer due diligence and ongoing monitoring frameworks, an advisory should include typologies and red flags identifying methods employed by bad actors to siphon illicit funds out of South Sudan. The advisory should also recommend that financial institutions undertake enhanced due diligence measures, including identifying all parties to transactions involving South Sudan's extractives industries and conducting supply chain due diligence to guard against forced labor, including child labor. These advisories would complement the alert issued by the NCA in February 2020 on illicit money flows related to South Sudanese political corruption. Financial institutions should require information confirming the completion of environmental risk assessments and adherence to due processes in cases where land was evacuated for resource extraction and licensing processes. Additionally, financial institutions should request information about the length of time taken to obtain mining and exploration licenses, consult the official cadaster maintained by the Ministry of Mining to validate active titles, and identify conflicts of interest between companies and government entities.

Law enforcement. UK law enforcement should use relevant powers to investigate individuals with a UK nexus who are involved in the potentially unlawful procurement and operation of mining licenses, particularly under relevant anti-money laundering and bribery legislation. UK law enforcement should also seek to freeze or seize money and property obtained with illicit finances flowing from the South Sudanese mining sector, specifically using Unexplained Wealth Orders and Account Freezing Orders.

Sanctions. The UK should use its nascent autonomous sanctions regime to prioritize South Sudan and, in particular, issue network sanctions designations against actors and associated entities it deems to be involved in corruption.

South Sudan

Create a public register disclosing beneficial ownership. Key company ownership information remains inaccessible to the public. This veil of secrecy has facilitated significant acts of corruption in South Sudan over the past decade. A public online register—free to access and updated in real time—would serve as a vital tool to anti-corruption advocates, civil society, and political parties in demanding accountability from their leaders. Moreover, such an effort would demonstrate the government's commitment to building a more transparent system, a critical step in encouraging legitimate investment.



Conduct a retroactive audit of the mining sector. Numerous red flags in South Sudan's mining sector highlight the country's susceptibility to state capture. The Ministry of Mining should retroactively audit all mining companies currently operating in South Sudan to assess the effectiveness and legitimacy of the process of awarding licenses to technically competent, legitimate enterprises. The ministry should further conduct an inquiry into the beneficial owners of mining companies and determine whether politically exposed persons have unfairly profited. Following the moratorium implemented as part of the Kimberley Process, a government-led certification initiative to clean up the diamond trade, independent audits have been required prior to resuming certified exports.

Empower oversight institutions to enforce existing laws. Oversight institutions should be supported in their efforts to monitor licensing processes and mining operations throughout the country. The Mining Committee responsible for approving license applications should be provided with the findings of previous investigations into cases of grand corruption, including the Dura Saga and letters of credit investigations. The government should expand the authorities of the Independent Boundaries Commission (IBC) to manage natural resource use in the country, following the FPIC guidelines for land and natural resources issues.¹⁸⁰ As part of its mandate, the IBC would flag labor abuse, gender inequality, environmental degradation, and other illegal practices that may be perpetrated in affected communities.¹⁸¹ Over time, this enforcement should lead to the development of a National Action Plan by South Sudan to implement the UNGPs, as Kenya recently announced, and a national money laundering risk assessment, as Uganda released in 2017.^{182, 183, 184} Civil society should also be included in oversight efforts in order to mitigate issues such as opaque licensing procedures, approvals, and public payments. The 2012 Mining Act reflects a top-down approach in which the government initiates, directs, and approves all processes, including granting licenses, compensation, and oversight of environmental issues. The State Mineral Resource Advisory Coordination Committees, which play a critical role in the approvals process, should expand their membership to include independent civil society organizations, think tanks, community members, and researchers. Furthermore, the committee in charge of mining activities in the National Legislative Assembly should be allowed to directly consult with civil society on mining issues for an independent perspective.

Financial institutions

Employ enhanced due diligence, enhanced ongoing monitoring, screening, and transaction reviews. An abundance of money-laundering red flags and the widespread involvement of PEPs stresses the need for financial institutions to take additional steps to identify accounts held or beneficially owned by South Sudanese PEPs, their relatives, or their known close associates. Institutions should also implement enhanced screening, enhanced ongoing monitoring, and transaction reviews to identify, investigate, and report potentially suspicious financial activity related to South Sudan.¹⁸⁵

Update global policies with risk indicators. International financial institutions should review their transaction and red flag systems to ensure the typologies of corruption and money laundering typical to South Sudan are effectively reflected. Additionally, in jurisdictions that have not already done so, international financial institutions should add South Sudan as a country representing heightened risk of money laundering and corruption to their global AML policies. This should be done to trigger enhanced due diligence (i) at customer onboarding, (ii) for all deals involving South Sudan or South Sudanese PEPs, and (iii) for business relation-



ships and transactions. Critically, institutions should ensure that heightened levels of due diligence and risk assessments do not lead to wholesale de-risking of South Sudanese accounts. The use of typologies and risk indicators can ensure that institutions are performing focused due diligence without harming risk-free South Sudanese individuals and entities.

Mining companies and investors

Conduct due diligence sensitive to corruption and human rights risks and report on the results.

Companies operating in South Sudan's mining sector should conduct ongoing due diligence consistent with the UNGPs and OECD's due diligence guidance for responsible mineral supply chains, with particular attention to identifying and mitigating risks associated with bribery, money laundering, and the direct or indirect support of public or private security forces and non-state armed groups. Companies should report publicly on the results of this due diligence through formal reporting requirement mechanisms that may be developed by the US or other governments or, absent any such mechanisms, through their websites.

Implement the Voluntary Principles on Security and Human Rights. Ongoing violence across South Sudan has prompted some companies to employ security personnel at their mining sites. Mining companies active in South Sudan should commit to observing domestic laws as well as international standards for the promotion of human rights, especially those delineated in the Universal Declaration of Human Rights. To that end, they should implement the international guidelines known as the Voluntary Principles on Security and Human Rights, identifying and mitigating risks borne of engagement with South Sudan's security forces.

Encourage the formalization and improvement of artisanal mining activities. Under existing South Sudanese law, the active artisanal and small-scale mining sectors remain largely informal, and local operations are technically illegal. As a multistakeholder initiative, the Code of Risk Mitigation for ASM Engaging in Formal Trade (CRAFT) encourages responsible engagement between the ASM sector and the gold industry, supporting miners in addressing sectoral risks with buyers, traders, refiners, and downstream companies.

Report on contracts with and payments to the South Sudanese government. Revenue transparency is a critical tool in the fight against corruption. Although South Sudan is not a member of key initiatives in this area, such as EITI and the Open Contracting Partnership, companies can implement the principles of these efforts and report publicly on payments made to the government and publish contracts and concessions received.



Endnotes

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- 4 South Sudan Ministry of Justice, “Memorandum and Articles of Association of Fortune Minerals & Construction Ltd,” March 23, 2016.
- 5 ACLED data indicates that on October 18, 2016, the Sudan Tribune reported on the suspected killing of at least four people by SPLA soldiers, who also reportedly “looted and destroyed several primary health care centers in Bari, Medwu, Bangolo, Kotobi, and Karika in Mundri West counties.” See: Armed Conflict Location & Event Data Project (ACLED), South Sudan Data Set, available at: <https://www.acleddata.com/data/>
- 6 ACLED data indicates that on September 9, 2016, the Sudan Tribune reported on the Sudan People’s Liberation Army in Opposition’s (SPLA-IO) reported denunciation of “alleged rapes ongoing in the area [of Mundri East] by SPLA forces.” See: Lacha Community and Economic Development, “Inter-Agency Needs Assessment: Mundri West, Mundri East and Mvolo Counties—WES,” October 2016, available at: <http://www.lachalced.org/index.php/media/lced-downloads/20-greater-mundri-assessment-report-oct-2016/file>
- 7 Sam Mednick, “Rape Reaches ‘Epidemic Proportions’ in South Sudan’s Civil War,” Associated Press, March 25, 2017, available at: <https://apnews.com/0ed9bcdbb4d641ddae1184babbf4fef>
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- 10 United Nations Commission on Human Rights, “Report of the Commission on Human Rights in South Sudan,” March 6, 2017, p. 8, available at: https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session34/Documents/A_HRC_34_63_AEV%20-final.docx
- 11 See note 7. For more on sexual and gender-based violence in Mundri, see also note 8.
- 12 Financial Action Task Force, “Politically Exposed Persons (Recommendations 12 and 22),” June 2013, available at: <http://www.fatf-gafi.org/media/fatf/documents/recommendations/Guidance-PEP-Rec12-22.pdf>
- 13 See note 4.
- 14 South Sudan Ministry of Justice, “Memorandum and Articles of Association of Manajem Company Ltd,” January 27, 2016.
- 15 South Sudan Ministry of Justice, “Memorandum and Articles of Association of Consolidated Minerals and Energy Resources Investment Company Limited,” June 2007.
- 16 United Nations Security Council, “Final Report of the Panel of Experts on South Sudan, Submitted Pursuant to Resolution 2428 (2018),” April 9, 2019, pp. 36-37, available at: <https://www.undocs.org/S/2019/301>
- 17 South Sudan Ministry of Justice, “Memorandum and Articles of Association of Goldstone Mining Co. Ltd,” July 21, 2015.
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