

SOUTH SUDAN: CIVIL UNREST AND STATE REPRESSION

HUMAN RIGHTS VIOLATIONS
IN WAU, WESTERN BAHR EL
GHAZAL STATE

AMNESTY
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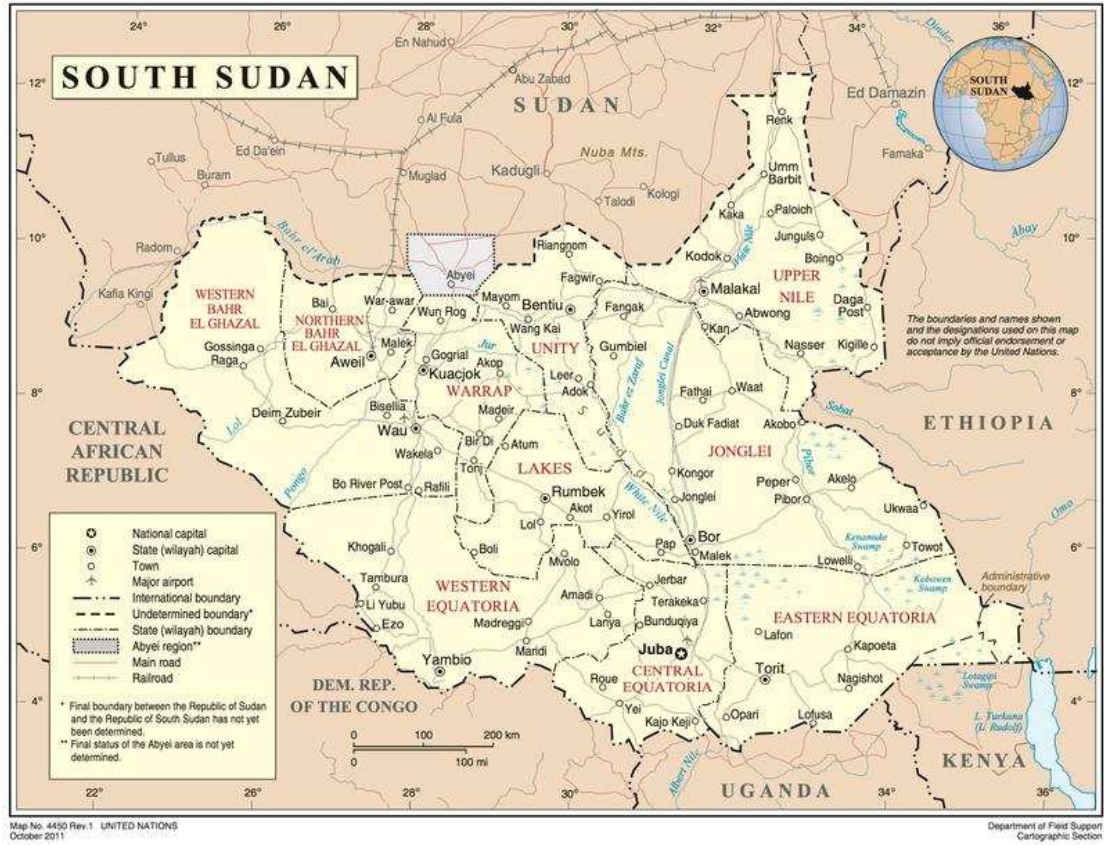
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MAP OF SOUTH SUDAN



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1. INTRODUCTION

Twenty-four people were killed and more than 60 injured in Wau, the capital of South Sudan's Western Bahr El Ghazal State, in December 2012. The deaths and injuries occurred during protest actions and reprisal attacks following a decision by the state government to relocate Wau County headquarters from Wau to Bagari, 19km away. Eleven deaths were at the hands of state security officers, who opened fire on protestors, while 13 deaths were the result of inter-ethnic clashes that broke out after the killing of the protestors.

Between December 2012 and February 2013, the state authorities also arrested scores of people considered to be opponents of the state government. These include members of the state legislative assembly, civil servants, civil society activists, journalists and members of "youth groups".¹

This briefing focuses on human rights violations committed by the authorities, including the security forces, in Western Bahr El Ghazal State between December 2012 and January 2013. It is based on research carried out by Amnesty International in Juba, the capital of South Sudan, and Wau, the capital of Western Bahr El Ghazal State, from 28 January to 14 February 2013, including a mission to Wau from 4-11 February 2013. Amnesty International delegates interviewed both national and state government officials, including the Governor of Wau; Wau County Legislative Assembly; and members of the security forces including the South Sudan Police Service (SSPS), South Sudan Armed Force, known as the Sudan Peoples' Liberation Army (SPLA), the Wildlife Forces, and the Prison Service. The National Security Service (NSS) in Wau refused to meet with Amnesty International. Interviews were also carried out with the UN and international NGOs, medical staff who treated gunshot victims, civil society, youth activists and church community leaders whose names have been withheld due to fear of arrest and harassment by the authorities.

At the time of writing, arrests of perceived opponents of the government continue to be carried out. These arrests have frequently been perceived as having an ethnic dimension by the groups targeted - a perception which has increased ethnic tensions in Wau.

Amnesty International takes no position on questions such as the relocation of county capitals. This briefing is only concerned with the human rights violations that occurred in the context of responses to the move. When accounts of what occurred are disputed, the opposing versions are provided in this report.

The briefing concludes with a number of recommendations to the government of the Republic of South Sudan and to the international community.

2. BACKGROUND: EVENTS IN THE LEAD UP TO THE VIOLENCE

Tensions mounted in Wau during October 2012, when the state Governor, Rizik Zakaria Hassan, issued a decree moving Wau County from the state capital Wau to Bagari, a town approximately 19 kilometres south west of Wau.² In 2011, the Governor formed a three-person committee comprised of then civil servants, and chaired by the then Commissioner of Wau County, John Peter Miskin, to consult with members of the youth, legislative assembly and chiefs and elders regarding the proposed move. The findings report of the committee stated that those consulted rejected the proposal.³

On 19 October 2012, John Peter Miskin resigned from his post as Commissioner, following a disagreement with the State Governor over how to resolve community resistance to the move, after youth threatened him and blocked the road to Bagari, in protest against the move.⁴ John Peter Miskin was put under house arrest on orders of the Governor on 20 October 2012, and an investigation committee composed of the chief security advisor, head of military intelligence (MI), head of the criminal investigations department (CID), and the director general of police, was formed to investigate his conduct.⁵ They began investigations on 22 October, accusing John Peter Miskin of not adequately promoting the benefits of relocating Wau County.

Following two weeks of investigation, the committee reportedly found John Peter Miskin “innocent”. The Governor then issued a decree relieving him from his duties. He was re-arrested on 14 November and remained under arrest and subjected to ten charges - including a number related to corrupt and fraudulent acts - under the Penal Code Act 2008.⁶

On 25 October 2012, a public forum was held in Wau town, following a request by youth activists who wanted to ask parliamentarians whether the decree to move Wau County to Bagari had been passed through the legislative assembly, in accordance with the Local Government Act, 2009. A number of Members of Parliament (MPs), civil servants and civil society spoke out stating that the decree had not been passed through the parliament. Since this event, the majority of the MPs and others who stated this have been arrested and a number of civil servants were dismissed from their place of work⁷ (see Chapter 5).

On 5 December 2012, youth activists blocked the Wau-Bagari road using trees and rocks. The action was a protest about the arrest of two youth leaders, connected to the opposition to the relocation of Wau County.⁸ Following this, on 6 December, two further roads were blocked - the Wau-Raja Road, and the Wau-Bossari road - preventing any movement of vehicles, including trucks transporting supplies to Wau via Yambio, from East Africa. On 8 December, following attempts by the UN and the SSPS to convince the youth to unblock the roads, shots were reportedly fired by the SPLA at around 8pm when it was dark.⁹ Two of the activists, Dominic Paul Ufendi and Moris Stephen Lenga, both aged 30, were shot dead, and according to the youth activists, a number of other people were injured.¹⁰ The SPLA later

claimed they opened fire because they were shot at first. However, according to numerous sources the youth blocking the roads were unarmed. This includes testimony from the youth activists, community leaders, eye-witnesses, as well as information from individuals in the police and prison service who had been at the road blocks at various times. These accounts are supported by video footage of the protests obtained by Amnesty International.

On 9 December, in the early hours of the morning, several lorries that had been halted by the road blocks on Wau-Bossari road were looted and burned. The youth reported that the trucks and a police tent were burned by the SPLA, while the SPLA claimed it was the youth. An investigation into the burning and looting of property has not, to Amnesty International's knowledge, been carried out.

3. PEACEFUL PROTESTS

The shooting and killing of the two youth activists on 8 December sparked protests. Women and youth groups organized a peaceful demonstration with the intention of presenting a petition to the UN Mission in South Sudan (UNMISS). On 9 December 2012, at around 7am, demonstrators gathered at Jebel Kheir, in Wau. At approximately 9am, protestors marched on the main road past Wau Central Police Station and past the prison towards the Governor and Council of Ministers' office. At the end of the road, near the South Sudan Bank and the headquarters of the Wildlife Forces, shots were fired by security forces directly at the protestors.¹¹

Six men were killed on the spot, while two men died later in hospital. Among the men killed was Justin Kamilo Dahia Raymond, aged 43 and a father of 11 children. His youngest child is three months old.¹² According to medical staff¹³, the men were shot in the head and chest. Over 20 people, including two women, were injured and many sustained gunshot wounds to their legs.¹⁴

Amnesty International obtained video footage¹⁵ of the demonstration which shows the protestors holding mango leaves and crosses while jogging and chanting against the relocation of Wau County. The video footage and eye-witness accounts show that the protest was peaceful and none of the protestors were visibly armed. State authorities questioned the protestors' motives for going to the Council of Ministers' office on a Sunday and accused protestors of attacking South Sudan Bank. Based on the video footage acquired, the protestors that were shot had already marched passed the bank at the time.

One of the leaders of the women protestors stated to Amnesty International that: "The women's plan was to go directly to UNMISS to present the bloody t-shirt of the youth who was killed, as we could get people there, but the youth wanted to go to the Governor's office first [before going to UNMISS]. Police protected them [the protestors] and said not to run, go normally. When we reached that place, the shooting started and everyone was running away."

Amnesty International was unable to confirm which element of the security forces shot at the protestors. According to government sources, the security forces that were present at the protests were the prison guards outside the prison, armed police guarding the South Sudan Bank, and the Wildlife Forces at their headquarters¹⁶, in addition to the SSPS who were monitoring the protests.¹⁷ The SPLA were reportedly not present during the protests. The Commander of the 5th Division of the SPLA told Amnesty International that the police commander at the time had received instructions from the Governor to police the demonstrations and the army was called in at 1pm, after the shooting incident.

SOUTH SUDAN'S OBLIGATIONS UNDER INTERNATIONAL HUMAN RIGHTS LAW

South Sudan is yet to ratify any human rights treaties, be they international or regional. Amnesty International calls upon South Sudan to rectify this situation without delay by ratifying the full range of human rights treaties as well as international humanitarian law treaties and the Rome Statute of the International Criminal Court. However, even before it has ratified human rights treaties, South Sudan is legally obliged to comply with rules of customary international law pertaining to human rights. A rule of customary international law is one that has emerged, through a consensus among states, international bodies and experts as to its legal validity, and thereby binds all nations irrespective of whether or not they are party to a relevant treaty. Many of the key human rights enshrined in the Universal Declaration of Human Rights are considered such customary rules. Among these are the right to life, the right to liberty, freedom from discrimination and freedom from torture and other cruel, inhuman or degrading treatment or punishment.

At the heart of the international human rights standards governing the use of force by police is the right to life and to security of person, enshrined in Article 3 of the Universal Declaration of Human Rights. Under international standards, law enforcement officials are required to “as far as possible, apply non-violent means before resorting to the use of force”.¹⁸ Where the use of force is unavoidable, they must “Exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate objective to be achieved”, minimise damage and injury and “Ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment”.¹⁹

International standards emphasise the importance of proportionality in judging whether the use of force is legitimate and strictly unavoidable in order to protect life. Principle 9 of the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials states that: “... officials shall not use firearms against persons except in self-defence or defence of others against the imminent threat of death or serious injury” or to prevent “a particularly serious crime involving grave threat to life, to arrest a person presenting such a danger” and “only when less extreme means are insufficient to achieve these objectives”. The Principle continues: “In any event, intentional lethal use of firearms may only be made when strictly unavoidable to protect life”.²⁰

With the exception of circumstances of extreme, immediate danger, law enforcement officials must, before using firearms, identify themselves and “give a clear warning of their intent to use firearms, with sufficient time for the warning to be observed”.²¹

Based on video footage and eyewitness accounts of the protest on 9 December, there is no evidence that the security forces needed to control the crowd and no attempt was made to use any other means of crowd control; no warnings were given and no attempt was made to prevent or minimise death or injury.

The right to peaceful assembly and association, enshrined in Article 20 of the Universal Declaration of Human Rights, is also “recognized and guaranteed” under Article 25 (1) of the Transitional Constitution of the Republic of South Sudan.

Following the shooting on 9 December 2012, police reportedly attempted to arrest a number

of people, including from outside a church where people were worshipping. A family member of one of the victims said: *"I was in church in the morning and heard some shooting. I went up to the main road to see what was happening and asked a lady who had fallen down what happened. Another lady was being arrested by the church gate and we stopped them [from arresting her]. They tried to arrest me too but were stopped by the community."*

On 10 December, family members of those killed during the previous day's protest planned to take the bodies to the church before burying them in Freedom Square, in Wau. The police reportedly attempted to prevent families from holding a joint funeral; however the family members went ahead and buried their dead in Freedom Square. A family member of one of the deceased told Amnesty International that there were attempts to arrest him for organizing the burials.

On 11 December 2012, the Governor announced the formation of a nine-member committee, led by his security advisor, Rizik Dominic Samuel, to carry out investigations into the protests and report back to him within 72 hours. To the best of Amnesty International's knowledge, no meeting of the committee was ever held.²²

The South Sudan National Legislative Assembly also formed an investigative committee following a debate in parliament on the killing of protestors in Wau. The committee visited Wau from 17-19 December 2012. However, it left prior to completing investigations, due to heightened tensions in the area. The committee's findings were inconclusive. A further committee for reconciliation was formed on 12 December by the religious leaders in Wau.²³

4. REVENGE KILLINGS AND RIOTS

The unlawful killings of peaceful demonstrators on 9 December caused great tension in Wau. The tension took on ethnic dimensions for reasons that are not fully clear (see box below), but appear linked to historical ethnic divisions in the region. The killing of six Dinka farm workers by unknown persons in Farajallah, a village southwest of Wau town (see below), was followed on 19 December 2013 by revenge attacks by youth of Dinka origin, on non-Dinka quarters of Wau town, which left seven dead, more than 100 wounded, and over 400 homes damaged or destroyed.²⁴ The situation was exacerbated by rumour and counter-rumour, accusation and counter-accusation. Amnesty International's main concerns with regard to the period 10-20 December 2012 are whether the authorities in Wau did all they could to prevent the violence from escalating, or whether - intentionally or not - they encouraged ethnic tensions, and whether the police and the SPLA could have offered more protection to civilians in Wau.

ETHNIC TENSIONS IN WAU

Western Bahr El Ghazal has a high degree of ethnic diversity, and is comprised of a number of ethnic groups described by the collective term "Fertit," including the Balanda and Kreish people, who speak different languages. The state is also home to the Jur people, and to sizeable numbers of Dinka people, who belong to South Sudan's largest ethnic and linguistic group. Many Dinka people from neighbouring Northern Bahr El Ghazal, Warrap and Lakes states also reside in Western Bahr El Ghazal.

Because Dinka leaders in South Sudan often hold powerful positions in the state and the army, there is a perception amongst many other ethnic groups that Dinka people exercise a monopoly over political power, at the expense of other groups.

The different groups in Western Bahr El Ghazal have enjoyed relatively peaceful coexistence since the signing of the 2005 Comprehensive Peace Agreement (CPA).²⁵ However, during the armed conflict that preceded the CPA, rival armies and militias in Western Bahr El Ghazal often used ethnicity as a basis for recruitment, in a process that was apparently designed by Sudan to turn Dinka and Fertit groups into mutually hostile constituencies.²⁶

Sometimes powerful actors seek to manipulate these past hostilities in order to connect with and control these conflict-era constituencies. The current unrest in Wau may be a case in point: some opponents to the move of Wau County's capital to Bagari told Amnesty International that they feared the move would marginalize Fertit groups and bring about Dinka political dominance in Wau.

4.1 THE KILLING OF THE DINKA FARM WORKERS

On 15 December the Governor received information, apparently from two Dinka who had escaped, that a number of Dinka had been killed in Farajallah.²⁷ He immediately appointed a fact-finding committee to investigate these killings; the committee included the two chief doctors from the Wau Teaching Hospital and the Military Hospital, the State Security Advisor, police, legal advisors and the SPLA from Farajallah, among others.

After a day-long search of the area where the killings were reported to have occurred, the committee and the SPLA soldiers found six bodies lying in a small watercourse. There were four men and two women, found with their hands tied behind their backs. The bodies had started to decompose, suggesting they were killed several days earlier.²⁸

Over the following days, the chief of Farajallah and some 23 residents were detained on suspicion of involvement in the murders; they were held in an unofficial detention centre by the CID in Wau.²⁹ The bodies of the deceased Dinka farm workers were brought to Wau and buried in Freedom Square on 16 December, where the bodies of the demonstrators had also been buried.

4.2 THE WAU RIOTS OF 19 DECEMBER 2012

After the news of the murders, tension in Wau rose immediately. Rumours spread through Dinka areas (supported by many in the Government and security services³⁰) that there were 28 more bodies of murdered Dinka which had been burnt.³¹ Many Fertit, including some civil society activists, were inclined to believe that the whole episode might have been fabricated by the Government as part of its campaign against those opposing the relocation of Wau County. Attacks on non-Dinka residential areas by Dinka youth were reported to have started on 16 December.

On 18 December, a day before the riots, it was clear that serious ethnic disturbances in Wau were probable. A meeting was held by the Governors of Western Bahr al-Ghazal, Warrap and Lakes states - the alleged places of origin of the Dinka farm workers - to discuss the situation on 17 December. Some community activists opposed to the relocation of Wau County claimed that after this meeting youth of Dinka origin were transported to Wau by lorry, arriving on the evening of 18 December. However other observers said they thought there were few Dinka from outside the town involved in the riots that subsequently unfolded.³²

On the morning of 19 December, a group of several hundred Dinka youths, armed with spears, sticks and pangas, gathered in small groups, and attacked the non-Dinka areas of Wau. According to eye-witnesses they set fire to homes and beat men, women and children, in addition to looting property. In some areas, groups of youth whose quarters were being attacked, and who were similarly armed, tried to defend the houses and fought against them.

The Acting Chief of Police, in an interview with Amnesty International,³³ said he took the decision not to issue firearms in order not to exacerbate the situation, and issued the police with tear-gas instead; he had deployed 400 police and used up 18 boxes of tear gas grenades.

The Commander of the 5th Division of the SPLA³⁴ told Amnesty International that the army was called in during the afternoon of 19 December to support the police; he issued his forces only with sticks, also in order to avoid escalating the situation.

According to the SPLA Commander, many police officers failed to act professionally in policing the events of 19 December but instead joined in the clashes between the Dinka and Fertit groups, acting in support of their own ethnic groups; some of these police officers were said to have firearms. A number of police officers are reported to have subsequently been arrested. Due to the large number of rioters and sprawling residential areas in Wau town

which consist of tukuls (huts)³⁵, police and the SPLA stated that they faced difficulty in controlling the rioters.

A chief from one residential area that was burned described the situation to Amnesty International: *"We knew they were going to attack, but didn't know when. We heard people running... they tried to burn the houses but couldn't because the fence is made from of bamboos and doesn't catch fire easily. They got petrol from the market... to pour on the fences."*

In addition to reports of petrol being used to set houses alight, other witnesses stated that there was a strong wind fanning the flames. Amnesty International visited Hai Kreish, the worst affected quarter, where over 180 homes were destroyed and at least one elderly man died in his burning home, according to witnesses interviewed by Amnesty International. According to data gathered by civil society organizations the three main quarters affected by the riots were Hai Kreish, Claverio and Hai Falata. In all more than 400 homes were burnt, seven people died and more than 100 were wounded.³⁶ The riots were followed on 20 December by a 24-hour curfew.

Under international human rights law and standards, the authorities have a duty to protect individuals' human rights from acts by non-state actors. This principle was explained by General Recommendation 19 of the UN Committee on the Elimination of All Forms of Discrimination against Women which states: *"Under general international law and specific human rights covenants, States may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and for providing compensation."*³⁷

Amnesty International is concerned that, given the evidence of rising tensions in the run-up to the 19 December riots, the security forces in Western Bahr El Ghazal State failed to fulfil their duty to exercise due diligence to protect the rights of the people of Wau from the impacts of violence.

PRESIDENT'S SPEECH

On 24 December 2012, President Salva Kiir Mayardit addressed the public at Wau National Stadium,³⁸ fully endorsing the Governor of Western Bahr El Ghazal's decision to relocate Wau County's headquarters from Wau to Bagari. In his speech, the President chastised members of the police who allegedly sided with their "relatives" during the recent violence and encouraged security leaders to work together. He also emphasized that people whose family members had been killed, should not seek revenge and stated that the killings were not done on ethnic grounds, but by criminals who the government would look for.

The President's endorsement of the Governor's decision was apparently interpreted by the Governor of Bahr al Ghazal as giving him a *carte blanche* to crack down on all he considered as opponents to his policies (Chapter 5).³⁹

5. ARBITRARY AND POLITICALLY-MOTIVATED ARRESTS

“Every person has the right to liberty and security of person; no person shall be subjected to arrest, detention, deprivation or restriction of his or her liberty except for specified reasons and in accordance with procedures prescribed by law,” Article 12 of the Transitional Constitution of the Republic of South Sudan, 2011.

During the period of tensions in Wau, more than 100 people were detained, with the majority arrested between December 2012 and the beginning of February 2013. Those arrested include:

- The former Commissioner of Wau County, John Peter Miskin, arrested on 14 November 2012, after resigning as Commissioner on 19 October 2012;
- Two youths, Anthony Sogone and Sebit Arkangelo Yiba, leaders of the committee of youth who had blockaded roads as a protest, arrested on 3 December 2012;
- Around 23 Fertit residents from Farajalla accused of killing six Dinka workers, arrested on or after 15 December 2012;
- More than 50 members of security forces arrested after 21 December 2012 (arrests of members of the security forces have continued until February 2013). Those arrested included at least 25 SSPS arrested between 21 and 31 December 2012; 18 Prison Guards, mostly arrested between 31 December 2012 and 4 January 2013; one Wildlife officer; and four members of the Fire Brigade. The main reason for their arrest was that they had sided with protestors during riots, and many have now been released;
- Twelve members of the Western Bahr El Ghazal State Legislative Assembly, including the Deputy Speaker, arrested between 24 December 2012 and 3 January 2013;
- At least 10 former County Commissioners, Ministers and Government officials, arrested after 24 December 2012;
- More than eight journalists and civil society activists, arrested from 10 December 2012 onwards. Most were detained for up to five days. No official reason was given to Amnesty International by the state authorities for their arrest.

While some of these arrests appear to have a legitimate basis, evidence gathered by Amnesty International shows that many of the arrests were arbitrary and contravene provisions in national and international law.

The arbitrary arrests increased immediately after the visit of the President of South Sudan on 24 December 2012.

The arbitrary character of many of the arrests has left civil society in Wau stunned; a number of youths involved in the protests have decided to leave the area; civil society activists who gather information do so at risk to their freedom, and the families of those detained feel it is safer to bring lawyers from Juba to defend those due to stand trial, rather than to expose Wau lawyers to possible reprisals.

5.1 FLOUTING SOUTH SUDAN'S DETENTION LAWS

The right to liberty and the concomitant prohibition of arbitrary detention are enshrined in Article 9 of the Universal Declaration of Human Rights and considered rules of customary international law which binds South Sudan.

The UN Working Group on Arbitrary Detention has recently explained that it “regards cases of deprivation of liberty as arbitrary under customary international law in cases where:

- (a) It is clearly impossible to invoke any legal basis justifying the deprivation of liberty;*
- (b) The deprivation of liberty results from the exercise of the rights or freedoms guaranteed by articles 7, 13, 14, 18, 19, 20 and 21 of the Universal Declaration of Human Rights;⁴⁰*
- (c) The total or partial non-observance of the international norms relating to the right to a fair trial established in the Universal Declaration of Human Rights and in the relevant international instruments is of such gravity as to give the deprivation of liberty an arbitrary character;*
- (d) Asylum seekers, immigrants or refugees are subjected to prolonged administrative custody without the possibility of administrative or judicial review of remedy;*
- (e) The deprivation of liberty constitutes a violation of the international law for reasons of discrimination based on birth; national, ethnic or social origin; language; religion; economic condition; political or other opinion; gender; sexual orientation; disability or other status, and which aims towards or can result in ignoring the equality of human rights.”⁴¹*

Although, as noted, South Sudan has not yet ratified any international human rights instruments, the country's Transitional Constitution, 2011, and the Code of Criminal Procedure, 2008, enshrine important safeguards for those arrested and detained. The Code of Criminal Procedure provides that arrests should normally be carried out by serving an arrest warrant or by summons (Article 58). Article 19 (1) of the Constitution states that: Any person who is arrested shall be informed, at the time of arrest, of the reasons for his or her arrest and shall be promptly informed of any charges against him or her.

Article 19(4) sets a limit to the period a detainee should be detained before appearing before a court: A person arrested by the police as part of an investigation, may be held in detention, for a period not exceeding 24 hours and if not, released on bond to be produced in court. The

court has authority to either remand the accused in prison or to release him or her on bail.

These safeguards are repeated in Article 64(1) of the Criminal Procedure Code which provides that after the initial 24 hours the Public Prosecution Attorney or the Magistrate may renew detention “for a period not exceeding one week, for the purposes of investigation”. Following that only a Magistrate may renew the detention of an arrested person every week “provided that the period of detention shall not, in total, exceed three months, except upon the approval of the competent President of the Court of Appeal”.

However, many of the people detained have been held by the security services outside such safeguards of the South Sudan legal system. Individuals have been held for up to two months, in some cases, without the renewal of their detention warrant by the Attorney General or access to a judge. Some have not even been questioned about any offence they are alleged to have committed.⁴²

The majority of recent detentions in Western Bahr al-Ghazal State were carried out by the NSS which, under Article 160 of the Constitution, is “charged with the internal and external security of the Country and its people”. The Constitution states that they are to report directly to a “Minister in the Office of the President who shall report to and be directly accountable to the President”. Article 160 adds: “The structures, mission, mandate, functions of the Service, and the terms and conditions of service of its personnel shall be prescribed by law”. Since no National Security Act has yet been passed, Amnesty International is unaware of any regulations governing arrest or detention by this body; they appear to be operating outside any law, thus any arrest or detention carried out by the NSS is by definition arbitrary.

However, other detentions were carried out by the CID or by the SSPS, whose operations are governed by the provisions of the Criminal Procedure Code, including the requirement for renewal of remand by a Public Prosecutor within 24 hours and by a Magistrate every seven days. Yet these provisions appear to have been consistently ignored.

5.2 PRISONERS OF CONSCIENCE AND OTHER ARBITRARY DETENTIONS

Many of those detained, including MPs and a number of other civil servants, appear to have been detained solely for their remarks at a large public meeting held on 25 October 2012.⁴³ If this is the case, they are prisoners of conscience.

Several of the arrests have been linked to the December public meeting during which MPs were asked to state whether the Legislative Assembly had voted on any bill on the relocation of Wau County. Each member for Wau County and at least one other MP replied that no such vote had taken place. Many other public officials or representatives of civil society also spoke at the meeting but it was only after the President’s 24 December speech in Wau stadium that almost all these MPs were arrested, together with other speakers at the meeting.

A male MP said to Amnesty International: “*Since I have been in prison I have been interrogated by the CID committee three times and each time it has been the same thing – about the meeting*”.

A female civil servant, who has been detained since 31 December 2012, told Amnesty

International: *“In the meeting the MPs said we did not pass it; we only passed the Bill about Wau Municipality. All the MPs talked – everybody talked. I made a speech and talked about the history of Wau and the inclusive spirit of Wau and said that we have to discuss why we are moving out. I have been detained now for 32 days. I met the investigation committee here twice; during the meeting I was asked about what I had said in the rally. On Sunday [3 February] I was given the 13 articles of the Penal Code I was charged with ...”*

At the time of writing, MPs and civil servants remained in detention, awaiting trial.

ARRESTS OF JOURNALISTS AND MEDIA WORKERS

A number of journalists and other media workers were arrested or closely monitored from 10 December 2012 to 2 January 2013, in an apparent attempt to stifle reporting about the incidents in Wau.⁴⁴ On 10 December 2012, a journalist for the Catholic radio network was arrested for attempting to report on the cases of the dead and injured at Wau Teaching Hospital.

He told Amnesty International that “on Monday at 7am I took my recording materials and went to the hospital. I encountered security at the gate and was asked to show my ID to enter the hospital. A circular had apparently gone round either verbally or written to government media houses not to report on the incident, but I didn’t know about it as I work for a private station. I went to the mortuary and didn’t realise that a security personnel was following me.”

The journalist was stopped upon leaving the hospital by the same security officers that had allowed him to enter, and was told to get into a rickshaw with two other officers. He was taken to CID and made to sit without any questioning from 8:30am to 5pm. The journalist told Amnesty International that he had his equipment and mobile phone confiscated, but managed to borrow a phone and call his supervisor who negotiated his release, which required him writing and signing a statement that he would not report any security issues before they had been officially investigated.

On 21 December, a journalist for Radio Tamazuj was arrested for going to the Council of Ministers to investigate rumours that the State Governor had been removed. He was taken by the NSS to a security detention centre in Mess Al Bahr, where he found the former commissioner, John Peter Miskin, and an MP being held. He was put in a solitary confinement cell for two hours and accused of being a spy for Sudan. The journalist was released after three hours but told that security would continue to monitor him. On 24 December, during the President’s speech in Wau, the journalist claims he was warned by an un-named government official that there had been orders for his arrest. He tried to leave Wau on the same day, and received a text message at around 9pm from an unknown number saying “we will kill you her[e] or in Juba.”

On 2 January 2013, five media workers were arrested by the NSS in Wau, including the Director of News and Political Programs in South Sudan Radio-Wau Station and the Director General and Deputy Director General of South Sudan TV-Wau. They were reportedly accused by the Governor of “sabotage” for sending faulty recording equipment to cover the President’s speech on 24 December 2012. According to a statement given to the media by the Governor, they were “detained due to this mistake which we consider a gross violation.”⁴⁵ Three of the five media workers were released on the same day, the Director General of South Sudan TV-Wau was released the following day, and the Director General of News and Political Programs was released on 5 January 2013.⁴⁶

None of the journalists and media workers were charged.⁴⁷

The arrests and harassment of journalists violate the human right to freedom of opinion and expression, enshrined in Article 19 of the Universal Declaration of Human Rights. They also violate Article 24(2) of the Transitional Constitution, 2011, which states that “*All levels of government shall guarantee the freedom of the press as shall be regulated by law in a democratic society.*”

A number of the 50+ detained members of the security forces also appear to have been detained arbitrarily. For instance, an officer in the prison service was detained on 20 December because his car was seen at one of the road blocks, where it had been stopped when he was driving his mother and uncle to attend his aunt’s funeral in Wau. He told Amnesty International that he was accused of supporting the protestors even though he provided documentary proof of his authorization to travel to collect his mother and the funeral order. At the time of writing, he remained in detention without charge.

Amnesty International is also concerned about the apparent arbitrary arrest of a police officer two days after he returned from leave. The officer had gone to listen to the President’s speech on 24 December, wearing full police uniform including a pistol. He was stopped by the NSS as he left the stadium, but then allowed to proceed; however, according to his own account, after less than 12 minutes he was detained by NSS and handed over to the CID. He remained in detention nearly 50 days later when Amnesty International was able to interview him. He was being held by the SSPS in an apparently unregistered detention centre, a house belonging to a Major-General near the CID building and the Attorney General’s Office in the centre of Wau.

He described his situation to Amnesty International: “*Those detained here, 17 officers of the police and seven NCOs, are mostly Fertit; we are sleeping on the ground, there is no clean water, only one latrine between all of us and we are dependent on relatives for our food. The accusations are that I resisted giving up my gun in the stadium, which is not true, and that I had a meeting with chiefs in the area – but how could I have done that? I had arrived only two days before. There is no torture but the moral [mental] torture of not knowing what is happening, whether there will be a court case, having no lawyer, and little food.*”

Many of the detained members of the police force and the prison service have since been released, but these 17 police officers, as well as four prison officers, remain in detention at the time of writing.

5.3 ARRESTS WITHOUT WARRANT, UNNECESSARY USE OF FORCE AND ILL-TREATMENT

Under the Criminal Procedure Code, police should use a summons to call people to be questioned, or a warrant of arrest issued by the prosecutor. Those detainees and former detainees interviewed by Amnesty International stated that no arrest warrant was ever shown to them. Many of those detained were summoned by telephone to come to the Police Station, National Security and CID, and arrested upon arrival. Some of those arrested told Amnesty International they were expecting arrest following the remarks made on 25 October. However, others described an unnecessary show of force, with vehicles full of security officers carrying guns arriving at their home during the night.

The arrest of a former Commissioner of Wau County and Youth Advisor was, however,

exceptional in terms of the level of force reportedly used. Three vehicles filled with members of the SPLA, NSS and CID came to his house at 10.30pm, 31 December 2012, when he was at a neighbour's house. He described to Amnesty International what happened: *"Two of my children were in the house, my sons aged 18 and 22. They detained and beat them and told them to show them where my wife (who had gone to a neighbour's house) and I were. The boys refused. Everything in my house was turned upside down. They broke my TV and the doors of my house. They went to my brother [name withheld] in Hai Salaam and another brother in Keleman and asked them to show them where I was. When they refused, they beat them using gun butts and their hands. They made a search of all the neighbours' houses around. They went to my father's house which was close by. ... In the house, was one of my sisters (23 years old). They broke the door of the house and did a complete search. They took my sister to look for me. They went to the houses of five of my brothers; my wife's mother; and my former office manager when I was Commissioner. ... They were waiting at my brother's house all night. I stayed in hiding until 7am when I went to national security and they detained me. They let my family go, but they were exhausted. "*

5.4 FAILURE TO PROVIDE REASONS FOR ARREST

The detainee's right to be informed promptly after arrest of the reasons for his or her arrest is provided explicitly in Article 19(2) of the Transitional Constitution. However, detainees and former detainees who spoke to Amnesty International almost invariably stated that they were not told the reasons for their arrest until the end of January or the beginning of February, often more than one month after their arrest.

As an MP of the State Legislative Assembly told Amnesty International: *"I was arrested at home, at 7.30pm by the national security and the SPLA. They did not show any paper, and they did not tell me why I was arrested. I was kept for one month and five days without being told why I had been arrested."*

Most of those held by the CID or police described undergoing little or no questioning, and said that the first formal investigation was when they arrived in prison, when a CID committee consisting of two officers, one a Major, started formal questioning of all the detainees. Detainees then received a list often of 10-13 charges against them under the Penal Code, usually handed to them, not by the investigating committee or through an appearance before the Prosecutor or a court, but through the Prison Director.

The former Commissioner of Wau County, John Peter Miskin, who resigned on 19 October 2012, was investigated immediately after his resignation while under house arrest for insubordination in carrying out the Governor's relocation plan. According to his account, a committee including the Head of Military Intelligence, the CID, and the Governor's Political and Security Advisers investigated the charge and exonerated him. He then left to attend his son's graduation in Kampala in November 2012, but was informed by the Governor in Western Equatoria that the Governor of Western Bahr El Ghazal had said he should not be allowed to go forward. After four days he was flown to Kwajok and then driven back to Wau where he was placed in detention under the NSS. He tried to telephone the Governor of Western Bahr El Ghazal while in Yambio and asked for the reason for his detention but was given no answer. He was not charged until 29 January 2013, 76 days after his arrest.

Sebit Arkangelo Yiba, aged 44, who worked for the Council of Ministers' Protocol Office, was one of the community "youth" leaders whose arrest triggered the 9 December 2012 demonstration. He was held in the police station and then by the NSS before being transferred to prison on 22 January. Only then was he questioned by an investigation committee and charged with breaching 10 articles of the Penal Code.

A female MP who had spoken at the public meeting on 25 October 2012, and was being detained in prison at the time of writing, told Amnesty International: *"I was picked up from my home at 8am on 4 January. I heard them coming so I was prepared and walked towards them. I was only transferred to prison on 2 February. When I talked to the Committee at Prison they spoke about the meeting and they said that saying the Bill had not been passed by the Assembly encouraged the boys to be stubborn. They also said I had contributed money and advised the boys to burn cars."*

5.5 FAILURE TO BRING DETAINEES BEFORE A PROSECUTOR OR JUDGE

The right to be brought promptly before a judge is a vital safeguard for detainees. The Judiciary – including the office of the Prosecutor - should be a bulwark of the protection of detainees against human rights violations. Under Article 19(4) of the Transitional Constitution every arrested person in South Sudan has the right to be brought before the Prosecutor within 24 hours of arrest and to see a magistrate seven days later to decide on the extension of his or her detention.

All the detainees seen by Amnesty International, who had mostly been transferred to the remand section of the prison on 2 February 2013, said they had not seen a Prosecutor or a judge. Only John Peter Miskin stated that his detention had been twice renewed by a magistrate's court. Amnesty International met the Director of Legal Affairs at the Attorney General's Office, who stated that he had seen all the detainees. However, he refused to produce the files of any of the cases, which should have registered any appearance before a prosecutor.

6. CONCLUSION AND RECOMMENDATIONS

Events in Wau continue to resonate, with arrests of perceived opposition including community leaders ongoing, and freedom of expression stifled. Civil society and MPs and civil servants perceived to be opponents of the policies of the State Government are operating under extremely tense circumstances and many continue to fear imminent arrest. The Government of Western Bahr El Ghazal has made no effort to carry out proper investigations into the events described in this report, including the killing of two civilians on 8 December and eight civilians on 9 December by security forces.

Amnesty International calls on the Government of the Republic of South Sudan to:

- Establish an independent commission of inquiry, comprising of both South Sudanese and international experts, the latter in consultation with the Office of the UN High Commissioner for Human Rights, to investigate the full range of human rights violations and abuses perpetrated since 3 December 2012. The Commission should comprise of policing, forensic and human rights experts known for their impartiality and integrity. The Commission should have the resources to carry out its work and have full access to witnesses, including detainees and members of the security forces, while ensuring the safety of witnesses from threats and attacks, as well as to all material evidence. Its recommendations should cover the prosecution of suspects, reparations to victims and institutional reforms needed to prevent repetition and should be considered seriously by the authorities with a view to their implementation. The Commission's report should be made public;
- Ensure that all persons suspected of responsibility for unlawful killings are brought to justice in proceedings which meet international standards of fairness;
- Ensure reparations, in accordance with international standards, to the families of victims of unlawful killings, to those who lost homes and possessions and to others whose human rights were violated;
- Immediately and unconditionally release all detainees arrested solely for exercising peacefully their human rights to freedom of expression, assembly and association;
- Immediately establish a commission to examine the charges against all those in detention by police, CID, NSS and prisons. Those who are charged with recognizable criminal offences should be brought swiftly to trials in proceedings which meet international standards of fairness and with all guarantees of the South Sudan Transitional Constitution, 2011 and Criminal Procedure Code, 2008. The rest should be freed;
- Ensure that freedom of association and expression are respected and protected in accordance with international human rights standards and South Sudan's Transitional

Constitution, 2011; and that civil society, journalists and community leaders are able to exercise these rights without fear of reprisals;

- Provide training to security forces in riot control, arrest and detention procedures, in accordance with international human rights standards and make clear that no one should be detained unless they are suspected of having committed a recognizable criminal offence;
- Carry out arrest and remand procedures in the Criminal Procedure Code, 2008, to the letter. All detainees remanded in custody must appear before the Prosecutor within 24 hours and have his or her remand in custody reviewed by a judge promptly;
- Take action to address gaps in national legislation in order to ensure that the National Security Service (NSS) operates lawfully and that their powers are in full accordance with international human rights standards, in particular as regards arrest, detention and questioning; .
- Ratify all UN and AU human rights treaties without delay;
- Ratify the Rome Statute of the International Criminal Court;
- Extend an open invitation to UN special procedures so as to benefit from their expertise in tackling South Sudan's human rights problems.

Amnesty International calls on the UN and international community to:

- Provide all necessary support to the Government of the Republic of South Sudan to ensure that impartial and efficient investigations into unlawful killings, unnecessary or excessive use of force by security forces and the other events that took place from December 2012 to January 2013 are sufficiently addressed.

ENDNOTES

¹ The definition of “youth groups” in South Sudan is loose and consists of members aged up to 50 years.

² The idea of moving Wau County capital from Wau to Bagari was initially proposed by the Governor in 2011 was reportedly motivated by the vision of the ruling party, the Sudan Liberation Movement’s (SPLM) to “take towns to people in the countryside rather than people to towns,” available in *The Manifesto of the Sudan People’s Liberation Movement, May 2008*, section IV. 24 (pg. 21), available at: <http://www.splmtoday.com/docs/SPLM%20docs/2008%20The%20Manifesto%20of%20the%20SPLM.pdf>

³ Interview with former member of the committee [name withheld], 8 February 2013.

⁴ Interview with John Peter Miskin, 6 February 2013

⁵ According to John Peter Miskin, the committee asked him eight questions to determine whether he deliberately misinformed the community about the relocation of Wau County to Bagari; the actions he had taken specifically to relocate Wau County; and whether he had deceived the state authorities by not doing enough.

⁶ The charges against John Peter Miskin include Articles 52 (Abetment); 95 (Public servant dishonestly receiving money or property not due); 106 (Impersonating a public servant); 112 (failure to give notice or information to a public servant); 114 (false information and intent to mislead a public servant); 124 (disobedience to an order duly issued by a public servant); 143 (resistance to arrest and escape); 150 (giving false information in respect to an offence committed); 346 (criminal misappropriation) and 352 (causing loss or waste of public property by a person entrusted with its investment).

⁷ Amnesty International was shown letters dated 10 December 2012, which stated civil servants who contested the April 2010 general elections were to be relieved under Presidential Decree No. 53/2011.

⁸ Information based on interviews with youth activists and civil society

⁹ Information based on eye-witness accounts

¹⁰ Information based on interviews with youth activists, civil society and medical professionals

¹¹ Information based on video footage and eye-witness accounts

¹² Information based on interviews with family members of victims, civil society and medical staff

¹³ Interviews with medical staff from Wau Teaching Hospital, the Military hospital and Daniel Comboni Hospital in Wau on 5, 7 and 8 February 2013

¹⁴ Interviews with medical staff from Wau Teaching Hospital, the Military hospital and Daniel Comboni Hospital in Wau on 5, 7 and 8 February 2013

¹⁵ Some footage of the protest is available on Al Jazeera, at:
<http://www.aljazeera.com/video/africa/2012/12/2012121432549729855.html>

¹⁶ The Director of the Wildlife Forces told Amnesty International that he was in Juba at the time of the incident and the commander in charge stated he was at home because it was a Sunday. There were reportedly five to six members of the Wildlife Force at the headquarters at the time of the incident; however Amnesty International was not able to meet with them as the Director stated it would be difficult to find their names

¹⁷ The Acting Police Commissioner told Amnesty International that the Police Commissioner was suspended on 10 December for not giving orders to the police to stop the demonstrators, Interview with Action Police Commissioner, 5 February 2013.

¹⁸ Principle 4 of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (UN Basic Principles), adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990.

¹⁹ UN Basic Principles, Principle 5.

²⁰ UN Basic Principles, Principle 9.

²¹ UN Basic Principles, Principle 10.

²² Interview with committee member [name withheld], 13 February 2013

²³ Interview with Bishop Deng, 5 February 2013.

²⁴ Information of damaged and burned houses based on reports by civil society. Following the attack, over 5,000 civilians sought refuge in the UNMISS compound from 19-22 December, OCHA Humanitarian Bulletin, 17-23 December 2012, available at:
[http://reliefweb.int/sites/reliefweb.int/files/resources/OCHA%20South%20Sudan%20Weekly%20Humanitarian%20Bulletin%20\(17%20Dec%20-%2023%20Dec%202012\).pdf](http://reliefweb.int/sites/reliefweb.int/files/resources/OCHA%20South%20Sudan%20Weekly%20Humanitarian%20Bulletin%20(17%20Dec%20-%2023%20Dec%202012).pdf)

²⁵ *Clashes in Wau: A Testament to Fragility of Ethnic Relations in South Sudan*, Jok Madut Jok, The Sudd Institute, 25 December 2012, available at:
<http://www.suddinstitute.org/publications/show/clashes-in-wau-a-testament-to-fragility-of->

[ethnic-relations-in-south-sudan/](#)

²⁶ For more information see *Famine in Sudan, 1998: The Human Causes*, Human Rights Watch, 1998

²⁷ Interview with the Governor, 5 February 2013

²⁸ Interviews with members of the fact-finding committee and state authorities including security forces in Wau, 4-11 February 2013

²⁹ Information obtained from an activist [name withheld] who was detained in the location

³⁰ Interviews with members of the fact-finding committee and state authorities including security forces in Wau, 4-11 February 2013

³¹ Amnesty International was unable to obtain any evidence of 28 more bodies. Interviews with members of the fact-finding committee and state authorities including security forces in Wau, 4-11 February 2013

³² There are around 500 street children in Wau, mostly comprised of Dinka from Lakes, Warrap and Northern Bahr El Ghazal states. For more information see *The Recent Events in Wau: A Disaster Averted*, Jok Madut Jok, The Sudd Institute, 3 January 2013, available at: <http://www.suddinstitute.org/publications/show/the-recent-events-in-wau-a-disaster-averted/>

³³ Interview with Brigadier General Albino Uthou, Acting Police Commissioner, 5 February 2013

³⁴ Interview with Brigadier General Commander Chol, 7 February 2013

³⁵ The tukuls are built of wood, mud and straw, and are gathered in compounds whose walls are usually made from woven bamboo

³⁶ Figures obtained by Amnesty International from civil society groups in Wau

³⁷ Committee on the Elimination of Discrimination against Women, General Recommendation 19, Violence against women (Eleventh session, 1992), UN Doc. H/1992/18/Rev.1 at 84 (1994), para. 9.

³⁸ The President's speech is available at: <http://www.mixcloud.com/GreenPowerRadio/s-sudan-president-salva-kiir-speech-from-wau-need-for-peaceful-coexistence-between-dinka-fertit/>

³⁹ Information based on interviews with civil society, journalists, and members of the security forces, 4-11 February 2013

⁴⁰ Pertaining to freedom from discrimination; freedom of movement; the right to seek and

enjoy asylum; the right to freedom of thought, conscience and religion; the right to freedom of opinion and expression; right to freedom of peaceful assembly and association; and the right to political participation and access to public services, respectively [footnote added]

⁴¹ Report of the Working Group on Arbitrary Detention, UN Doc. A/HRC/22/44, 24 December 2012, para. 38, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G11/102/76/PDF/G1110276.pdf?OpenElement>,

⁴² Interviews with detainees and family members of those detained, 4-11 February 2013

⁴³ The meeting was called following a debate on Miraya FM, on 23 October, between the Governor and one of the leaders of the youth Anthony Sogoni, during which the Governor insisted that the State Legislative Assembly had passed a bill for the removal of the State Legislative Assembly to Bagari. The youth leaders then called, over the radio, for a meeting of all members of the Legislative Assembly for Wau County and others. Information based on interviews with youth activists, civil society and MPs who participated in the meeting, 4-11 February 2013

⁴⁴ Interviews with media workers, 2-14 February 2013

⁴⁵ SSTV journalist still detained in Wau following clashes – WBeG Governor, Radio Tamzuj, 8 January 2013, available at: <http://radiotamazuj.org/en/article/sstv-journalist-still-detained-wau-following-clashes-%E2%80%93-wbeg-governor>

⁴⁶ *In South Sudan, two journalists detained in Wau*, Committee to Protect Journalists, 4 January 2013, available at: <https://www.cpi.org/2013/01/in-south-sudan-two-journalists-detained-in-wau.php>

⁴⁷ *Wau journalists freed*, Radio Tamazuj, 11 January 2013, available at: <http://radiotamazuj.org/en/article/wau-journalists-freed>

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