

**UPR Submission
South Sudan
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Five years after becoming an independent nation, South Sudan is wracked by a brutal civil war that began when forces loyal to President Salva Kiir clashed with forces loyal to former Vice President Riek Machar in December 2013. The conflict has been characterized by extreme brutality and grave abuses against civilians -- including massacres, targeted killings, widespread sexual violence, use and recruitment of child soldiers and attacks on UN and humanitarian aid groups. The violence and abuses have driven more than 2.3 million from their homes, and 200,000 people are sheltering in UN peacekeeping bases.

Prior to South Sudan's current civil war, authorities failed to protect civilians from largescale inter-communal attacks. In Jonglei state, armed Lou Nuer, Dinka and Murle groups killed thousands in violent clashes. The government responded with highly abusive disarmament operations, particularly against ethnic Murle. In late 2012 and early 2013, government forces carried out unlawful killings and other violations during a counterinsurgency offensive against an ethnic Murle rebel group led by David Yau Yau.

Although the parties to the current conflict signed the IGAD-brokered peace deal in August, they have yet to form the envisioned Transitional Government of National Unity (TGoNU) and amend the constitution and laws. While South Sudan has ratified, or is in the process of ratifying, several key international human rights treaties, it has yet to implement them or harmonize domestic laws with them. A number of laws, including the National Security Service bill, contravene human rights norms and should be reformed.

The government also restricts freedom of assembly and expression. Government security forces cracked down on peaceful protests in Wau in 2012, killing at least seven protesters. Authorities have also closed media outlets, confiscated newspapers, and the national security service has detained journalists including UN national staff without charge. At least 7 journalists were killed in 2015 alone; some have been subjected to serious beatings and torture.

At the May 2011 pre-secession Sudan UPR, South Sudan, which became independent soon after in July 2011, accepted four recommendations but has not followed through on two of them, notably the recommendation to adhere to the Convention on the Rights of the Child's two Optional Protocols, and to establish a moratorium on executions with a view to abolishing the penalty.

Armed conflict and human rights

Inter-communal violence, especially between the Lou Nuer and Murle ethnic groups in Jonglei state, escalated in December 2011 and 2012. More than 800 people were killed between December 2011 and February 2012, according to the UN. During disarmament operations conducted by the SPLA in 2012, soldiers were responsible for serious crimes including extrajudicial

killings, severe beatings and torture to extract information about the location of weapons. Soldiers also fought a Murle rebel group and were responsible for unlawful killings of civilians and other violations in early 2013.

On December 15, 2013, following months of growing political tensions within the ruling Sudan People's Liberation Movement (SPLM), members of the Sudan People's Liberation Army (SPLA) loyal to president Salva Kiir clashed with those loyal to former vice-president Riek Machar. Within hours of the start of South Sudan's new war, horrific attacks took place on civilians in Juba. In one gruesome incident, government forces rounded up between 200 and 400 Nuer men and massacred all but 13 of them at a former police compound in Juba.

The fighting quickly spread to Jonglei, Upper Nile and Unity states. Bor, Malakal and Bentiu changed hands multiple times, with the armed forces conducting house-to-house searches, arbitrary arrests and killings of civilians, who were often targeted based on their ethnicity. Forces from both parties attacked churches and mosques, hospitals, schools and UN peacekeepers' camps sheltering civilians. Human Rights Watch documented the use of cluster bombs near Bor town in February 2014 possibly by South Sudanese or Ugandan forces.

The unlawful attacks constitute war crimes and in some cases may constitute crimes against humanity.

In mid-2015 the government launched one of the most abusive offensives of the conflict to reclaim opposition-controlled areas in Unity state. Government and allied forces killed, raped and abducted hundreds of civilians, pillaged and burnt entire villages and stole hundreds of thousands of cattle.

Despite a IGAD brokered peace agreement signed by the warring parties in August 2015, fighting spread to previously untouched regions. In the Western Equatoria region government soldiers carried out abusive counterinsurgency operations against local suspected rebels groups, including extrajudicial killings, illegal detentions and enforced disappearances.

On February 18 2016, a UN base hosting almost 50,000 IDPs in Malakal came under attack. Credible reports indicate that SPLA soldiers penetrated into the camp, shooting indiscriminately and burning tents and shelters. At least 25 people were killed and more than 120 IDPs wounded. The attack was not the first armed attack on UN protection sites; an armed attack on Bor in April 2014 killed more than 50 camp residents. To date, no one has been held accountable.

In many locations across the country, government and opposition forces have actively prevented humanitarian actors and UN peacekeepers from moving freely and fulfilling their respective mandates. Access has been blocked to the Wau Shilluk area of Upper Nile, to parts of Mundri, in Western Equatoria, and areas around Wau, in Western Bahr el-Ghazal.

Recommendations:

- Ensure all forces, including any affiliated militia forces, immediately cease all violations of international human rights and humanitarian law.
- Ensure unimpeded access for humanitarian aid organizations to all populations in need of assistance and ensure that humanitarian and medical facilities, staff, and material, including food stocks, are not subject to attacks, looting, or diversion.
- Investigate the use of cluster bombs and promptly join the 2008 Convention on Cluster Munitions.

Sexual violence during conflict

South Sudanese women and girls have faced extremely high levels of sexual violence during the conflict. Women and girls regularly experience the brunt of attacks and accounts gathered by Human Rights Watch since the beginning of the conflict highlight the recurrent use of rape and other forms of sexual violence as a war tactic.

During a government offensive in Unity state in 2015, government soldiers and affiliated militias engaged in widespread sexual violence including rapes, abduction and sexual slavery. In Upper Nile state, another region brutally affected by the war, women and girls were raped, beaten, abducted, and disappeared by all parties to the conflict.

The harrowing scale and cruel nature of the crimes, illustrated by numerous cases of gang rapes and sexual violence against children and pregnant women, is evocative of the use of sexual violence by the parties to the conflict as an intentional strategy to punish and terrorize civilian populations.

The conflict, mass displacements and ensuing humanitarian crisis have meant that large numbers of survivors of sexual violence have been unable to report it and receive adequate psychological and medical treatment in a timely manner.

Recommendations:

- Issue clear, public orders to all armed forces, military intelligence, and allied militia to prevent, end and punish all abuses, including crimes of sexual and gender-based violence;
- Conduct prompt, impartial and independent investigations into alleged abuses and hold perpetrators to account;
- Ensure provision of comprehensive and non-discriminatory health services to women and girls who have experienced sexual violence.

Recruitment of Children

Although South Sudan signed an action plan with the UN in March 2012 to end the use of child soldiers and order their release from the SPLA, the forced recruitment and use of minors by the army continued. Since the beginning of the 2013 civil war, both government and opposition forces have forcibly recruited and used thousands of children. In 2015, Matthew Puljang, the government's second-in-command in Unity state, used hundreds of child soldiers during a long offensive campaign. UNICEF estimates that between 15,000 and 16,000 children were used as soldiers during the conflict. Despite promises by the government and rebel forces, thousands of children have yet to be demobilized.

Despite an August 2013 zero tolerance policy established by the SPLA with regards to the recruitment of child soldiers and occupation of schools, schools continued to be attacked and occupied throughout the country, and by both parties to the conflict since the beginning of the new civil war.

Recommendations:

- Ensure the swift and orderly release of all child soldiers under custody of either of the parties to the South Sudan civil war;
- Investigate and prosecute commanders responsible for child soldier recruitment and military use;
- Free all schools that remain occupied by the armed forces.

Freedom of Assembly and Expression

South Sudan's constitution provides for freedom of assembly and expression, and South Sudan has expressed its intention to ratify the International Covenant for Civil and Political Rights, though the instrument of ratification has yet to be deposited/finalized. In the pre-secession UPR in 2011, Sudan accepted the recommendation to ratify the International Covenant on Civil and Political Rights. However, the government has restricted both freedoms consistently before and during the current conflict.

Prior to the conflict, authorities detained media workers. In December 2011, the national security service detained the editor of *The Destiny* newspaper for almost two weeks. In May 2012, in Rumbek, police also arrested and detained for two days a radio journalist, Ayak Dhieu Apar, after a show perceived as critical of the police forces. In Bentiu, the same month, journalist Bonifacio Taban Kuich was detained and questioned for three days regarding an article he wrote about the grievances of SPLA widows. In May 2013, the Juba Monitor's editor and managing editor were arrested, detained and subsequently released for allegedly defaming the deputy minister of the interior.

Three media laws adopted by the South Sudanese Legislative Assembly in July 2013 failed to create an environment conducive to, and protective of, freedom of expression.

During the current conflict, journalists have been killed, detained and harassed. In 2015 alone, seven journalists were killed in unclear circumstances. In one case, reporter Peter Julius Moi was assassinated while he walked back home, days after president Kiir publicly threatened to kill journalists "working against the country." In 2012, Isaiah Abraham, a well-known political commentator and journalist, was also killed outside his home by unknown gunmen. Both killings remain unpunished.

The National Security Service (NSS) have detained journalists for long periods. In one particularly harrowing case, Joseph Afandi, a journalist with the Arabic daily *Al Tabeer*, was arrested on December 29, 2015 and detained incommunicado by national security officials for six weeks. Following his release, he was reportedly abducted on March 4 by unknown persons then released four days later near a cemetery, having been tortured.

Media organizations have been shut down, and civil society activists detained. In December 2014, the NSS seized the print run of the *Nation Mirror* newspaper and in January 2015, they shut down the paper down. In August 2015, NSS officers shut down two other newspapers, *Al Rai* and *The Citizen*, as well as an organization producing radio programs. In 2015, a group of 13 activists were arrested in Wau after denouncing abuses by security forces. They were released after they published an apology.

Freedom of assembly has also come under fire in South Sudan. In December 2012, security forces killed eight peaceful protesters in Wau, and unlawfully arrested dozens of other demonstrators, in an incident that was never properly investigated. No members of the security forces were held accountable.

Recommendations

- Investigate the killings of journalists and hold perpetrators to account;
- End harassment and unlawful detention of media and civil society members;

- Reform or repeal the National Security Service Act, 2014, which carries provisions used to restrict the rights to freedoms of expression and assembly;
- End unnecessary or excessive force against peaceful protesters; instruct security forces to follow the *UN basic principles on use of force and firearms by law enforcement officials*, in all operations policing public protests or gatherings; hold abusive security forces to account.

Arbitrary detentions, ill-treatment and torture

Since independence, South Sudanese government forces have illegally and arbitrarily detained people. For example, the president replaced the elected governor of Lakes state in January 2013 with a military strongman, Matur Chuot Dhuol, who ordered the army to conduct widespread arrests and detentions of alleged suspects, citing growing criminality. Dozens of men were rounded up and held in military detention for weeks or months, and subjected to severe beatings.

In October 2014, the South Sudan National Legislative Assembly passed the National Security Services Act, which allows security officials to detain people without necessary safeguards and regard for due process rights. The bill also grants the security officers wide powers of surveillance and the authority to search and seize property without clear judicial oversight, and shields them from any criminal liability. Though unsigned by the president, supporters of the bill said it automatically came into force on expiry of the 30-day review period.

Despite becoming a party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol in 2015, South Sudan's security forces have used torture in the past and continue to do so.

Since the beginning of the conflict in 2013, the NSS has arrested and detained hundreds of men, on the basis of their ethnicity or because of suspected connections to the opposition. Often detained in inhumane conditions, many were beaten and tortured. Military intelligence also detained men and tortured them, including using pliers and suffocating them with a plastic bag or with jets of water directed at their faces. Government forces, Human Rights Watch found, have also been implicated in cases of enforced disappearances and extrajudicial killings.

Recommendations

- Take all necessary measures, including instructing the police, armed forces and security personnel to end all mistreatment of detainees, making clear that there is never a justifiable reason for mistreatment and anyone who engages in ill-treatment will be held to account and punished;
- Investigate all allegations of torture, ill-treatment, enforced disappearance and death in detention, and promptly take steps to appropriately discipline or prosecute any NSS officials, police, army and other officials responsible for the abuses;
- Release all individuals arbitrarily detained by the National Security Service and Military Intelligence;
- Repeal or reform the National Security Service Act (2014) in line with international human rights norms;
- Allow independent, international experts to conduct regular visits to all places of detention, as per the Convention against Torture and other Cruel, Inhuman or Degrading and Treatment or Punishment and its Optional Protocol, ratified in 2015.

Women's rights

Despite ratifying the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women and its optional protocol in 2015, South Sudan has yet to act concretely to protect the rights of women and children.

Child marriage remains widespread and many women and girls do not enjoy the right to choose a spouse nor enter marriage freely with their entire and free consent. Almost half (48.1%) of girls aged 15 to 19 are currently married, out of which 17 percent were married before the age of 15. Women and girls are also subjected to other practices that violate human rights law, such as wife-inheritance and the use of girls to pay debts. Proxy detentions, whereby the wives or children of the accused are detained until the suspect surrenders, have also been known to be frequently used. Domestic disputes are regularly resolved in traditional courts that often apply discriminatory customs against women.

Recommendations

- Enact a national plan to curb child marriage and other discriminatory practices;
- Reform laws that unfairly punish women and girls, as per the Convention on the Elimination of All Forms of Discrimination against Women;

Accountability

South Sudan's government and opposition have yet to provide accountability for the multiple abuses committed by their respective forces since the beginning of the conflict. A culture of "big-tent" amnesties has so far impaired efforts to bring perpetrators of crimes to justice in South Sudan. While the government formed a presidential committee in January 2014 to investigate the December violence, its report has not yet been made public. The army and the police also established two investigations into the involvement of security forces in the December 2013 killings in Juba, but their reports have yet to be made public by president Kiir. Eleven alleged perpetrators who had been arrested in connection to the December 2013 crimes escaped in March 2014 during a gun battle.

While both parties to South Sudan's new civil war have agreed to the establishment of a Hybrid Court for South Sudan, the African Union Commission, which is mandated by the peace agreement to spearhead its establishment, has yet to make significant progress on the court. The parties also agreed to the establishment of a Commission for Truth, Reconciliation and Healing and a Compensation and Reparation Authority, both of which have yet to be created and operationalized.

Recommendations:

- Make public past inquiries into human rights violations committed in the country and commence investigation with a view to prosecution of human rights violations committed since independence, irrespective of previous amnesties;
- Reaffirm commitment to the Hybrid Court for South Sudan, as per the IGAD peace agreement;
- Collaborate with the AU Commission to set up the Hybrid Court for South Sudan
- Ratify the Rome Statute of the International Criminal Court;
- Swiftly establish a Commission for Truth, Reconciliation and Healing and a Compensation and Reparation Authority.

