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**Annual report of the United Nations High Commissioner
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High Commissioner and the Secretary-General**

Report of the Commission on Human Rights in South Sudan ***

Summary

In the present report, submitted pursuant to Human Rights Council resolution 52/1, the Commission on Human Rights in South Sudan provides an overview of the human rights situation in South Sudan, updates the Council on critical developments that occurred in 2023 and identifies key challenges, opportunities and early warnings for the coming period.

* The present report was submitted to the conference services for processing after the deadline so as to include the most recent information.

** The annex to the present report is circulated in the language of submission only.



I. Introduction

1. As South Sudan prepares to end its fragile political transition and to hold its first elections in December 2024, armed conflict and gross human rights violations persist. Millions of people have been displaced, deprived and traumatized, and continue to live in fear. The transformative promises of the 2018 Revitalized Agreement on the Resolution of the Conflict in the Republic of South Sudan remain unfulfilled. The present report details a range of human rights violations, abuses and related crimes, including systematic political repression and economic predation by political elites. Women continue to endure pervasive discrimination, inequality, sexual violence and sexual slavery. Children suffer egregious violations, arising from the ongoing insurgency and resurgent subnational violence, fuelled by local and national elites.

2. While elections can be moments of great societal opportunity, they also bring potential danger, as electoral grievances may trigger new violence or compound existing conflicts in an already fragile situation. Guaranteeing political and civic space for electoral competition and the participation of citizens is necessary, but must be underpinned by a permanent constitution, the establishment of rule of law institutions, including an independent judiciary and credible security arrangements, especially the unification and deployment of security forces. These are required by the Revitalized Agreement but have been inordinately delayed. The Government must also renew peace overtures towards insurgents, who remain outside the transition process.

3. Pervasive violations have deep roots, requiring structural responses: inclusive and accountable governance, resilient and effective institutions and the promotion of peaceful coexistence among the diverse populations of South Sudan. Beyond establishing institutions and systems, visionary leadership is needed to address the acute fractures and violence, including the scourge of abductions that blight the communities of South Sudan, affecting women and children in particular. The persistent failure to hold perpetrators accountable betrays victims, demoralizes citizens and deepens impunity, perpetuating further violations and abuses.

4. Preparations for elections, while necessary, must not distract from nation- and state-building endeavours or from transformative transitional justice processes that address impunity, promote reconciliation, respond to the needs of victims and lay the foundation for stability. Leadership across the political spectrum must therefore renew political cooperation and commitment to the establishment and resourcing of the Commission for Truth, Reconciliation and Healing, the Compensation and Reparation Authority and the Hybrid Court for South Sudan, to be established under chapter V of the Revitalized Agreement, as well as the deployment of a functional, independent, national security and justice system throughout the country that can deliver accountability. If those ends are not achieved, the capacity for deterrence will remain deficient and the endless cycle of violence and impunity will continue unabated.

II. Mandate, membership and methodology

5. In 2016, by its resolution 31/20, the Human Rights Council established the Commission on Human Rights in South Sudan for a period of one year. Since then, the Commission's mandate has been extended annually each year. Most recently, in its resolution 52/1 of 3 April 2023, the Council requested the Commission to continue to monitor and report on the situation of human rights in South Sudan, to make recommendations to prevent further deterioration of the situation and to report and provide guidance on transitional justice.

6. The Commission is also mandated to determine and report the facts and circumstances of, to collect and preserve evidence of and to clarify responsibility for alleged gross violations and abuses of human rights and related crimes, including sexual and gender-based violence, with a view to ending impunity and providing accountability. The Council requested it to make such information available to transitional justice mechanisms, including those to be established under the Revitalized Agreement.

7. The current members of the Commission, appointed by the President of the Council, are Yasmin Sooka (Chair), Barney Afako and Carlos Castresana Fernández. From 12 to 17 February 2024, the Commission visited South Sudan to engage with citizens and stakeholders and with Government officials at the highest levels. The Commission is supported by a secretariat based in Juba, South Sudan.

8. In 2023, the Commission conducted eight missions within South Sudan and other missions outside the country. It met with victims and survivors, witnesses, internally displaced persons, refugees, Government officials, justice sector actors, members of civil society and the media and other stakeholders. It collected 105 witness statements, conducted 253 meetings and focus group discussions and gathered records and evidence, which are preserved in the Commission's confidential archives. In the present report, detailed information has been omitted, when required, to protect sources from potential harm and a coding system has been used to reflect sources in footnotes.

9. The Commission has adopted a "reasonable grounds to believe" standard of proof in its reporting. The Commission has conducted its work, including the identification of alleged crimes, based on international human rights law, international humanitarian law, the domestic law of South Sudan and relevant criminal law, including the protection of sources and witnesses.

10. The Commission has focused on incidents and developments that occurred from January to December 2023, monitoring trends and patterns. The report is not exhaustive: themes and incidents have been selected for their significance to illustrate the state of human rights in the country. The report may be accompanied by further conference room papers published during the fifty-fourth and fifty-fifth sessions of the Council.¹ An advance draft was provided to the Government to respond to the findings.

11. The Commission extends its gratitude to the Government of South Sudan for the cooperation extended to the Commission and its secretariat. The Commission is also grateful for the cooperation received from the African Union and from Governments in the region, and for the logistical and related assistance of the United Nations Mission in South Sudan (UNMISS). The Commission thanks all who shared their experiences, expertise or analysis, without whom its work would neither be possible nor meaningful.

III. Political, security and legal developments

12. As it enters the final transition year, the future of South Sudan remains extremely precarious; the structural foundations needed to address governance, the economy and the human rights situation are yet to be established. By means of the 2022 road map, the Revitalized Agreement was extended, elections were postponed to December 2024 and outstanding tasks and commitments were identified. However, political competition, obstructions and delays have endangered the prospects for a credible transition and the protection of human rights. Further, negotiations between the Government and armed opposition groups under the "Rome talks", facilitated by the Community of Sant'Egidio, stalled, and efforts to revive talks continue.

13. The ruling Sudan People's Liberation Movement in Government (SPLM-IG) exerted its political dominance across all areas and continued its contestation with the Sudan People's Liberation Movement/Army in Opposition (SPLM/A-IO). Competition for power, influence and control amongst politicians and the security forces undermines peace.

14. In February 2023, the President and First Vice-President reportedly agreed to remove the authority of the National Security Service to arrest without warrant, powers persistently abused resulting in human rights violations – this was not reflected in amendments tabled in parliament.² In December 2023, draft bills were tabled with legislators to establish the Truth

¹ See https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/cohrsouthsudan/A_HRC_54_CRP.6_0.pdf.

² *Ibid.*, para. 122.

Commission and the Reparation Authority. No legislation was initiated to establish the Hybrid Court.

15. In June 2023, South Sudan joined the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the Maputo Protocol). Earlier in February 2023, the Government announced its accession to core United Nations human rights treaties and accession instruments were deposited with the United Nations treaty collection on 5 February 2024.

16. In November 2023, the first necessary unified forces, the new national army drawn from signatories to the Revitalized Agreement,³ were deployed in Upper Nile State. Their chain of command and ultimate deployment sites were unclear. Plans to deploy those forces to Tonga on the White Nile River raised concerns about their interactions with SPLM/A-IO and Agwelek forces, who fought heavy battles there in late 2022.⁴ In May 2023, the Agwelek commander Johnson Olony, arrived in Juba and discussed integrating his forces with the Government. Yet, the majority of SPLM/A-IO soldiers have not graduated into the necessary unified forces and, overall, have been marginalized. Dissension and limited cooperation between SPLM/A-IO and SPLM-IG is hampering prospects of an effective unified protection force and creating fractures in the armed forces.

17. In March 2023, the President unilaterally dismissed the SPLM/A-IO Defence Minister and later appointed her as Minister of Interior in September 2023. Targeted high-level defections orchestrated by SPLM-IG, particularly in Unity State, further eroded SPLM/A-IO militarily, increasing the risk of mass violence and gross human rights violations, including in Leer, where signatories to the Revitalized Agreement have continued to clash since 2018.

18. Campaigning and membership registration drives by SPLM-IG commenced across the country. In early July, President Kiir attended a rally in Wau, the capital of Western Bahr el-Ghazal State, which was seen as the launch of electioneering by SPLM-IG. Senior members of SPLM in attendance included the Chief Justice of the Supreme Court, wearing party colours. By contrast, other political parties faced significant restrictions, including SPLM/A-IO, whose leader, the First Vice-President, continued to be denied permission to leave Juba. Areas administered by SPLM/A-IO were effectively a no-go zone for SPLM activities.

19. Many opposition legislators boycotted the September 2023 vote on the National Elections Act in the Transitional National Legislative Assembly, citing the late addition of a provision empowering the President to appoint 5 per cent of the legislature.⁵ On 4 November, the Political Parties Council, the National Constitutional Review Commission and the National Elections Commission were reconstituted. SPLM/A-IO complained of underrepresentation and exclusion from senior positions in the National Elections Commission, delaying the swearing-in ceremony to 8 January 2024.

20. The National Elections Commission will need to appoint state commissioners, while the National Constitutional Review Commission must conduct extensive and inclusive public consultations, establish a committee to prepare a draft constitution and support a national conference and the adoption of a final text. Time is extremely limited as the upcoming elections are to be based on the new constitutional provisions.

21. The Election Security Committee, established by the National Police Service in June 2023, does not include the National Security Service. Judicial and administrative mechanisms for arbitrating electoral disputes are critical for fair polls and should be promoted by the National Elections Commission and the Political Parties Council.

22. The conflict that broke out in Khartoum in April 2023 and spread across the Sudan has put the infrastructure at risk, including the pipelines for oil exports from South Sudan, the country's economic lifeline. Half a million people, most of them returning nationals, fled

³ Revitalized Agreement, art. 2.2.1.

⁴ See https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/sessions-regular/session52/A_HRC_52_CRP.3.pdf, paras. 160–183.

⁵ See https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/cohrsouthsudan/A_HRC_54_CRP.6_0.pdf, para. 47.

to South Sudan, increasing pressures on resources and humanitarian needs on a population and system already at breaking point. Increased instability along the border areas is a concern. The crisis in the Sudan and accompanying mass displacements, atrocity crimes and destruction offer a cautionary message about the consequences of violent competition, military fracture and persistent failures to build a pluralistic and democratic society.

IV. Subnational conflict

Central Equatoria State

23. On 2 February 2023, at least 27 civilians were massacred in Kajo-Keji, Central Equatoria State, following violence and hostilities between Equatorians and heavily armed Dinka Bor cattle-keepers moving large herds of cattle into the Equatorias.⁶ The herds are major assets, belonging to wealthy and well-connected individuals.

24. Armed herders led dawn attacks. A survivor recalled an attacker declaring that everyone would be slaughtered. A farmer saw assailants shoot dead three men sitting outside her home.⁷ A woman witnessed her husband marched to the road and shot dead with his other wife.⁸ The Commission documented group executions where victims were forced to the ground and shot.⁹ A survivor played dead while lying soaked in the blood of other victims. When an attacker called for a knife to silence the wounded, he arose and fled, dodging bullets.¹⁰ Armed men raped women as part of the attacks.¹¹

25. In the attacks, around 20,000 people were displaced.¹² In February 2023, the South Sudan Red Cross reported that four of its volunteers had been killed. A survivor recounted collecting the dead with other residents.¹³ The next day, Pope Francis arrived in Juba. Although authorities vigorously censored media coverage of the massacre, images of mass graves appeared online and condemnations followed.¹⁴

26. Witnesses identified attackers primarily as members of a nearby cattle camp, speaking in Arabic and Dinka, carrying assault rifles and wearing long loose-fitting *jellabiya* garments. Residents noted that the cattle-keepers are highly militarized and enjoy close relations with local soldiers from the South Sudan People's Defence Forces.¹⁵ Witnesses said that some wore green, possibly military uniforms, under their *jellabiya*.¹⁶ Consistent testimonies indicate that soldiers participated in or supported the attacks.¹⁷

27. In the Equatorias, cattle-herding and illegal timber and minerals extraction activities are guarded by heavily armed actors. The damage to land and agriculture and the violence and insecurity these activities generate fuel grievances throughout the Equatoria States. In a press release issued on 7 February, the President requested local authorities to address the perennial issues with the cattle-keepers and called for investigations and accountability. This and successive similar governmental decrees remain unenforced.

⁶ See <https://peacekeeping.un.org/en/unmiss-strongly-condemns-deadly-violence-kajo-keji-central-equatoria-state>.

⁷ R2910796.

⁸ R6917140.

⁹ R3186828, R4132159, R2075878 and R7345000.

¹⁰ R4530282.

¹¹ R3043220 and R9329281.

¹² Protection Cluster South Sudan, "Kajo-Keji County/Central Equatoria State protection response", 28 February 2023.

¹³ R4387595.

¹⁴ https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/cohrsouthsudan/A_HRC_54_CRP.6_0.pdf, para. 84.

¹⁵ R5818167 and R5208897.

¹⁶ R4204387, R2600155, R3670882, R6692840 and R1232500.

¹⁷ R4172798, R4632750, R3650243 and R9390333.

Jonglei State and the Greater Pibor Administrative Area

28. Throughout 2023, the Commission recorded attacks by Murle men and boys against civilians in multiple counties of Jonglei State. It interviewed refugee survivors in Ethiopia and reviewed other reports of rapes, killings, abductions and the destruction of property.¹⁸ Many abuses took place during cattle-raids, escalated by guns. Refugees cited cyclical violence as a key barrier to returning home.¹⁹

29. By late 2022, thousands of Lou Nuer and Dinka Bor men and boys had mobilized. In the last week of December, they attacked the Gumuruk and Lekuangole *payams* of the Greater Pibor Administrative Area.²⁰ Murle communities also suffered attacks. In January 2023, hundreds of Murle women and children were forcibly taken to locations throughout Jonglei State.

30. Gumuruk residents identified attackers as Nuer and Dinka wearing civilian clothes and green uniforms carrying spears, ammunition and assault rifles.²¹ Contamination of water supplies, cattle-raiding and property destruction were reported.²² Murle men resisted with arms. One man said he was shot and had seen all his brothers die.²³ Other men and older boys ran for safety or to rescue cattle.²⁴ Most women and other children fled to scrubland and waterways.²⁵ Grasses and bushes were set ablaze to force people out from hiding.²⁶ Tall boys were reportedly shot as they emerged from hiding.²⁷ A girl, who saw her mother stabbed and a brother shot dead, was corralled into a group of women, girls, young boys and babies, a pattern of the violence.²⁸ Their subsequent experiences of abduction are detailed below.

31. The mass mobilization to attack Murle communities was well-planned. State, area, national authorities and United Nations entities were aware of the danger. Effective measures to prevent the attacks, bolster protection or disrupt planners of attacks were not taken. On 26 December 2022, as reported by the Jonglei State Information Ministry, Jonglei authorities called on the national Government to intervene only after the attacks commenced. South Sudan People's Defence Forces in Gumuruk were not reinforced and on 27 December they withdrew after being overwhelmed, reportedly incurring 16 fatalities.²⁹

32. In September and October 2023, during armed clashes with Anyuak youth, the South Sudan People's Defence Forces deployed helicopters to Pochala in Greater Pibor, including at least one gunship. In June, the newly appointed county commissioner was killed while attempting to establish an office in Pochala, highlighting the violent contestation for administrative control in the area. Tensions increased following the deployment of a new area commander of the South Sudan People's Defence Forces. On 17 September, soldiers under his command killed the previous area commander, an Anyuak from Pochala. In retaliation, Anyuak youth mobilized and attacked the South Sudan People's Defence Forces barracks. Numerous Anyuak soldiers in the South Sudan People's Defence Forces reportedly joined the youth and clashes ensued for weeks.³⁰ Humanitarian workers promptly evacuated the area and more than 10,000 residents fled, some to Ethiopia.³¹ Local authorities reported

¹⁸ R6394922 and R9028466.

¹⁹ R8157620, R3699714 and R6505923.

²⁰ The Murle areas were devastated by similar attacks throughout 2020. See Commission on Human Rights, https://www.ohchr.org/sites/default/files/HRBodies/HRC/RegularSessions/Session46/Documents/A_HRC_46_CRP_2.pdf, paras. 91–115.

²¹ R8084977, R9371676, R7177542, R4404229, R1215420, R7034690, R1252116, R4984663 and R9407926.

²² S/2023/294, para. 95; R3874087.

²³ R5650713.

²⁴ R7736335, R9436121 and R6729646.

²⁵ R9806048, R7139110, R4465159, R1340096 and R8102507.

²⁶ R4406473 and R5596862.

²⁷ R7508022.

²⁸ R2919898.

²⁹ Ceasefire and Transitional Security Arrangements Monitoring and Verification Mechanism, report 2023/05, para. 9.

³⁰ S/2023/922, para. 59.

³¹ See <https://www.unocha.org/publications/report/south-sudan/south-sudan-humanitarian-snapshot-september-2023>.

damage to civilian buildings from bombardment.³² The spokesperson for the South Sudan People's Defence Forces said that air support was a necessary defensive measure.³³

33. Violence subsided by late October after high-level discussions in Juba. Some South Sudan People's Defence Forces soldiers were withdrawn and the National Security Service was deployed to the area. The area commander of the South Sudan People's Defence Forces was replaced, as demanded by Anyuak groups. According to the South Sudan Broadcasting Corporation, the chief of the South Sudan People's Defence Forces and the chief of military intelligence visited Pochala on 22 November, along with the Director General of the National Security Service.³⁴ Engagements and measures in the SPLM-IG-controlled area stand in contrast to inadequate responses to violence elsewhere in Greater Pibor.

Unity State

34. On 7 October, Lieutenant General Simon Maguek Gai, the top commander of SPLM/A-IO in Unity State, defected at SPLM headquarters in Juba, in the presence of Governor Monytil. The next week, Maguek travelled to Leer, the birthplace of SPLM/A-IO leader Riek Machar, and held rallies with the SPLM-IG county commissioner. The Corporation broadcast another report that Maguek was leading a peace delegation sent by the President, as well as an interview in which he stated that the President had asked him to organize forces in Leer.³⁵ In neighbouring Koch, defectors coordinated with the County Commissioner to mobilize forces aligned with the Government.³⁶ Dozens of SPLM/A-IO soldiers and civilians were detained for refusing to defect to Maguek or to join the local militia.³⁷

35. Amidst rising tensions, on 28 November, the South Sudan People's Defence Forces under Maguek attacked the SPLM/A-IO position in Kagai, around four kilometres from Leer. Thousands of residents fled the area. Significant escalation was prevented by high-level interventions by the Government and the military. By late December, Maguek had redeployed north to Bentiu.

36. The above activities deepened the insecurity and trauma of communities still reeling from years of devastating cyclical attacks, escalating disputes over revenue sharing from Adok, a river port in Leer under SPLM/A-IO control but within the administrative area of an SPLM-IG county commissioner. Contestation over the lucrative port is a significant driver of conflict. In 2022, after seizing the sole SPLM/A-IO cantonment in Koch county, Government-aligned militias briefly captured Adok after carrying out widespread attacks against civilians in Leer. The Commission documented those crimes, identifying key officials who were complicit and bore responsibility.³⁸ Those officials remain in office, deepening an overall sense of impunity. The persistent quest of SPLM-IG for territorial control in Leer presents a grave risk of atrocity crimes.

Unity and Warrap States and violence affecting the Abyei Administrative Area

37. During 2023, Dinka Twic and Bul Nuer militias from Warrap and Unity States launched attacks within the Abyei Administrative Area, whose final status has not yet been determined between South Sudan and the Sudan. Conflict flared in 2022, primarily between Dinka Twic from Warrap State and Ngok Dinka groups in Abyei, centred on economic control of Agok and Aneet in southern Abyei. Throughout 2023 and into 2024, high casualties were inflicted in attacks and retaliatory attacks involving Ngok Dinka, Dinka Twic and Bul Nuer. The United Nations Interim Security Force for Abyei (UNISFA) reported that

³² See <https://radiotamazuj.org/en/news/article/pochalla-women-children-struggle-for-basic-necessities-amidst-conflict>.

³³ See <https://www.facebook.com/lul.r.koang/posts/pfbid02hgEstWUX4jTTyDAxsb4KgzXyeiJ7WTKp4qcz8Vp7wBSZFWrmW9jSVMDfPcRQPgl>, 19 September 2023.

³⁴ South Sudan Broadcasting Corporation (SSBC), evening bulletin, 22 November 2023.

³⁵ SSBC, evening bulletin, 8 October 2023.

³⁶ R3450295 and R3185940.

³⁷ R3787637, R5191278 and R9722385.2.

³⁸ See https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/sessions-regular/session52/A_HRC_52_CRP.3.pdf, paras. 38–115.

an estimated 27 people were killed on 21 November and a senior Abyei administrator was killed on 31 December 2023. UNISFA has struggled to contain the violence. On 27 January 2024, attackers killed a peacekeeper and several civilians at the United Nations peacekeeping base in Agok where civilians had sought protection.

V. Sexual and gender-based violence

38. Widespread sexual and gender-based violence against women and girls is a national crisis; serious crimes continue with impunity, including by State officials, and a plethora of policies, actions plans and laws adopted by the Government have not been implemented. Governmental commitments to address women's underrepresentation in positions of political authority have not been met. Gender inequity in access to education further compounds women's inequality and disadvantage, entrenching their low social status. Violence committed against the bodies of women and girls reflects the prevailing social, political and economic context. The absence of security and protection for women and girls, their exclusion from the national agenda-setting and continued brutal sexual and gender-based crimes have shattered the lives of individuals and families. The severe impediments to women's ability to participate in public life means that their needs and perspectives are not integrated into decision-making, leading to poor development outcomes for them, including in maternal health and education, thus constraining national development.

39. The Commission interviewed survivors of sexual violence in Bentiu, where a crowded camp hosts around 100,000 people displaced by violence and by flooding linked to climate change.³⁹ The population of the camp has not significantly changed since the signing of the Revitalized Agreement. Women and girls continue to be subjected to rape and sexual violence, often while undertaking livelihood activities outside the camp, while attackers enjoy impunity.⁴⁰ Protection measures remain inadequate.⁴¹ Multiple testimonies detailed rapes in 2023 by South Sudan People's Defence Forces and SPLM/A-IO soldiers.⁴² In every case the victims were outside the camp fetching firewood, burning charcoal or foraging for food to supplement income and food assistance, which was significantly decreased in 2023.⁴³ Many survivors presented blunt force trauma injuries from severe beatings. One victim said that perpetrators debated whether to kill her to avoid possible identification.⁴⁴ The mental trauma women suffer from the rape and sexual violence is compounded by the knowledge that their lives are on a knife-edge, dependent on the will of the perpetrators. Most victims do not report the crimes for fear of retaliation and stigmatization. Underreporting is illustrated by the anomaly that, from August to November 2023, the Commission identified more rapes by soldiers than were reported to the "one-stop" centre in Bentiu.⁴⁵ Survivors indicated that they had suffered multiple incidents of rape and sexual violence in the past. Most interviewees came from southern Unity State, where widespread sexual violence remains a feature of systematic attacks on civilians. Individuals responsible remain in public office.⁴⁶

40. At multiple health clinics at "one-stop" centres, the Commission identified the use of rape kits to collect bodily fluids from victims of crimes. Because forensic capabilities and storage facilities do not exist, even in Juba, samples are soon disposed of and so are lost as evidence for criminal cases.⁴⁷ An unintentional effect of this invasive procedure is to

³⁹ See https://www.ohchr.org/sites/default/files/Documents/HRBodies/HRCouncil/CoHRSouthSudan/A_HRC_40_CRP_1.docx, paras. 443–469; see also https://www.ohchr.org/sites/default/files/2022-03/A_HRC_49_CRP_4.pdf.

⁴⁰ Conference room paper to be read in conjunction with A/HRC/40/69, paras. 443–469; and https://www.ohchr.org/sites/default/files/2022-03/A_HRC_49_CRP_4.pdf, paras. 91–106.

⁴¹ R9466525.

⁴² R5346022, R6020667, R2379054, R2649535 and R3627245.

⁴³ R1839434.

⁴⁴ R1005415 and R7452206.

⁴⁵ R5731473, R3194440, R6531984, R9065725 and R8989556.

⁴⁶ See https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/sessions-regular/session52/A_HRC_52_CRP.3.pdf, paras. 38–115.

⁴⁷ R4515263, R9879996, R9065725 and R3112708.

retraumatize survivors, who already face multiple barriers to medical assistance and justice.⁴⁸ Some medical centres require survivors to file a criminal complaint, which can include an expensive “age assessment” to support trials that rarely take place.⁴⁹ Practices in the judicial management of rape cases also vary, with criminal charges often referred to customary courts. While a judge in Bahr el-Ghazal said that rape offences must be tried in regular courts, in the Equatorias a prosecutor said that customary courts can handle such cases unless victims are under eight years of age.⁵⁰ In Unity State, a service provider said cases are referred to customary courts, given the lack of formal options, and the Commission received information that victims had approached customary courts after a mobile court did not hear their cases.⁵¹ Customary courts often impose financial penalties, which rarely go to victims; compensation is instead paid to their families. Victims being compelled to marry their perpetrators appears to be commonplace, compounding their violation.

41. Unintended pregnancies, disease and injury to their reproductive organs creates a continuing cycle of harm, particularly for children born as a result of sexual violation by security forces on all sides. Evidence shows that children born out of rape are marginalized within their communities and are a constant reminder of the conflict and what went wrong.

42. Numerous laws, action plans and policies contain remedial measures, including the Maputo Protocol, ratified in 2023, and the joint communiqué on the prevention of conflict-related sexual violence signed between South Sudan and the United Nations in 2014. A related 2021 action plan for armed forces expired at the end of December 2023. In spite of such plans and policies, there have been no substantive positive changes for women and girls, as governance structures capable of protecting them do not exist. Most related laws, plans and policies designate an outsized role to the underresourced Ministry of Gender, Child and Social Welfare. Ministry officials in multiple states detailed their limitations in implementing this mandate, identifying knowledge, expertise, capacity and resourcing constraints. A director general explained that many staff lack adequate skills and training, while qualified candidates are dissuaded by low and irregular pay.⁵² A state minister said that no resources are available for protection activities.⁵³ The absence or weakness of courts and difficulties in coordinating with political leaders, government institutions and armed groups were cited.⁵⁴ The development of a national database to facilitate referral pathways for victims of sexual and gender-based violence has stalled, reportedly for lack of funding.⁵⁵ In the 2023–2024 national budget, 1 per cent has been allocated for the Ministry to share with five other institutions. Its limited resources and lack of coordination with other institutions have previously been identified by the Commission and human rights treaty bodies.⁵⁶ The political failures to prioritize the protection of the human rights of women and children, which violate the human rights obligations of South Sudan, has resulted in a situation where the majority of the population is living in an unacceptable human rights situation.

43. Women and girls in South Sudan, living under siege, lament that no one and nowhere is safe. Rape and other sexual violence destabilize society, fraying community and familial bonds, as women, who maintain those bonds, are targeted. Persistent sexual violence has shattered any belief in the capacity of society to protect women.

⁴⁸ See https://www.ohchr.org/sites/default/files/2022-03/A_HRC_49_CRP_4.pdf, paras. 196–201.

⁴⁹ R7091185 and R1379073.

⁵⁰ R2178637 and R2400924.

⁵¹ R9304155 and R2535472.

⁵² R2844643.

⁵³ R2133696.

⁵⁴ R4564596.

⁵⁵ R7602211.

⁵⁶ See https://www.ohchr.org/sites/default/files/2022-03/A_HRC_49_CRP_4.pdf, para. 225 (k); https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/sessions-regular/session52/A_HRC_52_CRP.3.pdf, para. 226; CEDAW/C/SSD/CO/1, paras. 17–18; CRC/C/SSD/CO/1, paras. 10–12; and A/HRC/53/28/Add.2, para. 34.

VI. Abductions of women and children

44. The Commission has previously described the extreme violence to which women and children abducted in conflict situations are subjected.⁵⁷ Abductions are gross human rights violations and constitute, in armed conflict, grave breaches of international humanitarian law amounting to war crimes. Predictably, women and girls are targeted for economic, sexual and other forms of exploitation, with abductions occurring in the broader context of their commodification, in which their lives are traded for cattle or money, which, in some instances, amounts to trafficking.

45. There is a long history of abductions during cattle-raids and revenge attacks in Jonglei State and Greater Pibor, reflecting a complex mix of harmful cultural practices,⁵⁸ grievances, lawlessness, deprivation and economics. Patterns include mass attacks on the Murle by combined groups of Lou Nuer and Dinka Bor; the Murle abduct Lou Nuer children in smaller scale but more frequent attacks.

46. In January 2023, Lou Nuer and Dinka Bor attackers marched off hundreds of Murle women and children at gunpoint, alongside cattle. Survivors were forced to walk up to 400 kilometres, often barefoot.⁵⁹ They were severely beaten and deprived of food, water and rest.⁶⁰ Women carried babies and small children; some were forced to carry luggage and water.⁶¹ A daughter recounted that her mother, disappeared on the march, feared killed.⁶² An adolescent mother was separated from her child, who remains missing.⁶³ Another mother recalled her agonizing decision to escape without her child.⁶⁴ Scores of abductees were killed trying to escape.⁶⁵ Many family members, including mothers and children, were separated as the abductors dispersed them to the north and west.⁶⁶ Survivors interviewed had been forcibly displaced and trafficked to locations throughout Jonglei State, including Akobo, Bor South, Nyirol, Old Fangak and Uror counties (see first map in annex). Reports of abductees in other counties could not be verified⁶⁷ and many remain missing.

47. In Bor, the capital of Jonglei State, Murle women reported that they had been taken to a market area where they witnessed their abductors being paid cash in exchange for their release.⁶⁸ Senior government officials in Bor confirmed their involvement in negotiations but denied that money was exchanged.⁶⁹ A survivor identified a senior official who was present while authorities negotiated payments with her abductors.⁷⁰ From mid-January, authorities oversaw a series of special flights transporting released abductees to Pibor. One mother who took a flight said her infant daughter was still missing after her abductor refused to accept a payment for her release and authorities failed to intervene.⁷¹

48. Numerous survivors were held for months as forced wives of abductors. All interviewees had successfully escaped, although many had left children, relatives and neighbours behind. In captivity, they had been treated like cattle and goods, most being subjected to rapes and sexual exploitation, beatings, death threats, forced labour and other forms of ill-treatment.⁷² A 12-year-old said that her abductor's family had treated her as a

⁵⁷ See https://www.ohchr.org/sites/default/files/2022-03/A_HRC_49_CRP_4.pdf, paras. 51–57.

⁵⁸ Including the Murle practice of abducting children from neighbouring communities, then integrating them into families.

⁵⁹ R4038407, R7686117, R5560594, R4855234, R4218589, R7762189, R7182573 and R9043407.

⁶⁰ R2294311, R2152205 and R7442038.

⁶¹ R4055163 and R1672475.

⁶² R9969079.

⁶³ R8836088.

⁶⁴ R6146102.

⁶⁵ R7414601.

⁶⁶ R6283540, R2279039, R6321390, R1800166, R5046946, R2344223, R9792781, R8963343 and R2049707.

⁶⁷ R9722264.

⁶⁸ R5645545, R6281540 and R7729561.

⁶⁹ R8295510.

⁷⁰ R4354043.

⁷¹ R5232451.

⁷² R7973142, R3336045, R1128229, R3346633 and R5387586.

slave.⁷³ A young woman bears scars from being whipped with a rope for refusing sex.⁷⁴ An adolescent mother was beaten close to death and her infant daughter taken from her during her escape.⁷⁵ Most interviewees were helped to travel to Pibor after approaching police, soldiers or administrators in their area of captivity as word had spread about government efforts to release captives. Nevertheless, many women said authorities did not help, even when the location of captives was known. Instead, victims and their families were advised to pay money to abductors. A Murle man in Pibor said that his wife's abductor shared her photo with authorities, who advised him to make a payment he could not afford. His wife and children remain hostage.⁷⁶ Another father in Gumuruk paid for the release of his young son, who authorities then transported to Pibor.⁷⁷ His wife and two daughters remain captive. Mothers who left children behind are visibly traumatized, carrying guilt and not knowing their child's fate. A young woman, abducted with her son during violence in 2020, approached authorities in 2023 for help; she has no money for the release of the boy she had left behind.⁷⁸ A senior government official in Pibor suggested that abductors hold children hostage as a tactic to entice escaped women back, a finding that is consistent with the Commission's observations.⁷⁹

49. Abductions were inherently gendered: women, girls and young boys were taken while men and older boys were killed, with women above childbearing age being killed or left behind. The decision of authorities to facilitate payments for abductees, mostly women and girls, occurs in the context of their exploitation.

50. The intensifying scale of abductions is widely attributed to weapons proliferation and more frequent mass mobilization.⁸⁰ Authorities failed to prevent attacks or hold perpetrators accountable for past abuses, consistently claiming a lack of capacity on the part of the security forces.⁸¹ However, activists in these areas are zealously policed and forces have intervened when politically expedient (see paras. 32–33 above). Previous initiatives to address conflicts, including the high-level committee established by the President in June 2020 to examine violence in Jonglei and Greater Pibor, have not been followed up with concrete steps to prevent recurrence.⁸²

51. When authorities pay abductors or advise families to do so, this involves corruption. Encouraging and facilitating the payment of ransoms amounts to criminal collusion, promotes impunity and risks incentivizing or prolonging abductions. Similar dynamics have contributed to preventing the release of members of the Shilluk community abducted from Upper Nile to northern Jonglei State in late 2022.⁸³ Overall, authorities were passive in preventing and punishing abductors and there were limited efforts to locate and rescue those missing or held hostage. Such inaction prolongs captivity and exploitation and may imply complicity in international crimes such as enslavement, deprivation of liberty, sexual slavery and other inhuman acts, possibly amounting to crimes against humanity.

⁷³ R3961306.

⁷⁴ R2095325.

⁷⁵ R9221726.

⁷⁶ R9436797.

⁷⁷ R4387771.

⁷⁸ R9721023.

⁷⁹ R3855628.

⁸⁰ R2717695, R4161698 and R2017627.

⁸¹ R5548743; see https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/cohrsouthsudan/A_HRC_54_CRP.6_0.pdf, paras. 75 and 83.

⁸² A/HRC/46/53, para. 39.

⁸³ See https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/cohrsouthsudan/A_HRC_54_CRP.6_0.pdf, para. 83; and https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/sessions-regular/session52/A_HRC_52_CRP.3.pdf, paras. 173–182.

VII. Rights of children

52. The Commission and other human rights mechanisms have detailed the failure of the State to implement its treaty and domestic commitments to the rights of the child,⁸⁴ with devastating effects on children and society.

53. Children suffer disproportionately from precarious health and humanitarian conditions and constitute most of the population requiring assistance. One in 10 children under five dies and 1.65 million experience acute malnutrition, mostly in areas affected by conflict.⁸⁵ Health outcomes are infinitely worse for girls, often linked to rape and sexual violence, early marriage and high early pregnancy rates.⁸⁶ Doctors and health officials across the country described an overreliance on international donors and an absence of infrastructure and basic supplies and non-payment of salaries.⁸⁷ Rural women detailed needless infant and maternal deaths from lack of health care.⁸⁸ In 2023, health ministry staff and the national doctor's union appealed for increased government funding, but when the national budget was passed, the health allocation had been reduced, to 3 per cent.

54. Few South Sudanese children enjoy the right to education.⁸⁹ The United Nations Children's Fund (UNICEF) estimates enrolment rates at 37.6 per cent in primary and 5.2 per cent in secondary schools.⁹⁰ In February 2023, President Kiir directed ministries to ensure free access to primary and secondary education. Although free access to primary education is required by national law, the budget allocation for education is low and mostly goes towards higher education, which is accessible to few.⁹¹ Moreover, allocated funds often never reach schools and the policy on free education is not matched by resources (see sect. X below).⁹² Educators collecting fees to supplement low and irregular incomes face prosecution and teachers detained or fired for demanding salary arrears.

55. Underrepresentation of girls in education reflects the low social status of women. Owing to a cultural preference to invest in boys, many poor families choose to pay for the schooling of boys rather than girls. Some families fear that an educated girl may refuse early marriage.⁹³ Economic dimensions are at play; in some areas girls are "booked" for a husband from birth, effectively becoming a commodity for exchange in adolescence.⁹⁴ This may explain reports that in Greater Pibor only one girl was enrolled in secondary school matriculation in 2023.⁹⁵ In one instance, a customary mechanism adjudicating homicides ordered that a girl relative of the perpetrator be forced to marry a member of the victim's family.⁹⁶

⁸⁴ See https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/cohrsouthsudan/A_HRC_54_CRP.6_0.pdf, to be read in conjunction with A/HRC/40/69, paras. 573–578.

⁸⁵ United Nations Inter-agency Group for Child Mortality Estimation, *Levels & Trends in Child Mortality*, (New York, UNICEF, 2023), p. 57; see also Integrated Food Security Phase Classification, "Acute food insecurity and malnutrition analysis", November 2023 (https://www.ipcinfo.org/fileadmin/user_upload/ipcinfo/docs/IPC_South_Sudan_Acute_Food_Insecurity_Malnutrition_Sep2023_July2024_report.pdf).

⁸⁶ CRC/C/SSD/CO/1, para. 48.

⁸⁷ R2611891, R8728832 and R3100104.

⁸⁸ R3916571.

⁸⁹ See https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/cohrsouthsudan/A_HRC_54_CRP.6_0.pdf, to be read in conjunction with A/HRC/40/69, paras. 537–572.

⁹⁰ UNICEF, "South Sudan Country Programme 2023–2025", (January 2023), p. 14.

⁹¹ Analysis of 2021–2024 national budget allocations and 2021–2023 expenditure.

⁹² 2020 National Action Plan for Children identifies underresourcing as a major impediment to implementing the 2008 Child Act.

⁹³ R6906332 and R4660647.

⁹⁴ R9939470, R9076635, R4319631 and R9291737.

⁹⁵ See <https://www.eyeradio.org/only-one-female-to-sit-for-secondary-leaving-exams-in-pibor/>.

⁹⁶ R7856861 and R9132083.

56. The Commission observed the ongoing forced recruitment and use of children by armed forces and groups during 2023.⁹⁷ In Bentiu displacement camp, where both South Sudan People's Defence Forces and SPLM/A-IO operate, boys were recruited on the false pretence of being deserters. A boy described being detained by soldiers and held until his father paid the soldiers, amounting, in effect, to extortion.⁹⁸ Child recruitment also persists in Western Equatoria State, despite efforts to demobilize children.⁹⁹ Their reintegration is obstructed by challenges previously identified by the Commission.¹⁰⁰ Support capacities are constrained by scarce resources, reportedly reflecting limited political will.¹⁰¹ The military continued to use schools in parts of the country, in violation of State commitments. The commanders and public officials identified by the Commission as responsible for grave violations against children have not been disciplined or punished.¹⁰²

57. South Sudanese children remain extremely vulnerable to exploitation in many contexts, including: mining operations, where child labour appears prevalent; in prisons where children are incarcerated with adults; in refugee and displacement settings; and upon abduction (see above).¹⁰³ In a series of incidents, children were maimed or injured by unexploded ordnance, highlighting additional vulnerabilities linked to armed conflict.¹⁰⁴ The weakness, or absence, of child protection systems in South Sudan is evident.

VIII. South Sudanese refugees and internally displaced persons

58. South Sudan has generated the most refugees in Africa, with more than 2.2 million refugees in neighbouring countries.¹⁰⁵ This figure has not changed significantly over the last five years, with the number of refugees returning being matched by those still fleeing.¹⁰⁶ An additional 2 million people remain internally displaced. A worsening humanitarian situation persists, with 9.4 million people needing assistance in 2023.¹⁰⁷ Nearly half of the population of South Sudan is at risk of acute food insecurity.¹⁰⁸ Since April 2023, conflict in the Sudan has seen half a million people fleeing to South Sudan; mostly South Sudanese residing in the Sudan. This has further strained a humanitarian system already dealing with global funding cuts, severely limited national infrastructure and ongoing attacks on aid workers and aid distributions by armed militia and groups.

59. In February 2023, President Kiir called on refugees to return, promising that it would be at the top of the Government's agenda heading towards elections.¹⁰⁹ However, the Special Reconstruction Fund envisaged in the Revitalized Agreement to support return and reintegration has also not been established. The 2023–2024 national budget allocated 0.005 per cent to the fund, far short of the required sum.¹¹⁰ On 6 September, the interim chair of the

⁹⁷ M100379, R9384985, R6465327, R2617928, R9032514, R1506252, R9368091, R7004472, R9432010, R1298719, R2022604, R3900013 and R7584876.

⁹⁸ R8086923.

⁹⁹ R1868858 and R8369136.

¹⁰⁰ R2879521, R4769162, R1364192 and R1995851; see also <https://www.ohchr.org/en/hr-bodies/hrc/regular-sessions/session52/list-reports>, paras. 223–234.

¹⁰¹ R2242226 and R8195901.

¹⁰² See <https://www.ohchr.org/en/hr-bodies/hrc/regular-sessions/session52/list-reports>, para. 229.

¹⁰³ R4876467, R9372816, R6962059, R7271347 and R2943097; see also [CRC/C/SSD/CO/1](#), para. 60, and [A/HRC/53/28/Add.2](#), para. 38.

¹⁰⁴ R5738902, R3592920, R3886830 and R1578404.

¹⁰⁵ See <https://www.unocha.org/publications/report/south-sudan/south-sudan-humanitarian-snapshot-december-2023>.

¹⁰⁶ UNHCR reports nearly 1 million refugees returning during this period, while overall figures reported are mostly unchanged.

¹⁰⁷ See <https://www.unocha.org/publications/report/south-sudan/south-sudan-humanitarian-snapshot-december-2023>.

¹⁰⁸ *Ibid.*; see also

https://www.ipcinfo.org/fileadmin/user_upload/ipcinfo/docs/IPC_South_Sudan_Acute_Food_Insecurity_Malnutrition_Sep2023_July2024_report.pdf.

¹⁰⁹ See <https://apnews.com/article/south-sudan-government-0a628370837c8450e682395ea0bc5a52>.

¹¹⁰ Documents on file. The figure appears far less than 20 per cent of the \$100 million commitment made under article 3.2.7 of the Revitalized Agreement.

Reconstituted Joint Monitoring and Evaluation Commission called on the Government to take the first steps in establishing the fund.¹¹¹ At the same time, the top United Nations humanitarian official in the country appealed to the Government to invest in services, given the inability of the aid sector to cover significant gaps.¹¹²

60. The Commission met South Sudanese refugees in the Democratic Republic of the Congo, Ethiopia, Kenya and Uganda. Most remain traumatized from previous violations and abuses they suffered in South Sudan between 2013 and 2023. A rape survivor in the Democratic Republic of the Congo said he never wanted to return after a soldier shattered his dignity.¹¹³ A man born in a camp in Uganda returned to build a life in South Sudan but fled after receiving death threats for his human rights advocacy.¹¹⁴ In Ethiopia, a Shilluk interviewee reported living apart from her husband in Malakal in order to protect their children from insecurity and deprivation.¹¹⁵ A woman taken captive by the National Salvation Front after returning from a refugee camp said that she would not face that risk again.¹¹⁶ Numerous witnesses had returned from refugee camps to South Sudan, only to flee again after experiencing or witnessing horrific violence.¹¹⁷

61. In refugee camps, residents identified decreasing food assistance as a major problem, particularly where restrictions on livelihood activities contribute to aid dependency.¹¹⁸ Varying access to health care and education are among other challenges reported in camps.¹¹⁹ All interviewees perceived conditions as worse in their places of origin, citing unchecked militarization, violence and internal displacement in the Greater Equatoria and Greater Upper Nile regions.

62. In both camp and urban settings, refugees expressed feelings of being forgotten or excluded in political processes, including planned elections. Individuals involved in political activities said they do not feel safe in their host countries, citing the pervasive extraterritorial operations of the National Security Service.¹²⁰ Overwhelmingly, refugees told the Commission they cannot return without seeing sustainable peace and they demand justice.

63. On 9 October 2023, the Minister of Humanitarian Affairs and Disaster Management addressed a United Nations forum in Geneva, requesting international financial assistance for displaced persons to return home.¹²¹ On the same day, the Special Rapporteur on the human rights of internally displaced persons was to land in Juba, but the Government cancelled her visit, citing issues with reports of the United Nations, including that of the Commission.¹²² Without a coherent Government commitment to stabilization, demonstrated through political and financial investments, refugees and internally displaced persons are unlikely to return home.

IX. Accountability and transitional justice

64. Many South Sudanese link the ongoing conflict and insecurity to weak or absent justice institutions, including the failure to adopt governance and economic reforms and transitional justice measures. The previous reports of the Commission demonstrate, in detail,

¹¹¹ See <https://cityreviewss.com/rjmec-tells-government-to-form-special-reconstruction-fund-board/>.

¹¹² See <https://www.unocha.org/publications/report/south-sudan/humanitarian-agencies-south-sudan-forced-reduce-aid-amidst-funding-crisis-and-aggravated-humanitarian-situation>.

¹¹³ R8926744.

¹¹⁴ R5453586.

¹¹⁵ R4203962.

¹¹⁶ R3205466.

¹¹⁷ R3351482, R4677383, R4754675, R4207580, R2403973, R6972823(3) and R4227779(4).

¹¹⁸ R8432285 and R1867430.

¹¹⁹ R4482557, R4267289, R2234558(1), R9931405(7), R6733253(8) and R1258365(2).

¹²⁰ See

https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/cohrsouthsudan/A_HRC_54_CRP.6_0.pdf, paras. 149–177.

¹²¹ See <https://www.eyeradio.org/south-sudan-urges-international-community-to-lend-hand-to-returnees-refugees>.

¹²² See <https://www.ohchr.org/en/media-advisories/2023/10/south-sudan-visit-un-expert-postponed>.

how impunity fuels cyclical violence and human rights violations.¹²³ Nevertheless, there have been few concrete steps towards developing functioning justice processes and institutions.

Administration of justice

65. The justice system has severe jurisdictional, security and capacity impediments.¹²⁴ The Constitutional Court envisaged in the Revitalized Agreement has not been established. Justice sector actors identified the neglect of courts as a major manifestation of dysfunctionality in the criminal justice system. In the fiscal year 2022–2023, the judiciary received less than 1 per cent of the national budget and police and prison services received around 3 per cent.¹²⁵ No State funding appears to be allocated for the establishment of transitional justice institutions.

66. The largest state in South Sudan, Jonglei, has only one high court judge; Greater Pibor has none, those areas have the highest numbers of abductions.¹²⁶ Unity and Upper Nile States have had no high court judges for several years, making prosecutions of serious crimes virtually impossible.¹²⁷ In other states, a handful of judges largely confine themselves to urban centres.¹²⁸ Recruitment and retention of state-level judges and prosecutors are hindered by poor court and housing facilities, security risks and low and irregular salaries,¹²⁹ resulting in absenteeism, with some state-level jurists residing in Juba.¹³⁰ Many areas rely on mobile courts headed by judges from other areas. While an important provisional measure, mobile courts are limited by the constraints facing local investigators and are unsustainable as they rely on international resources and support. A minister of Unity State noted that no mobile court had adjudicated in the state in 2023 and called for the prioritization of permanent courts.¹³¹

67. Police and prosecutors reported severe limitations in staffing, equipment, offices and capacities, hampering effective investigations.¹³² Case backlogs are significant, resulting in large numbers of people trapped in pretrial detention, with no effective option for appeal,¹³³ and overcrowded prisons. Sickness is rife in prisons owing to a lack of basic sanitation and related infrastructure. A state prison official complained that authorities had not connected the prison to utilities.¹³⁴ Dehumanizing prison conditions and lengthy pretrial detention must be addressed by functioning courts to prevent systemic human rights violations, including of fair trial rights.

68. Most communities depend on customary justice mechanisms, which are perceived as more accessible than regular courts.¹³⁵ Under the 2009 Local Government Act, “traditional authorities” can adjudicate criminal offences with a “customary interface”.¹³⁶ However,

¹²³ See https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/sessions-regular/session52/A_HRC_52_CRP.3.pdf.

¹²⁴ See https://www.ohchr.org/sites/default/files/HRBodies/HRC/RegularSessions/Session37/Documents/A_HRC_37_CRP.2_EN.docx, paras. 665–681; see also https://www.ohchr.org/sites/default/files/HRBodies/HRC/RegularSessions/Session37/Documents/A_HRC_37_CRP.2_EN.docx, paras. 304–315.

¹²⁵ Documents on file.

¹²⁶ R8518262.

¹²⁷ R1884828, R3451657 and R6865199; see also https://www.ohchr.org/sites/default/files/HRBodies/HRC/RegularSessions/Session37/Documents/A_HRC_37_CRP.2_EN.docx, paras. 306–315.

¹²⁸ R1328530, R3019867, R3637091 and R2717155.

¹²⁹ R8663097.

¹³⁰ R1419414, R1523340 and R2428939.

¹³¹ R5946697.

¹³² R8043046, R6541569, R1973666 and R1249550.

¹³³ R7581936.

¹³⁴ R9863877.

¹³⁵ R6017197, R8166014, R4597923 and R6384349; see https://www.ohchr.org/sites/default/files/2022-03/A_HRC_49_CRP.4.pdf, paras. 191–195, and https://www.ohchr.org/sites/default/files/HRBodies/HRC/RegularSessions/Session37/Documents/A_HRC_37_CRP.2_EN.docx, para. 363.

¹³⁶ Local Government Act, sect. 98 (2) (<https://faolex.fao.org/docs/pdf/ssd3324.pdf>).

interpretations and practice vary significantly, particularly regarding the crime of rape. Like regular courts, customary courts routinely fail to uphold core human rights standards.

69. Jurists at the highest levels noted persistent executive and military interference.¹³⁷ In Unity State, investigations and the establishment of permanent courts have been blocked by the Governor, who is implicated in serious crimes.¹³⁸ In Western Bahr el-Ghazal, an SPLM/A-IO commander, who was party to court proceedings, shot at customary adjudicators, illustrating the security risks they face.¹³⁹ Across the country, police and prosecutors were threatened or attacked while investigating actions by South Sudan People's Defence Forces soldiers.¹⁴⁰ Challenges in the country's military courts remain unaddressed.¹⁴¹ The establishment of a National Security Service tribunal in 2019 has not led to visible improvements in the conduct of its officers, who operate without any judicial oversight.¹⁴²

70. In the electoral environment, these limitations affect the ability to judicially challenge conduct and results and may compromise the credibility of outcomes. The participation of the most senior judge in political party campaign activities accentuates such concerns (see para. 18).

Investigation committees

71. The President has established several investigation committees in response to human rights violations. A committee was mandated in September 2022 to examine incidents in Mayom county, Unity State, where the Commission found that the Governor bears responsibility for extrajudicial killings.¹⁴³ Although committee members visited the State capital in 2023, they did not travel to Mayom because SPLM-IG authorities in the area would not guarantee their security.¹⁴⁴ As of February 2024, the report was still awaited. An investigation committee into atrocities in Leer county travelled to southern Unity State in March 2023, but no public report or judicial outcomes have emerged. Another committee investigated violence in Rualbet, Warrap State, in 2022. It presented prosecutorial recommendations to the President in January 2023, but no prosecutions appear to have been initiated.¹⁴⁵ In each situation, the Commission identified senior government and military officials implicated in serious crimes; those officials remain in public office.¹⁴⁶

Transitional justice

72. In a country experiencing intergenerational trauma and ongoing violence, dealing with the past and building sustainable peace requires a comprehensive and holistic transitional justice process. The Revitalized Agreement, in its chapter V, provides for the establishment of the Truth Commission, the Reparation Authority and the Hybrid Court for South Sudan, in accordance with international and regional norms and standards.¹⁴⁷ The three institutions have not yet been established.

73. In October 2023, the Cabinet approved draft legislation for the Truth Commission and the Compensation and Reparations Authority. The bills went through a first reading by

¹³⁷ R5773999.

¹³⁸ R6089873, R3683670 and R9732438; see <https://www.ohchr.org/en/hr-bodies/hrc/regular-sessions/session52/list-reports> (A/HRC/52/CRP.3), paras. 144–149.

¹³⁹ R2176358.

¹⁴⁰ R8705081, R3258068 and R3131243.

¹⁴¹ See https://www.ohchr.org/sites/default/files/2022-03/A_HRC_49_CRP_4.pdf, paras. 336–362.

¹⁴² Conference room paper of the Commission containing its detailed findings, to be read in conjunction with A/HRC/46/53, paras. 41–48; and https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/cohrsouthsudan/A_HRC_54_CRP.6_0.pdf, paras. 36 and 112.

¹⁴³ See https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/sessions-regular/session52/A_HRC_52_CRP.3.pdf, para. 149.

¹⁴⁴ R5880092 and R6842539.

¹⁴⁵ The Commission requested information from the Government, in 2022 and 2023.

¹⁴⁶ See https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/sessions-regular/session52/A_HRC_52_CRP.3.pdf.

¹⁴⁷ See African Union Transitional Justice Policy (2019); and “Guidance note of the Secretary-General: transitional justice – a strategic tool for people, prevention and peace” (2023).

legislators in February 2024, after its drafting by the Ministry of Justice and Constitutional Affairs following public consultations from May to June 2022 and a high-level Government-facilitated conference in May 2023.¹⁴⁸ However, the report on the consultations has not been made public nor have the bills. Civil society groups have complained of being sidelined and called for legislators to hold public hearings and permit amendments to the bills to reflect citizens' views. The exclusion of refugees from consultations, barring one instance, remains unresolved. The woefully slow and incomplete progress in adopting transitional justice legislation remains a concern.¹⁴⁹

74. The process of establishing the Hybrid Court has stalled and the Government continues sending mixed signals on its establishment. At the third Transitional Justice Conference convened by the Commission in February 2023, the Government and the African Union committed to adopt broad guidelines for the Court's establishment. At the Government conference in May 2023, the President and First Vice-President maintained their readiness to proceed, once guidelines were received from the African Union, although a proposal to deprioritize the Court was subsequently adopted at the same conference. Engagement by the African Union in 2023 failed to yield a positive outcome. In November 2023, the African Union Peace and Security Council reiterated its call for collaboration with the Government to establish the Court. Progress is further obstructed by an expedient stalemate regarding who is to act first in implementing the broad guidelines. Resistance to establishing the Court undermines the comprehensive holistic vision for transitional justice, denies justice and healing to victims and perpetuates impunity for atrocity crimes.

75. In September 2023, an important step towards accountability for historical violations was taken in Sweden in a trial related to events in Unity State between 1997 and 2003. After several years of investigations, Ian Lundin and Alexander Schneider, former executives of Lundin Energy AB, were charged in Stockholm, on the basis of universal jurisdiction.¹⁵⁰ The charges related to aiding and abetting war crimes committed by armed forces of the Sudan and southern militias supporting oil extraction activities. Victims from South Sudan are participating in the proceedings.

76. In Spain, criminal proceedings were initiated under similar principles before a criminal court in relation to the unlawful arrest and subsequent rendition, in 2019, of four men who were sent from Juba to Equatorial Guinea, where they were tried for treason and sentenced to lengthy imprisonment.¹⁵¹ One man died in prison from ill-treatment. Spanish prosecutors have indicted several high-ranking officials of the Government of Equatorial Guinea in relation to those crimes. No investigations of South Sudanese officials have been initiated in Spain or in South Sudan.

77. No investigations or proceedings have been brought against South Sudanese officials for their part in the abduction and subsequent rendition of several South Sudanese citizens from neighbouring countries in recent years.

X. Political economy

78. Authorities have continued to divert revenues in key areas, including oil production, taxation, loans from international financial institutions and humanitarian assistance, to prioritize narrow partisan elite interests, inflicting immeasurable harm upon the people of South Sudan. Underfunding of core government services severely undermines the capacity of the State to protect and fulfil human rights. While the Revitalized Agreement sought to

¹⁴⁸ UNDP, "Conference report: transitional justice mechanisms in South Sudan", May 2023; and https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/cohrsouthsudan/A_HRC_54_CRP.6_0.pdf, paras. 184–186.

¹⁴⁹ See https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/sessions-regular/session52/A_HRC_52_CRP.3.pdf, paras. 370–373 and 378–382.

¹⁵⁰ See <https://www.domstol.se/nyheter/2023/08/trial-commences-in-case-regarding-complicity-in-grave-war-crimes-in-sudan/>.

¹⁵¹ Two were Spanish nationals and two were Equatoguinean. See https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/cohrsouthsudan/A_HRC_54_CRP.6_0.pdf, para. 174.

address the economic drivers of conflict in its chapter IV, remedial measures remain unimplemented.

79. The consequences are strikingly visible in the dire condition of basic infrastructure, health and education services and are reflected in the country's bottom ranking in global human development indicators.¹⁵² A weak and dysfunctional justice system contributes to insecurity, legal uncertainty and related impunity. Although South Sudan derives significant revenues from oil exports, State resources for the progressive realization of human rights are diverted to corruption, conflict, political objectives and economic mismanagement.

80. Underfunding of services is evident in the flawed budget process, which depicts skewed spending priorities. In fiscal years 2021–2022 and 2022–2023, the Ministry of General Education and Instruction was allocated the equivalent of \$200 million, while the Ministry of Presidential Affairs was allocated \$56.5 million. However, General Education received just 28 per cent of its budget allocation; while Presidential Affairs received almost 700 per cent, six times more than education, highlighting an imbalance and diversion of funds from service provision to centres of political power.

81. Officials admitted that significant budget allocations never reach schools, increasing the heavy reliance on funding from international donors.¹⁵³ With most of the national education budget going toward higher education, funding for primary education is further depleted by a corrupt disbursements system, whereby payments pass through multiple government offices, largely transferred in cash. Theft and diversion along the way result in less money reaching end users. In state governments, which are also required to finance education, diversion of educational budgets is also widespread. A widespread corrupt practice is of governors diverting personal income tax collections. Given that humanitarians pay most of these taxes, this also amounts to aid diversion.

82. Resources are also diverted through the practice of moving revenues off-budget through direct transfers. One of the largest recipients of direct transfers is the "Oil for Roads" programme, which is overseen in the Presidency. In the 2021–2022 and 2022–2023 fiscal years, the Government paid at least \$1.2 billion to Benjamin Bol Mel, a senior SPLM official, ostensibly for road construction.¹⁵⁴ A senior special envoy to the President for special programmes, Bol Mel and the construction companies he owns are subject to sanctions by the Government of the United States of America. Based on the Commission's analysis of funds disbursed against roads constructed, South Sudan is charged three to five times more than the market rate for road construction costs in East Africa. Moving money off-budget releases funds to finance discretionary spending, but reduces resources available for the national budget.

XI. Civic and political space

83. In October 2023 the Commission described systemic and structural impediments to civic and political space and the persistence of human rights violations against journalists and members of civil society.¹⁵⁵ The repression of civic and political space reflects the Government's intolerance of critical voices and public scrutiny, an aversion to dissent and debate among key leaders and a readiness to use coercion and violence to maintain power.

84. Outsized influence is wielded by SPLM on media content through editorial control of State media, denial of access to information for independent publishers, a comprehensive regime of censorship implemented by the National Security Service and arbitrary bureaucratic restrictions imposed by the Media Authority. Journalists report widespread

¹⁵² See <https://hdr.undp.org/data-center/human-development-index>.

¹⁵³ R7200004, R9494605 and R6378232.

¹⁵⁴ Data from the Ministry of Petroleum and the Ministry of Finance and Planning, on file.

¹⁵⁵ See https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/cohrsouthsudan/A_HRC_54_CRP.6_0.pdf.

self-censorship. Media based abroad face State-backed cyberattacks and website blocking. This repression undermines democracy and violates freedoms of expression and information.

85. Civil society actors face pervasive restrictions and unlawful surveillance of legitimate activities. The National Security Service imposes prior authorization requirements for holding gatherings and events, an arbitrary policy that facilitates corruption and is not judicially reviewable. Security officers routinely monitor approved activities and intervene to control discussions. Unauthorized activities are shut down and organizers and hosts face reprisals. Surveillance and tedious approvals procedures are designed to stifle civic space; they violate multiple rights, including freedoms of association and assembly.

86. Violent attacks on journalists and civil society members, including high-profile arbitrary detentions and attempted killing, have a chilling effect on civic and political activities. Digital surveillance, website and social media hacking, phone tapping and other digital attacks have been used to target journalists and activists in 2023. The National Security Service is implicated in such attacks alongside other entities, including the National Communications Authority.

87. South Sudanese in neighbouring countries face ongoing intimidation and surveillance from the National Security Service. Victims in Kenya and Uganda said the renditioning of Government critic Morris Mabior from Nairobi to Juba in February 2023 greatly added to their security concerns. Kenyan police officers participated in Mabior's detention before his illegal transfer to South Sudan, where he remained arbitrarily detained in January 2024.¹⁵⁶

88. In November 2023, a civil society resolution on the transitional process in South Sudan urged authorities to protect and expand civic and political space.¹⁵⁷ The resolution attracted nearly 100 signatories, reflecting the diversity and plurality of the country's population.

XII. Conclusions

89. **As the transition period in South Sudan nears its completion, the risk of further mass violence and accompanying gross human rights violations remains ever-present. Patterns of violence, violations and entrenched impunity continue to blight the lives of the extremely vulnerable population. The already dire humanitarian situation will deteriorate further.**

90. **The processes under the Revitalized Agreement provide for sustainable peace and human rights protections, yet its essential obligations remain outstanding or incomplete, including the adoption of a permanent constitution, the unification of the armed forces and the establishment of transitional justice institutions. The country's first elections face severe political and logistical challenges and the post-election legal framework remains uncertain.**

91. **Nation and state-building efforts have faltered, while predation and repression have been entrenched. Even as insurgency persists, subnational conflict and violence instigated by political and military elites are devastating. The violence is characterized by serious violations and abuses, including attacks on settlements, displacements and egregious violations, particularly against women and girls. Abductions have become a troubling exploitative enterprise; victims must be released and perpetrators punished, not rewarded.**

92. **South Sudan cannot prosper or be truly free unless violence against women and girls ends and the social fabric is restored. Women and girls must be accorded dignity,**

¹⁵⁶ R6047490.

¹⁵⁷ In November 2023, in Dar-es-Salaam, United Republic of Tanzania, civil society representatives also established a civil society reference group on the transitional process in South Sudan to engage State actors and other stakeholders on key priorities and to promote inclusive and people-centred civic transitional justice, elections, security, judicial and other reforms. The resolution is available at: https://drive.google.com/file/d/1JsPOzATbgn8tZd4ifcixd_Y9yKvoIBHy/view?usp=sharing (accessed in February 2024).

respect and substantive equality in law, policy and practice. This requires urgent societal changes, political commitment at all levels and immediate interventions to prevent and punish abusers.

93. South Sudanese children, who are routinely denied access to health and education entitlements, go hungry, have stunted development and experience damaged childhoods, with adverse impacts on the country's future. Lack of progress in key development indicators reveals diversion and mismanagement of resources, to the detriment of the population's economic and social rights and other aspirations.

94. Impunity enables violations and atrocity; it requires structural solutions, including a functioning justice system that deters and punishes crimes while delivering redress for victims. Political failure to implement transitional justice measures, ensure an independent and effective justice system and deal with the root causes and drivers of conflict, violations and crimes, compounds impunity. Security forces should be reoriented towards protecting civilians and members who perpetrate crimes must be suspended, prosecuted and expelled from such forces. In contrast to the impunity in the country, two cases before foreign courts under universal jurisdiction have made significant advances towards establishing accountability for crimes committed in the territory of South Sudan.

95. While constitution-making and electoral processes provide new opportunities for visionary leadership, they require open democratic space to enable credible outcomes and avoid the generation of further grievances. Curtailment of the media and civil society and intolerance of political opposition, particularly challengers to SPLM-IG, is inimical to democracy. Measures to ensure the freedom, fairness and security of elections and other participatory democratic processes are essential, failing which, new grievances, fresh conflict and further violations may emerge.

96. Long-term stability and prosperity require that the drivers and structural causes of violence be addressed, including: violent political contestation; a winner-takes-all approach; identity politics; ethnic mobilization; sexual and gender-based violence; pervasive impunity; economic predation; and corruption. Sustainable peace and human rights protection in South Sudan will remain elusive unless the Revitalized Agreement is implemented and the State adheres to its international human rights law obligations.

XIII. Recommendations

97. The Commission on the South Sudan recommends that the Government of South Sudan:

(a) Urgently implement core aspects of the Revitalized Agreement and, in particular:

(i) Cooperate and advance the resolution of conflict and peace aspirations by the signatories;

(ii) Chapter I: guarantee democratic space to enable credible elections, including security arrangements for safe participation; and establish effective administrative and judicial mechanisms for resolving electoral disputes;

(iii) Chapter II: accelerate and ensure the deployment, resourcing and payment of necessary unified forces while moving armed forces away from civilians, except for their protection;

(iv) Chapter III: establish and resource the Special Reconstruction Fund to support safe and voluntary return of internally displaced persons and refugees; and fund humanitarian activities, in coordination with the United Nations;

(v) Chapter IV: strengthen economic management and provide resources to core governance functions, including socioeconomic rights services; address

corruption and revenue diversion; and ensure that budget processes are participatory, transparent and accountable;

(vi) **Chapter V: establish and operationalize the Truth Commission, the Reparation Authority and the Hybrid Court; ensure that members are selected through a transparent process, are appropriately qualified and are not implicated in human rights violations; ensure transparency and participation, making relevant bills public; develop witness protection protocols in collaboration with stakeholders, including victim-survivors groups, and sensitize the public to such processes; establish early warning and protection measures; and facilitate processes at community-level to promote reconciliation processes to overcome grievances and foster plurality;**

(vii) **Chapter VI: ensure funding and human rights protections for gender-equitable participation in the constitution-making process; and ensure that the permanent constitution includes critical measures for the rule of law, human rights protections and an independent human rights commission;**

(b) **Address impunity and, in particular:**

(i) **Dismiss or suspend public officials, security personnel and others complicit in sexual violence and serious crimes, including those identified by the Commission; initiate transparent criminal investigations and proceedings; and publish the reports of investigation committees;**

(ii) **End illegal renditions, including by investigating the removal of four men to Equatorial Guinea in 2019 and the rendition of Morris Mabor to South Sudan in 2023: publish the findings, institute relevant proceedings and ensure institutional reforms;**

(iii) **Commit to ensuring that there will be no blanket amnesties for serious crimes under international law;**

(iv) **Allocate sufficient resources for functional and effective rule of law and justice institutions, including for investigations and prosecutions; and ensure the independence and impartiality of rule of law institutions, including gender-balance and ethnic diversity;**

(v) **Address legislative and institutional gaps that foster impunity;**

(c) **Prioritize the protection of women and girls and, in particular:**

(i) **Guarantee and protect the substantive equality of women and girls in society;**

(ii) **Prioritize prevention, holding perpetrators of sexual and gender-based crimes accountable;**

(iii) **Allocate sufficient resources to the Ministry of Gender, Child and Social Welfare to undertake the coordination and implementation of State commitments to address sexual and gender-based violence;**

(iv) **Implement commitments to increase the representation of women in decision-making positions at all levels;**

(d) **Prioritize the rights of children and, in particular:**

(i) **Ensure and fulfil the rights of children to health, food and education, including through funding;**

(ii) **End recruitment and use of children in armed forces and groups; and provide resources for the activities of the Disarmament, Demobilization and Reintegration Commission;**

(iii) **Comply with national and international laws providing for rights of children, including to prevent and punish grave violations against children in conflict;**

- (iv) **Take immediate measures to release abducted children and women;**
 - (e) **Protect civil and political rights and, in particular:**
 - (i) **End attacks and arbitrary restrictions on the media, civil society and political activities and prosecute perpetrators of related crimes;**
 - (ii) **Amend the National Security Service Act in line with the International Covenant on Civil and Political Rights; require the Service (and the Media Authority) to immediately end all forms of censorship and related cyberattacks; and end extraterritorial operations, including renditions;**
 - (iii) **Establish the independent press complaints council;**
 - (f) **Address subnational conflict and related violations and, in particular:**
 - (i) **Stop instigating or tolerating political or communal violence and encouraging defections; and utilize peaceful means to mediate political differences within the Government;**
 - (ii) **Protect civilians from violations and abuses; deploy impartial and unified security forces to flashpoints; and hold accountable those responsible for fomenting violence and committing serious crimes.**
98. **The Commission recommends that all armed forces and non-State armed groups:**
- (a) **End attacks on civilians;**
 - (b) **Cease forced recruitment, especially of children; release all children associated with armed forces and groups; and support their sustainable reintegration;**
 - (c) **Hold responsible commanders and individuals accountable for crimes.**
99. **The Commission recommends that the African Union and the Intergovernmental Authority on Development:**
- (a) **Unlock the stalemate with the Government of South Sudan over the establishment of the Hybrid Court; and expeditiously advance preliminary processes, including developing guidelines and appointing the Prosecutor and senior officials;**
 - (b) **Develop early warning systems for joint monitoring, reporting and investigations to address heightened risks of violence before, during and after elections;**
 - (c) **Support the Government's initiatives to address sexual violence in conflict and provide technical expertise to support prevention;**
 - (d) **Engage Member States to address the laundering of the financial assets of South Sudan within the region.**
100. **The Commission recommends that States Members and international partners:**
- (a) **Assist South Sudan to take measures to address all violence, especially widespread conflict-related sexual violence against women and girls;**
 - (b) **Encourage the Government to ensure civic space for participation and abandon repression; and cease facilitating such violations, including extraordinary renditions;**
 - (c) **Support civil society and victim-survivors groups to ensure their effective and secure participation in transitional processes, in accordance with international and regional norms and standards.**
101. **The Commission recommends that entities of the United Nations system:**
- (a) **Provide opportune protection to civilians, including from subnational violence, and effective humanitarian assistance, while continuing to encourage the Government to fulfil its human rights duties in these areas.**
 - (b) **Continue critical support, including for strengthening rule of law and justice institutions in South Sudan.**

Annex

Maps



