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SOUTH SUDAN: LETHAL DISARMAMENT

ABUSES RELATED TO
CIVILIAN DISARMAMENT IN
PIBOR COUNTY, JONGLEI
STATE

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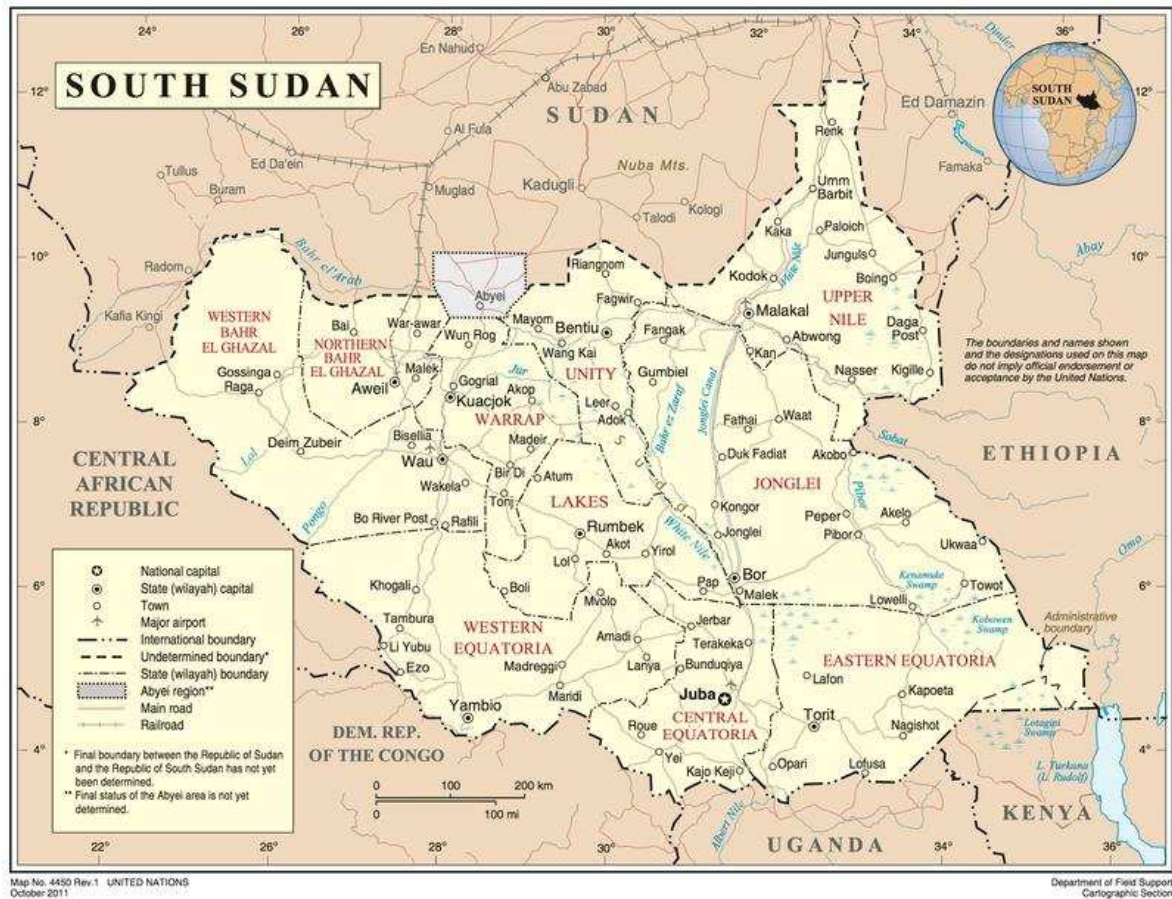
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MAP OF SOUTH SUDAN



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INTRODUCTION

In March 2012, the Government of the Republic of South Sudan (the government) launched a civilian disarmament campaign called *Operation Restore Peace*, in response to escalating violence in Jonglei State. This is part of a wider set of initiatives aimed at ensuring peace and stability in Jonglei State, which has been affected by recurring waves of inter-communal violence, most recently in 2011 and early 2012, including large scale attacks on communities from December 2011.

The civilian disarmament campaign was launched following a Presidential Decree and will run for an undefined period of time. In the initial phase - from 12 March to 30 April 2012 – the disarmament was supposed to be voluntary and community-led. During the second phase, from 30 April 2012 onwards, the process has involved forced disarmament led by the South Sudan Armed Forces, known as the Sudan Peoples' Liberation Army (SPLA). In order to carry out the disarmament process, up to 15,000 additional SPLA soldiers and 5,000 South Sudan Police Service (SSPS) Auxiliary Forces were deployed to Jonglei State.

This briefing focuses on human rights violations committed by security forces while carrying out the civilian disarmament campaign in Pibor County, in the south-east of Jonglei State, during the period of March to August 2012. It is based on research carried out by Amnesty International in Juba, the capital of South Sudan; Bor town and in Pibor County in Jonglei State, in August and September 2012, including a mission to Bor and Pibor from 27 August to 5 September 2012. It documents human rights violations that occurred in Thangajon village from July to August 2012, in addition to incidents in Pibor town, Likuangole, Bee, and Manyirang. The research is based on interviews with victims of abuse and witnesses, as well as medical evidence and meetings with local, national and state government officials, members of the SPLA and SSPS, community leaders and members of the international community. Many of the areas Amnesty International delegates travelled to in order to interview victims of human rights violations and witnesses are accessible only on foot or by boat during the rainy season due to flooding and the lack of basic infrastructure in Pibor County.

The briefing concludes that there are insufficient mechanisms to prevent the violations or to hold perpetrators to account, leading to ongoing impunity. It addresses a number of recommendations to the Government of the Republic of South Sudan as well as the UN Mission in South Sudan (UNMISS) and donors.

BACKGROUND

Jonglei State is awash with small arms, with their widespread availability viewed as one of the main contributing factors to insecurity.¹ Outbreaks of inter-communal violence, followed by civilian disarmament campaigns in Jonglei State, have occurred five times since December 2005, in an ongoing cycle. The last civilian disarmament campaign was carried out in 2010, following a major outbreak of violence in 2009.²

During the most recent wave, the UN estimates that 888 people were killed during attacks between 23 December 2011 and 4 February 2012³ alone. Inter-communal attacks also resulted in the displacement of over 170,000 people between late December 2011 and April 2012, as well as the abduction of women and children, the destruction and looting of property, and the theft of large numbers of cattle.⁴

The government, with support from the UNMISS and other members of the international community including international NGOs and donors, has launched a multi-pronged approach to address insecurity in Jonglei. In March 2012, President Salva Kiir established an *Investigation Committee into the Jonglei State Crisis*, mandated to investigate those responsible for the inter-communal violence that occurred between December 2011 and early 2012. However, at the time of writing (October 2012) committee members have not been sworn in and funding has not been provided to enable the committee to operate. On 3 April 2012, Vice President Reik Machar re-launched the Jonglei Peace Process led by Archbishop Daniel Deng, with the mandate to monitor the peace process.⁵ The Vice President also led a sensitization process ahead of disarmament, where community leaders reportedly consented to disarmament on the premise that security from attacks by other communities would be provided to them through the SPLA and SSPS.

Despite these ongoing initiatives and a lull in inter-communal violence since April 2012, stability in Jonglei State remains fragile. On 22 August clashes were reported on the outskirts of Likuangole town in Pibor County between the SPLA and an armed group led by a former SPLA army general, David Yau Yau.⁶ On 27 August, at least 24 soldiers were killed in an ambush, reportedly by the same armed group. Due to the threat of attacks by David Yau Yau's group, the SPLA sent additional troops to Likuangole, and UNMISS sent additional peacekeepers. However, by 25 August 2012, it was reported that up to 7,000 people had fled Likuangole town and that a woman was shot dead while breastfeeding her child on 24 August. The perpetrators remain unknown but civilians reportedly fled the town for fear of reprisals against them by the SPLA for being perceived supporters of David Yau Yau.⁷

Furthermore, in late August 2012, UNMISS and other sources reported that the Médecins Sans Frontières (MSF) clinic in Likunagole had been looted, at a time when the area was inaccessible to other humanitarian organizations and the civilian population had fled.⁸ With the displacement of Likuangole's population and the destruction of the only accessible health centre within a radius of 30 km, Amnesty International is concerned that civilians that return to the area in the near future will lack access to health care.⁹

Humanitarian organizations have not been able to assess the needs of those displaced from Likuanogle, who fled to remote areas on the outskirts of Likuanogle town, due to continued insecurity and the impact of flooding in the area. During the rainy season in South Sudan between May and November, access to flood-affected areas is severely restricted due to lack of basic infrastructure. Jonglei has been the heaviest hit and least accessible area with over 169,000 people affected by the flooding, including 44,000 people identified in Pibor County at the end of September 2012.¹⁰

HUMAN RIGHTS VIOLATIONS RELATED TO CIVILIAN DISARMAMENT IN PIBOR COUNTY

Amnesty International carried out research in Pibor County from 30 August to 4 September 2012, where scores of civilians directly affected by civilian disarmament were interviewed, in addition to community leaders and local government officials. Amnesty International found that men, women and children were subjected to extrajudicial executions and other unlawful killing, torture and other cruel, inhuman or degrading treatment or punishment and unnecessary or excessive use of force by the SPLA and SSPS Auxiliary Force, including shootings, beatings, simulated drowning and rape. The organization also received reports of looting by soldiers. Some of the incidents reported to Amnesty International occurred during the first phase of disarmament, which was supposed to be voluntary.

SHOOTINGS

On 17 March, N.K a 34-year-old man from Likuangole was shot three times by an armed security officer believed to be a member of the SSPS Auxiliary force, on the outskirts of Pibor town. SSPS Auxiliary forces wear a uniform of beige with brown army-style patterns that are distinct from the SPLA uniforms in colour; however the term 'police' and 'soldiers' were used interchangeably by civilians during interviews.

N.K told Amnesty International "I was coming from Likuangole on my way to Pibor. A soldier told me to stop and asked 'where did you come from?' I said I came from Likuangole and am going to Pibor town. The soldier asked for a gun. I said that I am a disabled soldier and don't have a gun. The soldier shot me through the stomach [right side of abdomen]. I fell down and again he shot my left arm and the third time he shot my left upper leg. The fourth time he wanted to shoot my head but missed and went away. The soldier only asked the question of gun. After I fell down the soldier ran away. I tried to get up and the soldier turned around and pointed the gun. I fell down and the soldier ran away [again]. The soldier was wearing a new police uniform, light yellow in colour."

N.K was assisted by soldiers from the permanent SPLA force in Pibor, who took him and the body of E.J.N, a pastor aged 48 years believed to have been shot dead by the same SSPS Auxiliary force officer, to the police station and SPLA garrison for questioning, before allowing N.K. to seek medical treatment.¹¹ According to N.K the two shootings were linked due to the date, time and proximity of the shootings. He stated that the SSPS Auxiliary who shot him was not arrested.

Scars on N.K's left leg and abdomen from injuries caused by being shot by a security officer in Pibor on 17 March 2012



E.J.N's family confirmed he was shot dead on 17 March outside his home. One family member, T.J, a woman aged 27, stated that "we were inside our tukul (hut) and E.J.N was outside reading the bible. One soldier came, we didn't see him coming, we only heard the gunshot and ran outside. Immediately when the soldier shot him, he [the soldier] ran and disappeared. Nothing happened to the soldier. The next day the police and military intelligence came and recorded everything and went and nothing happened." As far as Amnesty International is aware there is no allegation that E.J.N was armed.

Amnesty International received confirmed reports that, in addition to E.J.N being killed, at least two other unarmed men were killed between 14 and 17 March in Pibor by perpetrators believed to be either SSPS Auxiliary forces or SPLA troops.¹²

Shootings have continued throughout the disarmament process. Amnesty International spoke to K.N, a 37-year-old man from Likuangle who was shot in the upper right thigh by a soldier on 1 August 2012. He told Amnesty International that he had been walking with six other men from his village to a farm near the river to eat maize when SPLA soldiers ambushed them. Prior to K.N being attacked, the SPLA had reported one soldier missing and had accused the local population of killing him. After the ambush K.N said that local authorities were told by the SPLA that the soldier had been drunk and had drowned in the river with his gun.

BEATINGS AND SIMULATED DROWNING

Civilians told Amnesty International that in many villages, soldiers had returned to the area two to three times in order to disarm the population. On 3 September 2012 Amnesty International visited Thangajon village, which had been disarmed twice in July and once in early August and where men, women and children were beaten by soldiers and both men and women were subjected to simulated drowning.



W.N, a girl around 18-months-old was beaten on the foot with a stick by the SPLA when they went to Thangajon on 12 July. Her mother B.K aged 30 and siblings including her sister A.N aged 12 were also beaten. The reported injuries were confirmed by medical evidence. © Amnesty International

A.L.B, a 50 year-old woman told Amnesty International that “I was beaten when the SPLA soldiers came for disarmament on the evening of 2 August. I was in my house but the soldier took me outside my house where we cultivate. They gathered us in one place... I was with five other women. There were very many soldiers. When we were gathered they asked us ‘where are your sons?’ then they immediately started beating us with sticks, poles and rifle butts. They beat us many times, I couldn’t count. They used a gun to hit a boy on the back. They beat me on my back and chest. Eight soldiers beat me at first; then three more joined them. They beat me with sticks and poles from houses. I lost consciousness because of the beatings. I still feel pain in my chest now. I was beaten on two occasions in July. In total I was beaten three times.”

Another woman, A.G., who was beaten with two other women on the same day, said: “The soldiers came three times. I was found and beaten all three times. The first time they came, they found the men at home and beat the men. My husband said to the soldiers not to beat me, I am his wife. The last time they came [2 August], they beat me seriously. They gathered all the women [three women] in one place, beat us and left. They beat us with the same stick they use for men. I was beaten using the back of a gun on my neck and was pushed down and grazed my left arm. They stayed with us until the evening. They asked for guns. Everybody who is beaten is asked to bring guns.”

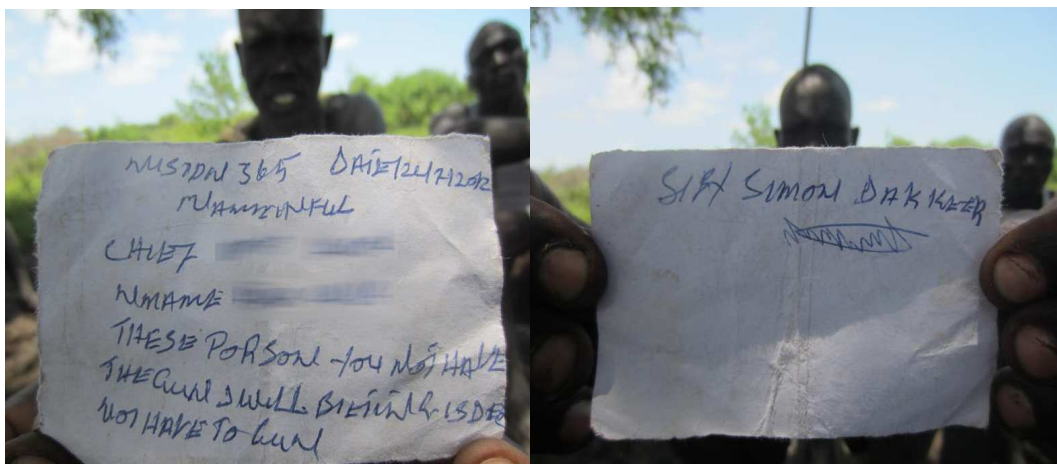
Soldiers had also beaten A.G’s husband, J.G, and her four year old son, T.J., during a previous SPLA visit to Thangajon, on 21 July. Both J.G and T.J had to seek medical treatment for their injuries.¹³

J.G recounted how on 21 July “I was digging in my farm when the soldiers came and captured me. They surrounded the whole farm. I was beaten at my home and brought here [village centre]. I was speared [cut] with a knife on the left side of my head and on my neck. This was the second time I was beaten. I was asked and told them ‘I am the same person you beat last time’. They said I was a criminal from the bush and threatened me with a knife and

asked me for a gun. They told me 'if you don't bring guns we will kill you.' I said 'I don't have a gun, if you want to kill me, kill me.'"

The soldiers then tied the hands of J.G, T.G, L.N and seven other men and took them to an abandoned school on the outskirts of Thangajon village where the SPLA soldiers were staying. T.G said "They beat me and brought me back [to the village centre] and connected me with rope to the other men. They took us to the school, beat us and put my head in water. I was about to die. While they were putting people in water, they tied the rest of us to a tree while a soldier was watching us."

L.N, aged 45, who was taken with T.G, described how soldiers held their heads down in a pool of water which was "a hole where children were digging for mud for the school." Amnesty International saw obvious scars from where J.G. had been cut on the left side of his head and on the right side of his neck, and where all three men had been tied with ropes, in addition to medical evidence of physical trauma.



K.W a 34-year-old man holds up a handwritten document stating he has been disarmed. © Amnesty International

The men were released the following day and given handwritten documents stating that they had been disarmed. K.W, a 34-year-old man who was among the group, stated that "I was given the paper so if other troops come I will not be beaten." Several of the men Amnesty International interviewed had pieces of paper, which were signed by a commander, stating that they did not have guns. Some told Amnesty International that they were beaten despite the fact that they had disarmament cards.

K.E, a mother of four, similarly described how she and five other women were beaten and had their heads submerged in water. She said "I was found sitting at my home with five other women and our children. They asked us to give guns, and we said we didn't have guns and then we were beaten. They used sticks to beat us. They took us to pools behind our homes. One soldier stepped on my neck to push my head down and one stepped on my back so I couldn't jump out. The wife of my brother was unconscious."

RAPE AND OTHER INCIDENCES OF SEXUAL VIOLENCE

Amnesty International received credible reports of cases of rape and attempted rape by soldiers from the SPLA disarmament force. Standard medical reports show that MSF clinics in Pibor County treated 17 cases of rape and eight cases of attempted rape between mid-March and 31 August 2012.

Amnesty International spoke to A.W a 35-year-old mother of five, who had been displaced from Likuangole by the inter-communal violence in January. In June, A.W. went back to Likuangole to farm. She told Amnesty International that “They came at around 1am. I was sleeping with my small girl [aged 4] and my boy [aged 2]. Soldiers shot a gun in the air and many people came out of their houses and ran. The soldiers said not to run ‘we are the SPLA.’ In my house it was me, a disabled lady who couldn’t walk, my mother and my two youngest children. Three soldiers beat the disabled lady. When they left I tried to put my baby boy on my back and one soldier came back and pulled me. The soldier who pulled me raped me, while my child was on my back. He didn’t beat me, they beat the disabled lady. I don’t know what happened to the disabled lady, if she was raped or tortured. I immediately left. I am afraid of going back, it might happen again.” A.W is now living in Pibor town.

W.A, an elderly woman, spoke of how she had witnessed a soldier raping her daughter in Thangajon on 2 August. She said “They came in the evening and I was found at home sitting down holding the baby of my daughter. The soldiers said ‘give child to daughter, we need gun.’ They asked where my husband is and I said he died. They beat me with sticks and one stick fell on my two year-old granddaughter until she was unconscious. My daughter who had given birth recently was raped. They told her to put the baby down, so they could use her. I heard the baby crying and went inside and saw a soldier raping my daughter. I went to the commander and told him, and he told the soldier to stop.”

Amnesty International also received confirmed reports of attempted rape.¹⁴ On 2 August, soldiers beat Z.N and her three year old son with sticks in Thangajon. Soldiers plunged her head into water and attempted to rape her. She was in the advanced stages of pregnancy and showed the soldiers her belly, which stopped them from proceeding. As a result of the assault, Z.N had grazes on her right arm, wrist and left knee. Her son had a wound on his face as a result of the beating and a large bruise on top of his head.¹⁵

Amnesty International is seriously concerned that these accounts of sexual violence reflect a wider pattern of the use of sexual violence against women by SPLA soldiers. However, due to stigmas associated with rape and the lack of appropriate healthcare in remote areas of Pibor County, women who have been subjected to sexual violence may not be in a position to report the assault or seek medical assistance.

CONCERNS ABOUT IMPUNITY FOR RAPE AND SEXUAL VIOLENCE

Amnesty International is aware of four soldiers arrested for suspected rape in Pibor County. According to information received, three soldiers were arrested on 10 July 2012 for the alleged rape of a 35 year-old woman in Likuangle and one soldier was arrested on 17 July 2012 for reportedly raping a woman in Bee along with two other soldiers who have not been arrested. All four soldiers are being held in military detention in Pibor town, awaiting trial. However, numerous sources, including local authorities and international NGOs, told Amnesty International that most allegations of rape and sexual violence are not investigated, even when reported.

LOOTING AND ARBITRARY DETENTIONS

Civilians told Amnesty International that soldiers had taken or destroyed their possessions when they came to carry out civilian disarmament. These include Non-Food Item (NFI) kits and nutritional supplements for malnourished children given to the community following inter-communal attacks in 2011 and early 2012.

A.G and A.L.B from Thangajon both told Amnesty International that on 4 August the soldiers stole their pumpkins from the back of their homes. They added that the soldiers took their clothes and mosquito nets and cut their beads.¹⁶

B.K a 30 year-old woman from Thangajon said that on 12 July “After the beating, they looted the house, took clothes, butter, cooking utensils. The soldiers made me carry the food for one hour. We walked all the way to Lemaris. Then they found another person to replace me and let me go.”

Amnesty International also received reports of the SPLA opening the gates to farms and allowing cattle to graze in them, thus destroying the fields. Soldiers also reportedly held people and cattle as collateral in an effort to coerce civilians to hand over weapons.¹⁷

A.B an elderly man and community leader from Pibor told Amnesty International he had been detained in military barracks for nine hours in early August because they suspected him of having stolen a bull. He was released after the civil authorities intervened.

In accordance with the Code of Criminal Procedures Act (2008), powers of arrest lie with the police, public prosecution attorney and magistrate. Under article 7 of the Act, ‘private persons’ described as any person other than those mentioned above who carry out arrests must have a warrant to arrest provided by a public prosecution attorney, magistrate or court. If the arrest was made without a warrant by a ‘private person’ the person arrested must be immediately handed over to the police.

A.B had previously been beaten by soldiers on 17 July when he was walking to Pibor town. He told Amnesty International that he was walking behind around 20 women who were carrying firewood and milk. He said “the soldiers demanded [from the women] ‘give us milk.’ They started beating me with sticks and the butt of a gun. They didn’t ask me anything. They took my cap and watch and left. I was beaten on my back, head and right hand.”

ACCOUNTABILITY FOR HUMAN RIGHTS VIOLATIONS

Amnesty International believes the incidents described above are indicative of a wider pattern of violations by security forces and law enforcement agents in Pibor County. Cases of violence and other abuses by the SPLA have been documented by local authorities, Human Rights Watch and UNMISS,¹⁸ among others, and have been directly brought to the attention of the government.

Government officials, including the SPLA officers responsible for civilian disarmament, admitted to Amnesty International that soldiers have committed human rights violations during the course of the campaign.¹⁹ However, they emphasized that the army is in a period of transition and therefore is not yet a professional army, and frequently described perpetrators as 'individuals' whose behaviour was not representative of that of the SPLA as a national army.

While acknowledging the SPLA is still transitioning into a national army, the human rights violations described in this briefing cannot be justified or excused on this basis. All cases of human rights violations must be promptly, impartially and effectively investigated and individuals and those with command responsibility must be held to account.

Many of the acts reportedly committed by the SPLA soldiers and the SSPS Auxiliary forces are extremely serious human rights violations, including extra-judicial executions, other unlawful killings, and torture.

INTERNATIONAL LAWS AND STANDARDS

The Republic of South Sudan has yet to ratify key international or regional human rights treaties, although the government has committed to doing so. These include several human rights treaties to which Sudan is party. Amnesty International has called on South Sudan to reconfirm its obligations under human rights treaties which Sudan was party to at the time of South Sudan's independence. In addition, South Sudan is legally obliged to respect rules of customary international law, that is, international rules derived from consistent state practice and consistent consideration by states of these rules as binding on them (*opinio juris*). Such rules are binding on every state irrespective of whether or not it has ratified relevant treaties.

Customary rules from of international human rights law protect, among other rights, the right to life, freedom from torture - including rape - and other ill-treatment in all circumstances, without exception. They also place on all states the obligation to ensure that all officials:

- Refrain from arbitrarily depriving anyone of his or her life,²⁰ including through extrajudicial, summary or arbitrary executions;
- Refrain from torturing or otherwise ill-treating anyone.²¹ This prohibition includes all beatings, rape and

other sexual attacks.

■ South Sudan must investigate reports of unlawful killings, torture – including rape – and other ill-treatment promptly, independently, impartially and effectively.²² Those suspected of committing such acts must be prosecuted, in proceedings that meet international standards of fair trial, and the government must provide reparations for victims.²³

Section 11 of the 2011 Transitional Constitution of the Republic of South Sudan (Transitional Constitution) states that “Every person has the inherent right to life, dignity and integrity of his or her person which shall be protected by law; no one shall be arbitrarily deprived of his or her life.” Article 18 of the Transitional Constitution states that “No person shall be subjected to torture or to cruel, inhuman or degrading punishment.”

These abuses by law enforcement agents also violate the SPLA’s own Code of Conduct, which prohibits rape and looting, and states that the SPLA “shall respect basic human rights of members of the public and refrain from any wrongful acts which violate those rights.” They also constitute crimes under the 2008 Penal Code Act and the 2009 SPLA Act.

SPLA code of conduct cards were distributed to forces participating in the disarmament operation. Amnesty International is concerned, however, that the SPLA forces carrying out disarmament have not been provided with specific training on how to carry out the operations in accordance with the code, particularly with regards to limiting the use of force.

WEAKNESSES IN THE JUSTICE SYSTEM

In conjunction with the disarmament campaign, additional judge-advocates were assigned by the SPLA Directorate of Military Justice and Legal Affairs to Ayod, Bor, Canal, Pibor and Waat, to accompany the disarmament forces. Their mandate includes providing legal and administrative support in carrying out courts martial, in addition to disseminating military laws, rules and regulations. However, at the time of Amnesty International’s visit the judge-advocate in Pibor had been on sick-leave for over two months and at the time of writing a replacement has yet to be provided.

Furthermore, in accordance with article 37(4) of the 2009 SPLA Act, acts committed by the military against civilians or civilian property should be tried in a civilian court. The shortage of civilian judicial personnel in Pibor, including a prosecutor and judge, significantly hampers the ability of civilians to access an effective criminal justice system.

Amnesty International is aware of four soldiers arrested for suspected rape (cases described in the section on sexual violence) and one soldier accused of murder. The latter was arrested on 25 May 2012, at Manyirang, for shooting a 19-year-old man dead. He also allegedly shot two women and another man during the incident. All five soldiers have remained in military detention in Pibor, with no progress on their cases.

On 30 August 2012, General Kuol Diem Kuol, the commander leading Operation Restore Peace, stated that over 30 soldiers had been dismissed since March 2012 in Jonglei for failing to adhere to military rules and were serving prison sentences in Bor prison in addition to the four soldiers known to Amnesty International that are detained in Pibor accused of rape.²⁴

Amnesty International was informed by government officials that the majority of the soldiers who were dismissed and detained in Bor prison were sentenced for crimes such as intoxication, vehicle accidents, injuring other soldiers and desertion. Two soldiers have been imprisoned for cases related to the rape and murder of two civilians; the soldier accused of rape appeared before a court martial while the murder case was transferred to a civilian court. Amnesty International was unable to obtain further details of the cases.

In mid-June around 500 SSPS Auxiliary forces were reportedly re-called to Juba for retraining and redeployment due to concerns about their conduct in Pibor. Amnesty International is not aware of any action taken by the government to investigate allegations of human rights violations committed during the course of their deployment in Pibor, or to hold individuals to account.

INSUFFICIENT REPORTING MECHANISMS

When Amnesty International shared its findings with government officials, including SPLA forces responsible for civilian disarmament, they responded by stating that victims of abuse should report to the SPLA commander in the area in order to hold perpetrators accountable.

Amnesty International found that in Pibor, cases were regularly reported to the civil administration, including the police and county commissioner through payam [district] administrators and chiefs. Weekly security meetings are reportedly held in Pibor during which abuses related to civilian disarmament are raised. The meetings are attended by the SPLA commanders in charge of civilian disarmament in Pibor County, in addition to the police commissioner and county commissioner.

The civil administration in Pibor has also reported cases to the Governor of Jonglei State with copies sent to the Sector Two Disarmament Commander and Commander of Brigade 47 in Pibor, both of whom are responsible for disarmament operations, in addition to the Sector Two Military Intelligence. *Operation Restore Peace* has a separate reporting line via the divisional headquarters in Bor, which reports to the SPLA General Headquarters in Juba.

While cases are regularly reported to the SPLA commanders in Pibor, the government's response is often weak. As mentioned above, reports of violations in Pibor have to be raised with the commander in Bor in order for investigations to be carried out. Following this, in accordance with the 2009 SPLA Act, article 38(3), any SPLA soldier charged with an offence warranting arrest can be kept in the custody of their unit, provided that they are brought for pre-trial proceedings as requested by the Public Prosecution Attorney or the police.

The police told Amnesty International that they have written to the military requesting access to those detained in Pibor in order to carry out investigations; however access has been limited. The police further stated that due to logistical and security constraints they were unable to carry out investigations in allegations of sexual violence in Likuangle.

Amnesty International is concerned that due to inadequate reporting, investigative and judicial mechanisms, even when violations are reported, appropriate action is rarely taken. Few civilians who have reported abuses either directly to the SPLA or through the local civil administration have had access to justice and redress.

ROLE OF UNMISS

Central to the UNMISS' Chapter VII mandate under Security Council resolution 1996 (2011) is the protection of civilians, which includes an advisory and assistance role to the government to fulfil its responsibility, in addition to acting independently and impartially to protect civilians when the government is not doing so. In accordance with the *Human Rights Due Diligence on UN support to non-UN security forces* (HRDDP), UNMISS has stated that it will not support forced disarmament, but will provide support for the government's sensitization campaign led by the government and community leaders to encourage civilians to voluntarily disarm.

In accordance with its mandate and Protection of Civilians Strategy,²⁵ UNMISS is monitoring the civilian disarmament campaign, including through Integrated Monitoring Teams (IMTs) that report on the process and identify concerns. UNMISS's human rights division has also documented human rights violations in Pibor and raised individual cases with the government, including the inadequacy of mechanisms to hold perpetrators accountable.²⁶ However, UNMISS has not deployed military justice advisors to the areas of greatest concern; nor has it publicly acknowledged that there are no civilian or military judicial officials deployed to Pibor.

While the public recognition by UNMISS of human rights violations in Pibor County and the need for accountability is welcome, Amnesty International is concerned about the lack of public acknowledgement of the fact that civilian disarmament has essentially been forced from the beginning, thus opening the door for the use of unnecessary or excessive force. For example, a press statement issued on 7 May stated that the "UNMISS SRSG [Special Representative of the Secretary General] pointed out the importance of peaceful disarmament for ending the cycle of violence in the state, commended the efforts so far and expressed hope that 'the process would be completed the way it had begun.'"²⁷

Furthermore, UNMISS continues to provide support to the government's sensitization campaign including by providing transport to government officials to areas where forced disarmament has been carried out. Amnesty International has received reports that in some cases this support has been provided without UNMISS personnel and/or without translators present to monitor the manner in which sensitization is carried out.

PEACEKEEPING PRESENCE

Over 100 peacekeepers are deployed in Pibor town and Likuangle, mandated to protect civilians, including against attacks by the SPLA and SSPS during security operations. Until recently, the peacekeepers were stationed in Pibor town and carried out regular patrols by vehicle, which have reportedly been an effective deterrence against human rights violations by the SPLA.

However, logistical constraints, particularly during the rainy season, coupled with security constraints mean that patrols are limited to the confines of the areas of their deployment,

and peacekeepers are unable to travel to the more remote areas where civilian disarmament is carried out and where associated violations by the SPLA occur. This is compounded by the lack of riverine capacity in Pibor County, where most areas are accessible only by boat.

Despite UNMISS' deployment, human rights violations by the SPLA, linked to civilian disarmament, continued to occur in Pibor town. Although, over a period of several months, UNMISS received reports of widespread violations of human rights in the Likuongole area, it did not deploy troops to Likuongole until August, and only then in response to conflict between the SPLA and an armed group, not to protect civilians under threat due to disarmament.

DONOR SUPPORT FOR SECURITY SECTOR REFORM

There are numerous security sector advisory projects in South Sudan, led and funded by donor countries.²⁸ Most of the projects focus on policy-level development and major reform processes with the overall goal of transforming the SPLA into a professional, army. Activities led by donors include assisting the SPLA to plan and implement training policies. This is undertaken in an effort to increase the discipline of soldiers and their understanding of their responsibilities, including with regard to the protection of civilians, and international human rights and humanitarian law. Furthermore, in assisting with SPLA human resource management key elements of the legal and policy frameworks governing the SPLA are disseminated to soldiers, including the Code of Conduct and the SPLA Act, to ensure that human rights principles are reflected in the behaviour of the armed forces.

While these projects are essential to the longer-term transformation of the SPLA, the majority of projects are carried out at the national rather than state level. Few projects have a level of flexibility to respond to the training needs of security forces deployed to undertake specific security operations, such as the civilian disarmament campaign in Jonglei.²⁹ Amnesty International was informed by numerous sources, including local authorities and members of the international community that many of the SPLA soldiers deployed to Pibor County were new recruits who had received minimal training.

CONCLUSION AND RECOMMENDATIONS

Insufficient and inadequate accountability mechanisms have led to ongoing impunity for grave human rights violations perpetrated by the SPLA and SSPS Auxiliary forces during the civilian disarmament campaign in Pibor County.

In light of these findings, Amnesty International makes the following recommendations:

To the Government of the Republic of South Sudan:

- Immediately take all necessary and appropriate steps, to monitor civilian disarmament activities in Jonglei State and stop all human rights violations committed in the process of disarmament;
- Take urgent action to investigate- promptly, independently, impartially and efficiently- all allegations of attacks against civilians and their properties by members of the SPLA and SSPS Auxiliary Force, in line with the requirements of international law and standards, to ensure that perpetrators are held to account
- Provide immediate and effective support and protection to survivors of human rights violations, in particular those of sexual abuse, and provide reparation for the victims of human rights violations committed by members of the SPLA and SSPS Auxiliary Force in accordance with international law and standards;
- Ensure that all disarmament operations are conducted, as far as possible, using only non-violent means. Where unavoidable, force may only be used to the minimum extent necessary. Firearms may only be used in self-defence or defence of others against the imminent threat of death or serious injury, or to prevent a particularly serious crime involving grave threat to life, and only when less extreme means are insufficient to achieve these objectives;
- Provide security forces carrying out civilian disarmament with the necessary training and resources to enable them to have a clear understanding of how to carry out disarmament in accordance with international human rights standards. Seek international cooperation and assistance for such training if necessary;
- Ensure the necessary resources, including increased civilian judges, as well as prosecutors and judge-advocates, are made available in areas where disarmament is carried out in order to bring to justice those suspected of perpetrating human rights violations, in accordance with international law and standards. This includes individuals in command positions who ordered or failed to take steps to prevent or stop violations.

To the UN Mission in South Sudan:

- Provide peacekeepers in Jonglei with the necessary resources, in terms of personnel and enabling assets, including boats, to ensure effective protection of civilians and to prevent or stop human rights violations against local communities, in line with the UNMISS mandate;
- Ensure that any support provided to the SPLA and the government during civilian disarmament is in line with the UNMISS mandate to protect civilians.

To the donor community:

- Engage with the government of South Sudan with a view to supporting, as a matter of urgency, training of SPLA forces involved in civilian disarmament in order to ensure the process does not cause or contribute to human rights violations.

ENDNOTES

¹ R.B. Rands and M. LeRiche, *Security responses in Jonglei State in the aftermath of inter-ethnic violence*, Saferworld, February 2012, available at: <http://www.saferworld.org.uk/resources/view-resource/624>

² For further information on inter-communal violence in 2009 see: Human Rights Watch, *No one to intervene: Gaps in Civilian Protection in Southern Sudan*, June 2009, available at: <http://www.hrw.org/sites/default/files/reports/sudan0609webwcover.pdf>

³ UNMISS, *Incidents of inter-communal violence in Jonglei State*, June 2012, available at: <http://unmiss.unmissions.org/LinkClick.aspx?fileticket=DBQoOQvnMAA%3d&tabid=4969&language=en-US>

⁴ More than 1,100 deaths occurred in 2011 as a result of the violence. OCHA, *South Sudan Humanitarian Update*, January-April 2012, available at: http://reliefweb.int/sites/reliefweb.int/files/resources/Full_Report_3978.pdf

⁵ Republic of South Sudan, *Report of the Presidential Committee for Community Peace, Reconciliation and Tolerance in Jonglei State*, May 2012

⁶ David Yau Yau, a leader of an armed group from Pibor County, defected from the SPLA in April 2012 to launch a second rebellion in the area, against the government. He previously launched a revolt from in May 2010 by attacking Pibor town and killing several SPLA soldiers. David Yau Yau was granted a presidential amnesty by the government in June 2011 and given a position as army general in the SPLA. For more information on David Yau Yau see: Sudan Human Security Baseline Assessment, *David Yauryau Rebellion, Jonglei State*, Updated February 2011, available at: <http://www.sudantribune.com/IMG/pdf/HSBA-Armed-Groups-Yau-Yau.pdf>

⁷ Information based on interviews with civilians who fled Likuangle, international NGOs and local authorities.

⁸ This same health facility had previously been destroyed on 31 December 2011, during inter-communal fighting which resulted in the destruction of much of Likuangle.

⁹ The MSF clinic in Gumuruk also suspended activities on 20 September and international staff from Pibor County have been evacuated from the area due to escalating violence. MSF estimates that 90,000 people in Pibor have been deprived of medical treatment as a consequence. For further information see *South Sudan: 90,000 deprived of care due to violence*, 1 October 2012, available at: <http://www.msf.org.uk/articledetail.aspx?fld=Violence+threatens+healthcare+in+Pibor+South+Sudan+20121001>

¹⁰ OCHA, South Sudan Humanitarian Update, 10-16 September 2012, available at: <http://reliefweb.int/sites/reliefweb.int/files/resources/OCHA%20South%20Sudan%20Weekly%20Humanitarian%20Bulletin%2010-16%20September%202012.pdf>

¹¹ Amnesty International obtained medical evidence, including x-rays that confirmed N.K. was shot three times, in addition to observing the evident scarring on his body.

¹² These reports were confirmed by local authorities including the police, medical records and interviews with family members of the deceased.

¹³ These incidents were confirmed by medical evidence.

¹⁴ Reports of attempted rape in addition to rape were confirmed through medical evidence and eye-witness accounts in addition to testimony from the victims.

¹⁵ Information based on medical evidence and interviews with local authorities.

¹⁶ Beads are worn among certain ethnic groups in South Sudan to indicate age and societal status. Destroying or stealing beads is therefore considered highly insulting in the cultural context.

¹⁷ Information obtained by Amnesty International from eye-witnesses, local authorities and people directly affected by the incidents.

¹⁸ Human Rights Watch, Letter to South Sudan's President Salva Kiir on the Violence in Jonglei State, 23 August 2012, available at: <http://www.hrw.org/news/2012/08/23/letter-south-sudans-president-salva-kiir-violence-jonglei-state>; UNMISS, UNMISS Calls for Action to Safeguard Peace Process in Jonglei State, 24 August 2012, available at: http://reliefweb.int/sites/reliefweb.int/files/resources/LinkClick_22.pdf

¹⁹ Interviews carried out in Juba, Bor and Pibor by Amnesty International with government officials including members of the SPLA, and state and national-level authorities.

²⁰ See for instance Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, UN Doc. A/67/275, 9 August 2012, para. 11, stating that: "The prohibition on arbitrary deprivation of life is part of customary international law".

²¹ See for instance See for instance Prosecutor v Anto Furundzija, Case No IT-95-17/1-T, ICTY Trial Chamber II, Judgment of 10 December 1998, paras. 146, 153–7; Human Rights Committee, General comment no 29: States of emergency (article 4), UN Doc CCPR/C/21/Rev.1/Add.11, 31 August 2001, para 11.

²² See for instance the UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, Recommended by Economic and Social Council resolution 1989/65 of 24 May 1989; and Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, adopted by General Assembly resolution

43/173 of 9 December 1988, Principles 7(1) and 34.

²³ See for instance UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, Adopted and proclaimed by General Assembly resolution 60/147 of 16 December 2005

²⁴ Sudan Tribune, SPLA criticises Jonglei human rights reports despite dismissing over 30 soldiers, 30 August 2012, available at: <http://www.sudantribune.com/spip.php?article43740>

²⁵ Final Draft Approved by SRSG: 4 June 2012, UNMISS Protection of Civilian Strategy

²⁶ On 27 August, UNMISS issues a press statement calling “for a decisive effort to prevent human rights violations and hold perpetrators accountable.” UNMISS, UNMISS Calls for Action to Safeguard Peace Process in Jonglei State, 24 August 2012, available at: http://reliefweb.int/sites/reliefweb.int/files/resources/LinkClick_22.pdf

²⁷ UNMISS, UNMISS SRSG Calls on Jonglei Communities to Start a New Chapter of Peace, 7 May 2012, available at: <http://unmiss.unmissions.org/LinkClick.aspx?fileticket=gLTJzR8VXFk%3D&tabid=3483&mid=6918&language=en-US>

²⁸ Major donors supporting security sector reform include the UK, USA, Norway, Switzerland, the Netherlands and Canada.

²⁹ R.B. Rands and M. LeRiche, Security responses in Jonglei State in the aftermath of inter-ethnic violence, Saferworld, February 2012, available at: <http://www.saferworld.org.uk/resources/view-resource/624>

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