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South Sudan: Arbitrary Detention, Torture

Military, National Security Service Routinely Beat Detainees

(Nairobi) – [South Sudan](#)’s military and National Security Service have unlawfully detained dozens of civilians, some for as long as 10 months, Human Rights Watch said today. Detainees, often accused of supporting South Sudanese rebels, have been kept in poor conditions, and in some instances tortured or brutally beaten.

“These long, cruel detentions that violate basic rights are a further degradation of freedoms in South Sudan,” said [Daniel Bekele](#), Africa director at Human Rights Watch. “The government needs to put a stop to these unlawful indefinite detentions.”

During an April 2015 mission to South Sudan, Human Rights Watch spoke with numerous detainees, family members, government authorities, and others and documented the detention of 16 civilians in 2015 by South Sudan’s army, some for as long as three months, and 20 cases of detention, some as long as 10 months, by the National Security Services (NSS) since mid-2014. The cases probably represent only a small proportion of the total detentions by both the military and the security services. Former detainees told Human Rights Watch that many other people have been or remain imprisoned in military or NSS sites for long periods with no charges.

Since South Sudan’s civil war began in December 2013, security forces have cracked down on perceived government opponents, arresting dozens of men and holding them in military or security service sites for as long as 10 months without charging them, bringing them before a judge, or allowing them access to a lawyer. The conflict began after soldiers loyal to President

Salva Kiir and those loyal to the former Vice President Riek Machar, who now heads the opposition forces, fought in the capital, Juba. Thousands of civilians have been killed and almost two million people have been displaced.

Those arrested by the security services were all detained in unofficial detention centers, including the agency's headquarters in Juba. Those arrested by the military were detained in military facilities, including a spate of detentions in the town of Nimule in Eastern Equatoria state.

None of the detainees were charged or taken before a court or judicial authority. South Sudan's Transitional Constitution requires detainees to be produced before a court within 24 hours and even in times of conflict international law requires that a detainee be brought before a judicial authority within a few days of arrest.

Three of the detainees have become victims of enforced disappearances, including a man named Mawa Malish Isaac. Despite extensive efforts and petitions to the government, his family has been unable to locate him since armed men in civilian clothes arrested him November 24, 2014, in the town of Yei, Central Equatoria state. Family members said he was taken away in an army pickup, tied to another man whose identity they don't know. "My wife saw the pickup, it had the word 'commando' written on it and was in army colors," a family member told Human Rights Watch.

In a separate case, family members were unable to determine for months the whereabouts of two members of the Lakes state parliament, Marik Nganga and Isaac Makur, who were arrested on October 24, 2014, by government security forces and police at the parliament building in Rumbek, the state capital. They were held overnight at a police station, and then taken away to an unknown location. In May, a local government official told Human Rights Watch that the men had been arrested on orders of Governor Matur Chuot Dhoul. They are believed to be detained in the eastern part of the state, but have not been taken before a judge or allowed family visits.

Officials should end the forcible disappearance of all three men and hold those responsible to account, Human Rights Watch said.

Under international law, an enforced disappearance is any form of deprivation of liberty by agents of the state or by people or groups of people acting with the authorization, support, or acquiescence of the state, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person. Enforced disappearances are a grave violation of international law and strictly prohibited in all circumstances.

Human Rights Watch also documented severe beatings and torture of some of the detainees in both military and security service detention, often during interrogations about opposition figures.

“They tied us up and beat us,” a NSS detainee said about his arrest in army barracks in the town of Nimule, Eastern Equatoria state. “[In detention] I was beaten and interrogated. They wanted me to agree I was with [the opposition].” Two men told Human Rights Watch that military personnel used pliers to pinch their limbs or ears while interrogating the men in an army barracks. “They asked questions and beat me if I didn’t give them the answer they wanted,” another detainee said. “The second time I was beaten they also put a plastic bag over my head.”

Detainees who had been kept in the notorious riverside security service detention site in Juba said they were held in hot, dark, airless cells. As with civilians held in the riverside site early in the conflict, some former detainees developed a painful skin rash, possibly from the heat.

International law strictly prohibits all ill-treatment of prisoners, including holding detainees in conditions that amount to inhuman and degrading treatment. South Sudanese law also prohibits disciplinary measures that are cruel or degrading or could compromise the physical or mental health of a prisoner. All instances of torture, cruel, or inhuman or degrading treatment should be investigated and punished by law, Human Rights Watch said.

On May 4, the government acceded to the Convention Against Torture and its additional protocol as well as two other key human rights treaties, the Convention on the Rights of the Child and the Convention on the Elimination on all Forms of Discrimination Against Women. These are positive steps, but the government should ensure that the conventions’ standards and obligations are fully enforced, Human Rights Watch said.

A special rapporteur for South Sudan should be established at the UN Human Rights Council in June with a mandate to monitor and publicly report on violations of international humanitarian law and violations and abuses of human rights, including unlawful detentions, Human Rights Watch said.

Authorities should immediately release detainees who have not been charged or, if there is sufficient credible evidence of individual criminal activity, promptly charge them with a recognizable crime, Human Rights Watch said. Any detainee to be charged with an offense should be immediately transferred to a lawful detention center and detained further only if

authorized by a judge. The detainees should be guaranteed their full due process rights, be allowed to see family members, and receive any needed medical treatment, Human Rights Watch said.

“People have spent months in unlawful detention,” Bekele said. “The NSS law should be reformed to ensure that basic rights are protected, especially given the institution’s history of abuse.”

For additional details on the detentions and abuse, background, and international law, please see below.

Patterns of Arbitrary Detention

Human Rights Watch and other human rights organizations **have documented** patterns of arbitrary detention by South Sudan’s security forces, especially the NSS, of perceived opponents, outspoken individuals, and journalists since South Sudan gained independence in 2011.

Security service officers were given sweeping powers of arrest, search and seizure, and detention in the 2015 National Security Service Act, although the law requires officers to take anyone they detain before a magistrate within 24 hours. The law should be revised to ensure that the powers of NSS officers are within the parameters of international standards as well as South Sudan’s transitional constitution, which envisages an NSS focused on gathering information, Human Rights Watch said.

Law Governing Detention

Both international humanitarian law applicable in a non-international armed conflict, as in South Sudan, and international human rights law prohibit arbitrary deprivation of liberty. In an armed conflict, international law allows the arrest or apprehension of civilians on broader security grounds than in peacetime.

However any detention is subject to strict due process, and failure to respect such procedural safeguards makes a detention arbitrary. In particular, anyone arrested should be informed of the reasons for arrest, be taken promptly before a judge to be charged or released, and be given an opportunity to challenge the lawfulness of the detention.

International humanitarian law requires protecting anyone taken into custody, including civilians, during an armed conflict against “violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture” and “outrages upon personal dignity, in particular humiliating and degrading treatment.” International human rights law similarly prohibits torture, cruel, inhuman, or degrading treatment of a detainee in any circumstance.

Everyone deprived of liberty must be provided with adequate food, water, clothing, shelter, and medical attention. Detainees are entitled to judicial review of the legality of their detention, and all the rights to a fair trial, including the right to be tried and convicted for a criminal offense only by a court of law. Unacknowledged detention is prohibited at all times, and enforced disappearances constitute war crimes that must be investigated and prosecuted.

Detentions by Military in Nimule

Military forces arrested at least 11 civilians in the town of Nimule, in Eastern Equatoria, and surrounding villages, and subjected them to weeks or months of harsh military detention in the Nimule army barracks in late 2014 or 2015. All were eventually released without charge, said local government officials, community and family members, and witnesses. All were accused of supporting Martin Kenyi, a senior South Sudanese army officer from the area who defected to join Machar's rebellion in late 2014.

Soldiers arrested Irra Joseph, a driver, in Nimule during the last week in December 2014. He was accused of providing support to Kenyi and held until January 4, but was not charged or taken before a judge. He was not beaten during the detention.

Michael Dravuga, a currency exchanger, was arrested on February 21, 2015, in the Nimule market by armed men in civilian clothes believed to be a mix of military intelligence and NSS officers and detained. The officers beat him and pinched his arm and an ear with pliers while asking him questions about Kenyi.

On the same day, six armed security officers, some in civilian clothes and others in army uniforms, arrested Nasuru Abdallah Gobi, a teacher and community leader, at his home in Nimule and detained him. He was severely beaten while being questioned about his alleged connection to Kenyi.

On February 24, soldiers arrested Taluga Angelous Kwiriko, also a teacher, at his home in a nearby village and detained him in the same barracks, where military intelligence officers questioned and beat him.

Two other men, Sabasaba Emmanuel and Opi Isaac Martin, a carpenter, were arrested in February and early March respectively. Interrogators used pliers to torture Martin, pinching him on his body and ear lobes, permanently damaging one of his ears, while demanding information about the whereabouts of Kenyi.

On March 22, a businessman named Richard Loku Francis was arrested in the Nimule market and detained for two weeks. Six men beat him for several hours, demanding to know where Kenyi was.

All six men were released in mid-April.

On February 2, security forces arrested Isaac Lagu Jabakana, a senior local chief, Drici Emmanuel Jacob and Andrug Godfrey Peter, both laborers, and James Duku, a teacher, all from Nimule and surrounding villages. After a period in the Nimule barracks, the men were moved to the “Giyada” detention site in the military intelligence’s Juba headquarters. Jabakana and Duku were beaten during their arrests.

At least two of the men were allowed some family visits but were not given access to a lawyer and none were charged. They were released in early May. A senior local government official said that the men were detained because of their alleged connection to Kenyi.

Kenyi’s defection and the arrests take place against a background of longstanding disagreement between members of the Madi tribe in Nimule and government authorities over control of land in the strategically important town of Nimule, bordering Uganda, South Sudan’s main trading partner. Tensions between the authorities and the chiefs and youth leaders over a government-proposed town council for Nimule were high in August 2013, when unidentified gunmen killed a Madi chief. In response, authorities arrested Kenyi and more than 10 community leaders who had protested the town council, and held them in police custody in the state capital, Torit, until December 23, then released them without charge.

Other Detentions by Military Intelligence

On January 3, 2015, on the orders of South Sudan’s army chief of staff, Paul Malong, soldiers arrested Yel Deng Nguel, then an adviser to the acting governor of the state, in the state capital, Aweil, and detained him in a nearby barracks.

Deng Nguel was transported to the Giyada military intelligence prison in Juba, where he was held without charge until April 9. He told Human Rights Watch that he was not beaten while in detention. Another official, Arkangelo Athian Teng, was also detained in Aweil, but released two days later.

Military intelligence officials arrested a journalist working for the government’s South Sudan TV station in Juba on March 21 and held him in Giyada until April 10 because he conducted a television interview with the then-acting governor, Kuel Aguer. Aguer was replaced by presidential decree the same week as Yel Deng and the journalist were released.

In Juba, soldiers from the presidential guard detained a journalist for three days in Giyada in mid-November. He was beaten in detention. He was arrested while leaving a radio station but it appears that the reason for the arrest may have been because he was from Machar's Nuer tribe. "They asked me what tribe I am, and said if I am Nuer, I must be a follower of Riek Machar," the journalist told Human Rights Watch.

Also in Juba, in May 2014, military intelligence officials arrested an activist and detained him for three weeks and three days in Giyada's underground cell. He was told that he was being detained for owning a gun but was never officially charged or provided with any other explanation. Military intelligence officers had earlier threatened him and told him to stop his "peace building" work. The underground cell is well-known in Juba and was used by the army to detain civilians at the beginning of the conflict during an abusive crackdown on members of the Nuer tribe.

National Security Service Detentions

Over the past year, the NSS has detained people it accuses of supporting opposition forces for long periods with no access to justice.

George Livio, a journalist with the United Nations Mission in South Sudan's radio station was arrested on August 22, 2014, with James Lual, a UN security guard, in the town of Wau, Western Bahr el Ghazal. Both men are being held in the main NSS building near the Jebel market but Lual has also spent time in the NSS riverside detention site in Juba. Neither has been charged, but both have been accused of providing support to the opposition, UN officials said.

Martin Augustine, a civil servant, and Justin Wanawilla, a Catholic priest, were arrested on August 23 in Wau on similar accusations and also remain in NSS detention in Juba. Nyero Athony Kenyi, another UN staff member, has also been in NSS detention since his arrest on October 28. He was also accused of supporting the opposition but has not been officially charged, UN officials said.

NSS officers arrested Sokiri Felix Wani, a Juba community leader, on July 25 in the town of Kajo Keji, with his motorcycle taxi driver, Bosco Oce, and two other men, Alison Mogga and Simon Ibansu. Ibansu has been released but the three others remain in NSS detention in Juba. Community members and government officials told Human Rights Watch that the men are accused of supporting Alfred Lado Gorre, a politician from Central Equatoria who joined the Machar's opposition in 2014. As far as Human Rights Watch was able to ascertain none of the men have been charged.

A government official confirmed to Human Rights Watch that three other men, James Ladu Paul, Alex Sandika, and Kenyi Abdu Lopiong, were arrested in mid-2014 in Lainya, Central Equatoria state, also accused of supporting Gorre. They also remain in NSS detention. Gunmen arrested Benjamin Taban, a priest, in Morobo, Central Equatoria state, in October. He was still being held in April. Human Rights Watch has received credible information about more than 12 other men allegedly in NSS headquarters detention, all also accused of connections to the opposition, including four others arrested in Morobo in Central Equatoria state.

Security service officers arrested a Nuer humanitarian worker in the town of Bor, Jonglei state, on September 18 as the man traveled to an opposition held area for his work. NSS officials beat him severely, then moved him to Juba, where he was held first in police, then military intelligence, and then NSS detention until February 15, when he escaped.

Security officers arrested another Nuer businessman who tried to travel to the opposition-held town of Leer, Unity state, in the town of Rumbek, Lakes state on November 5. He was not formally charged, but was told he was being held on suspicion that he had been supporting the opposition. He was released on December 2.

NSS officers arrested seven Nuer humanitarian workers from the national organization UNIDO on December 12 and detained them until December 31. The six men and one woman were flying from opposition-held Leer to Juba and were arrested at the airport when they arrived at dusk, ostensibly for arriving too late and on suspicion that they were allied with opposition forces. The workers, who were not charged, were released after pressure from government officials and other humanitarian workers.

Former detainees in the riverside center reported seeing more than 30 other detainees there, most imprisoned for alleged connections to opposition forces. In February 2015, a journalist was arrested for taking photographs and detained for about 20 hours in a NSS detention site in the Hai Jalaba neighborhood in Juba.

Detentions by Unidentified Armed Men

On April 1, unidentified gunmen abducted Peter Mayen, leader of the new People's Liberal Party, at his home in Juba. They held him blindfolded in two locations, repeatedly beating him brutally with their fists and kicking him. He was released on April 8. Mayen had, in the weeks before his abduction, publicly criticized the government.