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“ANYTHING THAT WAS BREATHING WAS KILLED”

WAR CRIMES IN LEER AND MAYENDIT,
SOUTH SUDAN

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Cover photo: A displaced woman on an island in the swamp in southern Unity state, South Sudan.

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"ANYTHING THAT WAS BREATHING WAS KILLED"
WAR CRIMES IN LEER AND MAYENDIT, SOUTH SUDAN

1. EXECUTIVE SUMMARY

In late April 2018, South Sudan government forces and their allied militias launched an offensive on Leer and Mayendit counties, in southern Unity state, which continued throughout May and June.

Based on interviews with around 100 displaced people from Leer and Mayendit, this briefing describes how government forces and their allied militias attacked villages in opposition-held areas of southern Unity state and committed crimes under international law and other serious human rights violations. During these attacks, both government forces and allied militias deliberately targeted and killed civilians, including women, children, the elderly, and people with disabilities. While many civilians were killed by gun fire, others were burned alive in their homes, hung from trees and rafters, or run over with armored vehicles. Civilians were also hunted down after fleeing into nearby wetlands, or rivers, as soldiers shot indiscriminately into areas where they were hiding and carried out attacks on islands where civilians had sought refuge.

During these operations, government forces and their allied militias systematically abducted and raped women and girls. Some women sustained serious injuries as a result of being gang raped. Many of those who resisted were killed. Abductees were forced to carry looted goods long distances, and while held by their captors, made to carry out domestic chores. Amnesty International also received information that men were captured and detained, and in one instance, held in a shipping container on a military base in Mayendit. Their fate and whereabouts are unknown.

Government forces and their allied militias, moreover, engaged in a widespread campaign of looting and destruction, systematically setting fire to civilian homes, looting and burning food supplies, stealing cattle, goats and other livestock, as well as civilian property. Even trees and plants were uprooted. These abuses appear to have been carried out with the purpose of forcibly displacing civilians and making villages uninhabitable in the future.

Attacks on food sources, including the deliberate destruction and burning of food stocks, moreover, seem to have been carried out with the intention of making the civilian population living in opposition held areas of Leer and Mayendit food insecure. Civilians in the area were just beginning to recover from the famine that was declared there in February 2017, exacerbating the already dire humanitarian crisis in the country where close to half of the population are facing severe food insecurity.

This is not the first time that parts of Leer and Mayendit counties have been subjected to large-scale military operations by government forces and their allied militias. Unity state has witnessed some of the most brutal violence since the conflict in South Sudan started nearly five years ago. During successive government offensives in 2014 and 2015, government forces razed villages, beat and killed civilians, burned people alive, committed acts of sexual violence, abducted women and children, and looted property and livestock. Many of the people interviewed by Amnesty International said that the offensive that began in April 2018 was not the first time in recent years that their village was attacked.

These repeated attacks against civilians underscore the problem of impunity. The Government of South Sudan has consistently failed to address past violations and provide any form of accountability for atrocities. Although the peace agreement signed in August 2015 envisioned the creation of an African Union-South Sudanese Hybrid Court for South Sudan (HCSS) to try grave violations, South Sudanese leaders have long delayed establishing the court. The government's failure to make progress toward setting up the court signals to perpetrators that they can continue to carry out abuses without consequence, perpetuating the vicious cycles of violence and conflict in the country. It is critical that the South Sudan government move forward to finalize the establishment of the hybrid court.

2. METHODOLOGY

This briefing is based on research that Amnesty International conducted in South Sudan in July 2018. Amnesty International researchers interviewed some one hundred displaced people from Leer and Mayendit counties. Women and men were interviewed in approximately equal numbers. Most of the displaced people were interviewed in the towns of Nyal and Kutit, Panyijar county, Unity state; a few were found on nearby islands in the swamp. Nearly all of the displaced people spoke Nuer, and the interviews were conducted with the help of Nuer interpreters. The names of all interviewees have been changed for security reasons.

3. BACKGROUND

NATIONAL STRIFE

South Sudan formally seceded from Sudan on 9 July 2011, becoming the world's newest nation. The country's creation was expected to bring an end to the decades-long armed conflict with the Sudanese government in Khartoum, but it did not bring the long hoped-for stability and peace to South Sudan. Local-level violence and inter-ethnic clashes continued, and on 15 December 2013 the country was plunged into a brutal internal conflict that has yet to be settled, despite multiple efforts to broker a lasting peace.

The fighting that began in December 2013 resulted, in part, from political tensions within the ruling Sudan People's Liberation Movement/Army (SPLM/A), specifically between President Salva Kiir, an ethnic Dinka, and former Vice President Riek Machar, an ethnic Nuer. Machar had served as the country's vice president between 2005 and July 2013, when he was dismissed by Kiir. The violence, which broke out in the military barracks in the capital city, Juba, quickly escalated, with government forces deliberately killing Nuer civilians based on their ethnicity and perceived political affiliations. The SPLM/A fractured further, with some maintaining allegiance to the government and others defecting to support the armed opposition, led by former Vice President Machar, which came to be known as the SPLM/A-In Opposition (IO). Within a matter of days, the conflict spread to Jonglei, Upper Nile, and Unity States, with both the government and the opposition engaging in a tit-for-tat escalation in hostilities—the brunt of which was born by the civilian population.

Both government and opposition forces have intentionally targeted civilians, often on the basis of ethnicity, which has become increasingly conflated with perceived political allegiance to either the government or the opposition.¹ Indeed, the conflict has become increasingly ethnic in character, with the leaders of the two primary opposing factions—President Kiir and former Vice President Machar—both drawing support from members of their own ethnic groups.

The conflict's brutality is staggering. Since the violence erupted nearly five years ago, tens of thousands of civilians have been killed.² Thousands of men, women, and children have been subjected to sexual violence, including rape, gang rape, sexual slavery, sexual mutilation, torture, castration and forced nudity.³ Some 2.5 million people have been displaced outside the country's borders as refugees in what has been described as the largest mass exodus of people on the continent since the 1994 Rwandan genocide. Of the nearly 2 million internally displaced persons (IDPs) scattered across the country, around 200,000 are living in "Protection of Civilian" (POC) sites on the bases of the UN peacekeeping mission in South Sudan (UNMISS).⁴

Continued conflict, coupled with the deliberate obstruction of humanitarian assistance by warring parties and the use of food as a weapon of war by both government and opposition forces, has resulted in severe food

¹ Amnesty International, "Do not remain silent": Survivors of sexual violence in South Sudan call for justice and reparations, 24 July 2017, Index Number: AFR 65/6469/2017, available at: <https://www.amnesty.org/en/documents/afr65/6469/2017/en/>.

² Council on Foreign Relations, "Civil War in South Sudan," *Global Conflict Tracker*, available at: <https://www.cfr.org/interactives/global-conflict-tracker#!/conflict/civil-war-in-south-sudan>.

³ Amnesty International, "Do not remain silent": Survivors of sexual violence in South Sudan call for justice and reparations, 24 July 2017, Index Number: AFR 65/6469/2017, available at: <https://www.amnesty.org/en/documents/afr65/6469/2017/en/>.

⁴ United Nations Mission in South Sudan (UNMISS), established by UN Security Council resolution 1996 (2011) of 8 July 2011; UNMISS, "PoC Update," *Media and Spokesperson Unit-Communications & Public Information Section*, 27 August 2018, available at: https://unmiss.unmissions.org/sites/default/files/20182708_-_poc_update.pdf.

insecurity. In fact, famine was declared in parts of the country in February 2017.⁵ As of January 2018, 5.3 million people, almost half of the population, were considered to be facing “Crisis and Emergency” acute food insecurity.⁶ The situation is expected to deteriorate in the absence of humanitarian relief, with worst-case scenario predictions of large-scale “Catastrophe leading to Famine,” particularly in Jonglei, Unity, Upper Nile, and Western Bahr al-Ghazal states.⁷

Peace negotiations have been held on and off since the outbreak of war. In August 2015, the warring parties and other stakeholders signed the Agreement for the Resolution of Conflict in South Sudan (ARCSS), yet conflict-related violence continued.⁸ In a worrying trend, the period following the signing of the August 2015 peace agreement saw the fractionalization of existing armed opposition groups, and the proliferation of new ones, making the conflict more amorphous and complex. One of the consequences has been the further polarization of ethnic groups, with each side targeting civilians perceived to be associated with the “enemy.”⁹ Political and ethnic divisions were further compounded by the December 2015 presidential order, creating 28 states when there were previously ten, which was largely perceived as a bid to concentrate power and resources in the hands of a single ethnic group. The ARCSS finally collapsed in July 2016, when intense fighting broke out again in Juba between government and opposition forces.¹⁰

Efforts to revive the agreement have continued since then. In June 2017, regional leaders met in the Ethiopian capital, Addis Ababa, to endorse a new peace initiative, known as the High Level Revitalization Forum (HLRF), intended to “revitalize” the August 2015 agreement, ARCSS. After months of delays, talks finally got underway on 18 December 2017. An “Agreement on Cessation of Hostilities, Protection of Civilians and Humanitarian Access,” also referred to as the Cessation of Hostilities (COH) agreement, was reached on 21 December, coming into effect 72 hours later on the 24 of December. However, the COH was violated almost instantaneously with violent conflict continuing throughout the first half of 2018.

The latest ceasefire was declared on 27 June 2018, as part of the “Khartoum Declaration of Agreement Between Parties of the Conflict of South Sudan” brokered by Sudanese President Omar al-Bashir.¹¹ Despite this latest step toward peace, Amnesty International collected testimonies in July indicating that fighting continued after 30 June, when the agreement came into effect.

CONTINUED CONFLICT IN UNITY STATE

From the beginning of South Sudan’s violent internal armed conflict, Unity state was hard hit, experiencing some of the country’s most brutal episodes of violence. 10,000 people are estimated to have been killed in successive government offensives between late 2014 and late 2015.¹² Government forces and their allied militias have razed entire villages, particularly around Leer and Mayendit counties in the southern part of the state. The UNMISS protection of civilians site in the former state capital, Bentiu, is now the largest such site in the country, hosting over 110,000 civilians who fled their homes to seek safety and security.¹³

⁵ ACTED, “Famine in South Sudan: Understanding Food Insecurity in Unity State,” available at: <https://www.acted.org/en/famine-in-south-sudan-understanding-food-insecurity-in-unity-state/>.

⁶ IPC – Integrated Food Security Phase Classification – The Republic of South Sudan, “Key IPC Findings: January-July 2018,” available at: https://fscluster.org/sites/default/files/documents/ipc_southsudan_acutefi_jan-july_2018.pdf.

⁷ IPC – Integrated Food Security Phase Classification – The Republic of South Sudan, “Key IPC Findings: January-July 2018,” available at: https://fscluster.org/sites/default/files/documents/ipc_southsudan_acutefi_jan-july_2018.pdf.

⁸ Importantly, one of the key elements of the ARCSS was a commitment to establish a hybrid court to investigate and try those responsible for grave abuses since 2013. The agreement states that the court, called the Hybrid Court for South Sudan (HCSS), is to be staffed by judges from South Sudan and other African countries. Progress toward the creation of the court has stalled. See South Sudan: A Way Forward for the Hybrid Court (An Open Letter to H.E. Mme. Nkosazana Dlamini-Zuma, Chairperson of the African Union, by Amnesty International, the Coalition for the International Criminal Court, and several others), 1 November 2016.

⁹ See Nicki Kindersley and Oystein H. Rolandsen, “Prospects for Peace and the UN Regional Protection Force in South Sudan,” *Briefing*, available at: <https://academic.oup.com/DocumentLibrary/afraf/Briefing%20South%20Sudan%20Intervention.pdf>; Amnesty International, South Sudan: “If men are caught, they are killed, if women are caught, they are raped” – Atrocities in Equatoria Region turn country’s breadbasket into a killing field, 4 July 2017, Index number: AFR 65/6612/2017, available at: www.amnesty.org/en/documents/af65/6612/2017/en/.

¹⁰ See Amnesty International, South Sudan: “We did not believe we would survive”: Killings, rape and looting in Juba, 24 October 2016, Index number: AFR 65/5028/2016.

¹¹ Khartoum Declaration of Agreement Between Parties of the Conflict of South Sudan,” available at: <https://igad.int/attachments/article/1874/Khartoum%20Declaration.pdf>.

¹² Joshua Craze, Jerome Tubiana with Claudio Gramizzi, *A State of Disunity: Conflict Dynamics in Unity State, South Sudan, 2013-15*, Switzerland: Small Arms Survey, 2016, available at: <http://www.smallarmssurveysudan.org/fileadmin/docs/working-papers/HSBA-WP42-Unity-Dec-2016.pdf>.

¹³ UNMISS, “PoC Update,” *Media and Spokesperson Unit-Communications & Public Information Section*, 27 August 2018, available at: https://unmiss.unmissions.org/sites/default/files/20182708_-_poc_update.pdf.

Unity state has seen several government offensives aimed at retaking territory held by opposition forces. The first such offensive took place in January 2014, just after the signing of a cessation of hostilities agreement. Government forces made advances on SPLA-IO positions south of Bentiu, reaching Leer county on 31 January and remaining there until mid-April. As they swept through villages, they committed serious violations of international human rights and humanitarian law, including deliberate killings, rape, looting, and destruction of civilian homes and humanitarian supplies. As the Small Arms Survey (SAS) emphasized, this “was the beginning of a sustained demographic war on the Nuer south, intended to disrupt the ability to sustain itself, notably by displacing thousands of people, abducting women, and garnering resources, such as aid, vehicles and cattle, which were to be brought to the north and the west of the state.”¹⁴

A second government offensive on southern Unity began in April 2015, with violence continuing through the rest of the year, in spite of an August 2015 peace agreement. In fact, just as the peace agreement was supposed to come into effect, government troops attacked villages in Leer county.¹⁵ As during the previous offensive, government troops and their allied militias set entire villages ablaze, beat and killed civilians, burned people alive, committed acts of sexual violence, abducted women and children, and looted property and livestock, particularly cattle—the primary livelihood of the largely Nuer communities living in southern Unity state.¹⁶ It is estimated that between May and early December 2015, 1,200 civilians were killed; 1,430 were raped, and 1,630 abducted in Leer, Koch and Mayendit counties.¹⁷

In 2016 and 2017, the conflict shifted away from Unity state as one of the chief battlegrounds.¹⁸ But even in the absence of the large-scale fighting that characterized previous years, civilians continued to be deeply impacted from the earlier violence. Having been unable to cultivate their land, they faced severe food insecurity. In February 2017, famine was declared in Leer and Mayendit counties, in the south of the state—the first time since 2011 that famine had been declared anywhere in the world.¹⁹

Recent years have seen increasing intra-Nuer divisions caused, in part, by the fractionalization of the armed opposition, the SPLA-IO, into those loyal to former Vice President Machar and those loyal to current First Vice President Taban Deng Gai. Both men are Nuer who hail from Unity state: Deng Gai is from Guit county in northern Unity state, and Machar is from Leer county in southern Unity state. The SPLA-IO under Deng Gai and their allied militias have largely maintained allegiance to the government in Juba.

Unity state is now effectively divided between government forces under the SPLA Division IV, which have their headquarters in the state capital, Bentiu, the SPLA-IO under Taban Deng, which is aligned with the government forces, and the SPLA-IO under Machar.²⁰ Each group mobilizes armed youth militias, worsening local level violence and intra-Nuer divisions. Generalized insecurity has also intensified in Unity state, as increasingly fractionalized armed groups in the area compete for access to declining resources in the face of a collapsing economy.

¹⁴ Joshua Craze, Jerome Tubiana with Claudio Gramizzi, *A State of Disunity: Conflict Dynamics in Unity State, South Sudan, 2013-15*, Switzerland: Small Arms Survey, 2016, available at: <http://www.smallarmssurveysudan.org/fileadmin/docs/working-papers/HSBA-WP42-Unity-Dec-2016.pdf>, p. 55.

¹⁵ Joshua Craze, Jerome Tubiana with Claudio Gramizzi, *A State of Disunity: Conflict Dynamics in Unity State, South Sudan, 2013-15*, Switzerland: Small Arms Survey, 2016, available at: <http://www.smallarmssurveysudan.org/fileadmin/docs/working-papers/HSBA-WP42-Unity-Dec-2016.pdf>.

¹⁶ Amnesty International, *South Sudan: 'We are still running': War crimes in Leer, South Sudan*, 28 July 2016, Index Number: 65/4486/2016, available at: <https://www.amnesty.org/en/documents/afr65/4486/2016/en/>.

¹⁷ UNHCR, “Protection Situation Update: Leer County, Southern Unity (October-December 2015),” 19 December 2015, available at: <https://reliefweb.int/report/south-sudan/protection-situation-update-leer-county-southern-unity-october-december-2015>; cited in Amnesty International, *South Sudan: 'We are still running': War crimes in Leer, South Sudan*, 28 July 2016, Index Number: 65/4486/2016, available at: <https://www.amnesty.org/en/documents/afr65/4486/2016/en/>.

¹⁸ Human Security Baseline Assessment (HSBA) for Sudan and South Sudan, “The conflict in Unity State,” *Small Arms Survey*, available at: <http://www.smallarmssurveysudan.org/fileadmin/docs/archive/south-sudan/conflict-crisis-2013-15/unity-state/HSBA-Conflict-Unity-March-2016.pdf>; Amnesty International, South Sudan: “If men are caught, they are killed, if women are caught, they are raped” – Atrocities in Equatoria Region turn country’s breadbasket into a killing field, 4 July 2017, Index number: AFR 65/6612/2017, available at: www.amnesty.org/en/documents/afr65/6612/2017/en/; Amnesty International, South Sudan: “It was as if my village was swept by a flood”: Mass displacement of the Shilluk population from the West Bank of the White Nile,” 21 June 2017, Index number: AFR: 65/6538/2017, available at: <https://www.amnesty.org/en/documents/afr65/6538/2017/en/>.

¹⁹ ACTED, “Famine in South Sudan: Understanding Food Insecurity in Unity State,” available at: <https://www.acted.org/en/famine-in-south-sudan-understanding-food-insecurity-in-unity-state/>.

²⁰ UNMISS and UN Human Rights Office of the High Commissioner, *Indiscriminate Attacks Against Civilians in Southern Unity April-May 2018*, July 2018, available at: https://unmiss.unmissions.org/sites/default/files/20180709_final_consolidated_version_of_unmiss_hrd_report.pdf.

THE 2018 OFFENSIVE IN LEER AND MAYENDIT COUNTIES

The lull in large-scale hostilities in Unity state was broken in April 2018. On 21 April, the SPLA, the SPLA-IO under Taban Deng Gai, and armed Nuer youth militias from Koch, Guit and Rubkona began moving south. First, they attacked villages in Mayendit and then, around 25 April, they advanced to attack villages in Leer. UNMISS characterized the offensive as an “effort to clear opposition-held areas,” as well as “forcefully displace civilians.”²¹

According to reports from the Ceasefire and Transitional Security Arrangements Monitoring Mechanism (CTSAMM), government authorities initially stated that the fighting was caused by armed youth engaged in cattle raiding, but acknowledged that the SPLA had deployed to support the youth.²² UNMISS reported that the Gany County Commissioner from the Jagai sub-clan in Nuer, Koch, and an officer under the SPLA-IO forces allied to Taban Deng Gai were allegedly responsible for mobilizing youth to attack Leer and Mayendit, and that they did so with the knowledge of the SPLA Division IV command and state-level officials.²³

Many of the attacks documented by Amnesty International involved government-allied armed youth militias arriving on foot, primarily armed with light weapons, such as assault rifles and RPGs, with support from SPLA forces using heavy artillery and armored personal carriers (APCs). Numerous civilians also told Amnesty International that government forces used amphibious vehicles, similar to the GAZ 34039 tracked amphibious vehicles that the government reportedly imported in mid-2014 and used in Unity state in 2015.²⁴

Many villages were attacked multiple times in what appears to be an effort to ensure that civilians were permanently displaced from their homes. While fighting was heaviest in April and early May, attacks continued in Leer and Mayendit counties into June 2018, and Amnesty International even received allegations of attacks as late as 4 July 2018, after the ceasefire signed in Khartoum on 27 June 2018 had come into effect.

²¹ UNMISS and UN Human Rights Office of the High Commissioner, *Indiscriminate Attacks Against Civilians in Southern Unity April-May 2018*, July 2018, available at: https://unmiss.unmissions.org/sites/default/files/20180709_final_consolidated_version_of_unmiss_hrd_report.pdf.

²² CTSAMM, *CTSAM Report 2018/22 – Violations against civilians, including SGBV, in Southern Unity State April-May 2018*, 7 July 2018, available at: <http://jmeccsouthsudan.org/index.php/reports/ctsamm-violation-reports/93-ctsamm-report-2018-22-violations-against-civilians-including-sgbv-in-southern-unity-state-may-2018/file>.

²³ UNMISS and UN Human Rights Office of the High Commissioner, *Indiscriminate Attacks Against Civilians in Southern Unity April-May 2018*, July 2018, available at: https://unmiss.unmissions.org/sites/default/files/20180709_final_consolidated_version_of_unmiss_hrd_report.pdf.

²⁴ Joshua Craze, Jerome Tubiana with Claudio Gramizzi, *A State of Disunity: Conflict Dynamics in Unity State, South Sudan, 2013-15*, Switzerland: Small Arms Survey, 2016, available at: <http://www.smallarmssurveysudan.org/fileadmin/docs/working-papers/HSBA-WP42-Unity-Dec-2016.pdf>, p. 121; see also United Nations Security Council, “Letter dated 21 August 2015 from the Panel of Experts on South Sudan established pursuant to Security Council resolution 2206 (2015) addressed to the President of the Security Council,” 21 August 2015, S/2015/656, available at: http://www.un.org/ga/search/view_doc.asp?symbol=S/2015/656.

4. UNLAWFUL KILLINGS OF CIVILIANS

“If you survived, you were lucky”

Poni, Nyal, 8 July 2018

Amnesty International documented numerous unlawful killings of civilians by government forces and their allied militias during the Unity state offensive. Most civilians were killed by gunfire, but some were killed by other means. According to credible witness testimony, government troops and allied militia also burned people alive in their homes, hung people, cut people's throats, and ran people over with heavy armored vehicles. They also shelled civilian villages, although Amnesty International did not learn of civilians being killed in the shelling.

Nyaguey, a woman of about 45, was found by her husband hanging from a rafter in her house at the end of a government attack on their village in late April. Several of her children reportedly witnessed the killing. “The children said that the soldiers came in the house demanding money and home-made alcohol,” the woman's husband recalled. “My wife said that she didn't have anything to give them, and they killed her.”²⁵

Numerous civilians told Amnesty International that they fled into nearby wetlands, or rivers, as soon as the fighting started, and that soldiers and armed youth hunted for them there. They described groups of five or more soldiers sweeping through the vegetation in search of people, often shooting indiscriminately into the reeds.

An elderly woman named Nyalony said that, after finding her and her husband hiding in a swamp in Pilieny, Leer, soldiers killed her husband in front of her:

*When the attack started, early in the morning while we were sleeping, my husband and I ran to the swamp together. Later in the morning, after the fighting was over, the soldiers came into the swamp looking for people, and sprayed the area where we were hiding with bullets. My husband was hit; he cried out in pain. He was still alive, though, and the soldiers caught him, and then they shot him again and killed him. I was there When they caught my husband, they told me to go away. I tried to stay and they beat me. They hit me with a stick, and told me they could kill me too. Then they shot my husband. He was unarmed and wasn't a fighter, just a farmer.*²⁶

She told Amnesty International that the soldiers put her with a group of other captured women, and that while she was held she saw another two men caught and killed. One man, she said, was shot at close range after he was made to sit on the ground; the other was shot when he tried to run away.

Rebecca, an approximately 30-year-old woman from Rupthiak village, Bor payam, Mayendit, said that when she was hiding in the swamp she saw a man killed:

He was caught by the soldiers and taken out of the water, and then he was killed. He was hiding in the water not far from me, and the soldiers came, and they saw him. It was a group of five soldiers.

²⁵ Amnesty International interview, Nyal, 23 July 2018. Amnesty International also interviewed the woman's stepdaughter, who saw the woman's body after the attack, and a neighbor who helped bury her.

²⁶ Amnesty International interview, Nyal, 19 July 2018.

*They brought him out of the water, yelling at him. Then they shot him on the spot. They shot him in the back and the bullet came out of his stomach. The man was from my village, but I'm forgetting his name. He was 40-50 years old.*²⁷

Elderly and disabled people, unable to flee quickly, were particularly vulnerable. Amnesty International gathered witness accounts of several cases of elderly and disabled persons being burned alive in their homes.²⁸ It's not clear in these cases whether the killings were deliberate, or whether the attackers' goal was to burn the houses, not realizing that their inhabitants were still inside. A human rights activist who believed that these killings were deliberate said that he thought the motivation for attacks against the elderly was to destroy knowledge of the history in the area, including land boundaries.²⁹

An old man named Biel Dak was reportedly burned alive inside his house in Thowkuon village, Bor payam, Mayendit. "He couldn't run," said a neighbor who found his body, "he stayed inside the house and was burned."³⁰

60-year-old Mat told Amnesty International that he was in Tuoch Riak, Thonyor payam, Leer, during an attack in May, the second attack on the village. He recalled the deliberate killing of an elderly man:

*When the second fighting came ... they killed people, including an elderly person who was slaughtered ... He was 90-plus ... I was a neighbor ... They slit his throat with a knife ... We came back and found the body. I was among the people who came and buried [him].*³¹

The victims also included children. Some children were shot while fleeing. Witnesses also described how soldiers killed young children between the ages of two and three by swinging them against trees. Other children drowned while hiding in the swamps during attacks.

Nyalauk, a 47-year-old widow who also lived in Tuoch Riak, said that her two youngest children were killed by government soldiers in early May as they tried to run away during an attack. Her 10-year-old daughter Nyabiele and her 12-year-old son Dor were at home when the attack began, along with two of her other children. When they heard the fighting start, everyone ran in different directions, chaotically. Nyalauk found her two older children later that day, but could not find Nyabiele and Dor. The next day, when it was safe enough to return to the village, she found their bodies; they had been shot. She said that she saw many other bodies besides those of her children, and that a total of 21 people were killed there.

Nyaweke, age 20, told Amnesty International that she was in Thonyor, Leer, when it was attacked by government soldiers and youth militia in late April. She said she witnessed several killings: her father was shot; four children were burned alive in a *tukul* (a traditional-style house with thatched roofing), and five very young children were killed by being picked up and slammed against trees by the attackers.

She recalled:

*When they [the attacking forces] came they killed my father ... When they started to come we just woke up and my father tried to move ... they shot him and my mother ran after him and started crying. This was around 7 in the morning ... The one who killed my father, I saw him ... he didn't have a khaki [uniform], he was just wearing normal clothes ... That man ... was just spraying bullets at everyone.*³²

After her father was killed, soldiers made Nyaweke sit under a tree. She told Amnesty International that from where she was sitting she saw several killings:

There were 7 men [soldiers] who collected the children and put them into a tukul and they set the tukul on fire. I could hear the screaming. They were four boys. One boy tried to come out and the soldiers closed the door on him. He tried to come out of the fire. There were also five boys whom they hit against the tree, swinging them. They were ... 2-3 years old ... They don't want especially boys to live because they know they will grow up to become soldiers.

Maria, a woman of around 36, told Amnesty International that she was in Rukway, Leer, when her village was attacked by government soldiers. She ran with her young children to hide in some nearby trees. She

²⁷ Amnesty International interview, Nyal, 5 July 2018.

²⁸ Under customary international humanitarian law, elderly and disabled persons are due "special respect and protection." See International Committee of the Red Cross (ICRC) Customary IHL Study, Rule 138. Deliberate attacks on them clearly violate this rule, as does utter disregard for their vulnerabilities.

²⁹ Private Communication, June 2018.

³⁰ Amnesty International interview, Nyal, 4 July 2018.

³¹ Amnesty International interview, Nyal, 18 July 2018.

³² Amnesty International interview, Nyal, 21 July 2018.

described how a grandfather, a grandmother, and two boys of 7 and 4 were burned in a house; a woman was shot, and a baby was crushed. She said:

*The old man and the old lady remained with the two kids and they were burned in the house. When the woman ran with the small baby, she was shot and the baby fell on the ground, and then the soldier came and stepped on the baby.*³³

People who fled their home villages to take refuge on islands in the swamp said that government forces and allied youth militia even carried out attacks on these refugees using amphibious vehicles, and in some instances shelling. A young man who was hiding on the island of Rubchar, in Mayendit, said that government troops attacked the island late one night. He described:

*They came at night, around 10 pm. There was no fighting with the IO; they just came and killed people. [Among the dead was] Bai Mun, from Mayendit town, age about 35. I knew him; we were neighbors and cousin. I buried him; I saw his body. He was shot in his chest. Two girls were also killed. They were shot ... They were Nyakouk Yoah, age about 16, and Nyaluak Yoah, age about 13 (they were sisters with the same mother and father). They were my neighbors, from the same area.*³⁴

³³ Amnesty International interview, Nyal, 7 July 2018.

³⁴ Amnesty International interview, Nyal, 4 July 2018.

5. ABDUCTION, SEXUAL VIOLENCE, DETENTION AND ILL-TREATMENT

“We could not run because they would shoot us”

Nyekueth, Nyal, 8 July 2018

Numerous civilians, primarily women and girls, were abducted by government forces and allied militias and detained, sometimes for hours, sometimes for days or even weeks. Large numbers of these women and girls were raped, and by all accounts the majority of rapes involved multiple perpetrators. Some women sustained serious injuries as a result of gang rape, while others who attempted to resist being raped were said to have been killed.

In addition to rape, many of the abducted women and girls were forced to carry looted goods for long distances, and, while held by their captors, made to do cooking, cleaning, and other domestic chores.

One interviewee said that a girl as young as eight years old was gang raped after being captured on Mer Island, Leer, and taken to Leer Town with the attacking forces.³⁵ Another woman said she had witnessed the rape of 15-year-old boy.³⁶

Two women from a small village in Leer said that a large group of women and girls, approximately 20 in all, were captured during a government attack on the village in late April. They said that all of the women were tied together in a line, and had to carry looted goods back to the military base in Leer town. Once inside the base, they said, the women and girls were told to sit down under a large tree, and then were brought in smaller groups a short distance away to be raped. “The Dinka lined up to rape us,” one woman recalled. The two women claimed that five women who resisted being raped were shot and killed.³⁷ Some of the women and girls were released that night; others were released a few days later.

Nyaweke, age 20, said that her 16-year-old sister was abducted and taken to Leer town by four men in late April and held for around a month before being released. The two did not manage to flee when government forces attacked their village. She recalled:

We were just sitting under the trees. I was sitting together with my sister. She was trying to hold my baby, and they told her don't hold that baby ... When she went with them she started crying. It was four men who kidnapped her, but there were other men who were standing with them. They just carried her away.³⁸

³⁵ Amnesty International interview, Nyal, 19 July 2018.

³⁶ Amnesty International interview, Nyal, 20 July 2018.

³⁷ Amnesty International interviews, Mir island, 7 July 2018.

³⁸ Amnesty International interview, Nyal, 21 July 2018.

Not all of the women and girls who were raped were brought back to a military base or encampment; some were raped where they were found. A woman who lived in a small village in Thonyor payam, Leer, said that her 14-year-old cousin was raped by soldiers not far from their home:

We found her on the edge of the swamp. She had been caught in the swamp and brought to a dry area, on the shore of the swamp, to be raped ... She was caught by seven soldiers; all of them raped her. When we found her, she was in terrible shape. She was bruised and bleeding, crawling on her hands and knees. Her dress was torn and dirty, and she was crying. She was barely able to talk. She said she had been raped by seven Dinka soldiers, wearing uniforms and carrying guns.

I cried to see her. We boiled hot water and bathed her in it. Then she went to sleep. The next day, my uncle brought her to Kok island, where there's a clinic.

15-year-old Nyekueth told Amnesty International that she was just outside of her village in Boar, Mayendit, fleeing from fighting in late April, when she and 10 other young women and girls were captured by government soldiers. She said that they were taken to a military base with both government soldiers and their allied armed youth around three hours away by foot where they were held for two days and beaten, interrogated, forced to do domestic chores, and sleep in a shipping container. She also told us that she saw another shipping container where men were being held and subjected to ill-treatment.

When we were taken to the base...it took us three hours walking and we were put in a container. We were locked inside a container ... As soon as we reached the barracks, we were put in a container and we didn't come out until morning. We were told that the commander was not around ... It was...a container...just the ladies that I came with were put there with me...it was very hot and we were not given food, or water...they beat us ... they were beating our buttocks. Everyone was beaten. All of the girls were divided, some were washing utensils, some were fetching water. I had to clean the toilets ... me and two others ... We didn't get any water, but when we fetched water for cleaning, that is how we drank. We didn't get any food. Inside the compound there were two containers. The other container had men put inside like a prison...when I was brought out, the men were brought out and they were also beaten and then the men were put back in the container. They beat them like they beat us ... I saw about 6 [men], but they were older, like 30s-40s.³⁹

Nyatap, a mother around 32 years old, told Amnesty International that she was abducted along with around 16 other people—seven women, 10 men, and their children—and taken from Thonyor, Leer, when her village was attacked by soldiers in late April. She was around eight months' pregnant at the time. She said that she was taken to Leer town and held near the commissioner's compound for three days. She recalled:

When they attacked the area ... they kidnapped me ... I was still pregnant ... They were calling us: "don't go, don't go." But I could not run ... They were 20 soldiers. They were wearing uniforms ... They didn't have a vehicle. They were 20 soldiers and they had guns ... They told us they were taking us to Leer ... Then they had all of us and we walked to Leer ... some soldiers in front and some behind. The way we reached Leer, they put us under the tree where the military boss was. This was in Leer town. We spent three days there. We were being kept in the commissioner's compound. The compound was full of cars and so many guns inside.⁴⁰

Two of Nyatap's children were abducted with her, both of whom she said were beaten. She described how they were forced to do domestic chores while in captivity, and how other women who were not heavily pregnant were raped by up to 10 men:

I was with [my] two kids: my 5-year old son and my daughter of 7. They told us: "you cook for us, our food" and when you don't want to, they beat you. You are grinding the sorghum. The other women who are not pregnant were raped. There was another lady ... she was three months' pregnant and she miscarried. She was raped by 10 men. I saw it happen, it was when we were inside. They were just raping her under another tree....They put us all in one compound ... There were other ladies ... They would just take turns raping them...We were supposed to care for specific soldiers, bringing water and preparing food and arranging their house and going and getting firewood. They take us by two soldiers as we go and collect [the firewood]. They kept me with my children. When these people [captors], they took my soon...they beat him in the chest and now he is coughing. Some small children they also hit on trees. This is happening where the soldiers were behind the commissioner's compound. I saw one who died...he was about 10 years old. They tied his legs together and kept a rope around his neck while they beat him. There were 5 soldiers that beat him. They were wearing uniforms.

³⁹ Amnesty International interview, Nyal, 8 July 2018.

⁴⁰ Amnesty International interview, Nyal, 21 July 2018.

A 35-year-old mother named Sarah told us that in late April, in Thaker payam, Mayendit, she was stripped naked by soldiers while attempting to flee with two other women and three children.

That day that the war happened ... the soldiers for the government kept me. They called us and said: "you ladies, don't go, you come back"... We tried to run away, but we could not run because they would shoot us ... We sat and they started to come to us. They ... asked us "why are you running away and we are moving with your people? Why are you running away when we are the same?" We told them we don't know 'you or where you are coming from and that you were shooting people and there is nothing happening.' They continued to ask me: "your husband is the boss and why are you wearing clothes and a watch?" I told them my husband is not there and they said to bring dollars, guns and SSP [South Sudanese Pounds] and if I didn't that they would kill me. They took our clothes off and we remained naked ... when they left us ... we just remained naked. The children also had to remove their clothes.⁴¹

Mat, age 60, told Amnesty International that he was in Tuoch Riak, Leer, when it was attacked in late April in the morning hours. He said that he hid all day in the nearby swamp before returning that evening. When he came back, he said, he learned that his brother's 13-year-old daughter had been raped by five men. He recalled:

My brother's daughter was raped and she was going to die ... When they raped her, we came and found her and she was crying and bleeding ... she didn't hide ... she told me she was raped ... she was raped by 5 men. We could not carry her and she could not walk ... she was 13 years old ... When I first saw her she was crying and could not walk and really bleeding.

The use of sexual violence against women and girls during the government offensive appears to have been systematic. UNMISS documented the rape and gang rape of 120 women and girls, one as young as four years old.⁴² These acts, UNMISS said, were used "to demonstrate power over ... victims, impose extreme humiliation, destroy ... dignity and to fracture families and the community through the stigma and shame attached to survivors."⁴³ Medecins sans frontières (MSF) also reported that they treated 21 survivors of sexual violence in 48 hours in one village alone.⁴⁴

Amnesty International also received information that men were captured and detained, and, in one instance, held in a shipping container on a military base in Mayendit. This would not be the first time civilians from the area were detained in shipping containers by government forces and their allies. Amnesty International researchers who visited Leer in January and February 2016 compiled a list of 62 men and boys killed in a container in Leer Town on the grounds of the former Comboni Catholic Church compound in October 2015.⁴⁵

⁴¹ Amnesty International interview, Nyal, 5 July 2018.

⁴² UNMISS and UN Human Rights Office of the High Commissioner, *Indiscriminate Attacks Against Civilians in Southern Unity April-May 2018*, July 2018, available at: https://unmiss.unmissions.org/sites/default/files/20180709_final_consolidated_version_of_unmiss_hrd_report.pdf.

⁴³ UNMISS and UN Human Rights Office of the High Commissioner, *Indiscriminate Attacks Against Civilians in Southern Unity April-May 2018*, July 2018, available at: https://unmiss.unmissions.org/sites/default/files/20180709_final_consolidated_version_of_unmiss_hrd_report.pdf, p. 8.

⁴⁴ MSF, "South Sudan: People enduring extreme levels of violence in Leer and Mayendit," *Stories – Press Releases*, 21 May 2018, available at: <https://www.msf.org.uk/article/south-sudan-people-enduring-extreme-levels-violence-leer-and-mayendit>.

⁴⁵ Amnesty International, *South Sudan: 'We are still running': War crimes in Leer, South Sudan*, 28 July 2016, Index Number: 65/4486/2016, available at: <https://www.amnesty.org/en/documents/afr65/4486/2016/en/>.

6. LOOTING, DESTRUCTION, AND FORCED DISPLACEMENT

“Everything was burned”

Nyakuma, Nyal, 7 July 2018

Government forces and allied youth militias engaged in massive looting and destruction during their attacks on villages in Leer and Mayendit. They systematically set fire to civilian homes, looted or burned food supplies, and stole cattle, goats, and other farm animals, as well as money, clothing, furniture, and other civilian property. Amnesty International heard credible and consistent accounts from people from both Leer and Mayendit counties who had returned to their villages only to find their homes burned down and all of their belongings taken. The looting and destruction appeared to have been carried out with the purpose of making villages uninhabitable.

Chuol, age 45, told Amnesty International researchers that when he returned to his home in Boar, Mayendit, after spending two days hiding in the surrounding swamp, he found that his compound had been completely destroyed. He said:

The way we leave home is not the way when we are going back ... They burned the tukul, they burned the fence ... Even the ... trees were cut because they knew if you came back, you would sleep under that tree. Last year I had dug my garden and I had so much sorghum and they burned it by putting [dry] grass on top.⁴⁶

41-year-old Matthew told Amnesty International that he was in Mirnyal, Mayendit, when his village was attacked in late April. He said that he and four other men escaped to a nearby village where they stayed for three days before returning home. When he came back, he told Amnesty International researchers that he found that his home had been burned down along with all of his belongings. He recalled:

When I came back I saw the houses were all burned. I had two tukuls [traditional mud huts] in my compound that were both burned. I had some grains that I had outside and the soldiers put [dry] grass on top and burned the grains. They burned everything – my sleeping mat, my blanket, my net – all ... All the houses were the same. We tried to find the parts of the grains that weren't burned and eat those.⁴⁷

⁴⁶ Amnesty International interview, Nyal, 23 July 2018.

⁴⁷ Amnesty International interview, Nyal, 6 July 2018.

60-year-old Mat told Amnesty International that he was in Tuoch Riak, Leer, during two attacks, first in April, and then again in May. The first time the village was attacked he fled to the nearby swamp. When he returned, after the attack was over, he had found that everything had been either looted or destroyed.

The grain was taken and the tukuls were burnt. When I came back I found that everything was taken: the sleeping mat, the utensils, the clothes. I had hid my grain under the ground in a hole and I came back and found that it was taken.

James, age 33, told Amnesty International that he was in Tuoch Riak, Leer, when it was attacked in late April. Like many people, James hid in the nearby swamp, proceeding to Mer Island where many civilians who had sought refuge before it was attacked some days later. He went back to Tuoch Riak a few days later to find that his shelter had been destroyed and all of his property looted. He said:

I was digging in the garden when the fighting reached because we were preparing for cultivation. I heard the gunshots and was staying with my wife and children and my younger brother. I rushed to the compound and I put one child on my back and another in my arms and then we ran ... We went up to the swamp deep inside the water and proceeded up to Mer [island] ... We just walked in the water.

While in Mer island, life was very difficult. There was no food and no water. A lot of people were suffering ... children lost their lives ... I know a small kid, 2 years old, [who] died because of diarrhea. We buried her in Mer ... We ... went back to Tuoch Riak. When we went back we found that our grain had been taken. I had hidden some grain underground, and then covered it and ... came back and found it was taken ... my home was made of plastic sheeting and it had been torn and the door was broken off. The cooking sets were all taken, the utensils were taken. My certificates were scattered along the compound and even outside the compound. I used to have two trees in the compound ... they had been cut and the branches were gone. My fence was also removed.

7. THE USE OF HUNGER AS A WEAPON OF WAR

“They don’t want people to come back and get food”

Gatkuoth, Nyal, 4 July 2018

Government forces and allied youth militias directly targeted civilian food supplies, systematically looting grain stocks and other food stuffs from civilian homes, and burning food supplies. Interviewees told Amnesty International that attacking forces even cut down fruit-bearing trees in some instances.

Cattle and other livestock—the staples of the Nuer community’s existence in the area—were also systematically looted. Witnesses told Amnesty International researchers how government soldiers and allied youth militias would demand the whereabouts of the cattle camp youth from attacked villages, and wanted to know the routes used by those fleeing with their livestock. In some cases, livestock that could not be looted were killed.

Attacks on food sources appear to have been carried out with the intention of making the civilian population living in opposition-held areas in Leer and Mayendit food insecure.

Civilians in the area were just beginning to recover from the famine that had been declared in Leer and Mayendit in February 2017—the first time famine had been declared worldwide since 2011.⁴⁸ These small gains in food security can be quickly reversed in the face of protracted absence of food relief. Leer and Mayendit are amongst the areas considered to be of greatest concern for worst-case scenario predictions for 2018 of ‘large-scale Catastrophe leading to Famine,’ which could take place in the face of continued impediments to humanitarian assistance.⁴⁹ As CTSAMM reported, the precarious security situation on the ground following the most recent offensive on villages in Leer and Mayendit in April, May and June 2018, has already impacted the delivery of much needed humanitarian aid.⁵⁰ People also spent days, and in some cases, weeks, or months living in isolated swamp areas without access to food, living primarily off of edible parts of water lilies.

Gatkuoth, age 38, told Amnesty International that he fled his village in Mayendit when it was attacked around 9 May. He said that he returned the next day to find that everything had been destroyed, including his food stocks. He described the destruction:

When we went back, every tukul had been burnt down ... the soldiers would come and cover the food with dry grass and burn it up ... if the soldiers found food in the house, they burned it, and if they found food outside the house they covered it with grass and set it on fire. It is a kind of

⁴⁸ ACTED, “Famine in South Sudan: Understanding Food Insecurity in Unity State,” available at: <https://www.acted.org/en/famine-in-south-sudan-understanding-food-insecurity-in-unity-state/>.

⁴⁹ IPC – Integrated Food Security Phase Classification – The Republic of South Sudan, “Key IPC Findings: January-July 2018,” available at: https://fscluster.org/sites/default/files/documents/ipc_southsudan_acutefi_jan-july_2018.pdf.

⁵⁰ CTSAMM, *CTSAMM Report 2018/22 – Violations against civilians, including SGBV, in Southern Unity State April-May 2018*, 7 July 2018, available at: <http://imecsouthsudan.org/index.php/reports/ctsamm-violation-reports/93-ctsamm-report-2018-22-violations-against-civilians-including-sgbv-in-southern-unity-state-may-2018/file>.

*punishment because they take what they can carry and what remains which they cannot carry, that is what they burnt. They don't want people to come back and get food. It is a kind of hatred.*⁵¹

An older woman named Martha told Amnesty International that she was in Pilieny, Leer, when it was attacked around mid-May. As soon as she heard shots she ran to hide in a bushy area with her family. After the shots stopped, she went back to her home to find that everything had been burned and destroyed. She had a mango tree and some banana plants that had been uprooted. She described:

*[E]verything in the house was burned. The grain was removed and burned in the middle of the compound ... I had a small mango tree that I had just planted that had been uprooted and some banana plants that had been cut down ... around three.*⁵²

28-year-old Dueth told Amnesty International that when he returned to Gandor after it was attacked in late April, he found that his shop had been looted and all of his food stuffs had been taken:

*When I returned, I found all of my things were gone. My sorghum was gone and some of it was burnt. The shop was completely looted: our beds in the back, all of our goods ... I had another house with my father and mother. They burned it down to the ground. My mother and father had a very big garden there. Last year we had so many bags of sorghum and we also had that of WFP [World Food Program].*⁵³

⁵¹ Amnesty International interview, Nyal, 4 July 2018.

⁵² Amnesty International interview, Nyal, 7 July 2018.

⁵³ Amnesty International interview, Nyal, 23 July 2018.

8. CIVILIANS ON THE RUN

“We are running everyday”

Pok, Nyal, 19 July 2018

After fleeing their villages, many civilians traveled for days through the swamp to reach safety, relying on make-shift rafts of plastic sheeting to pull their younger children through the water. Others hid for long periods of time in swamps near their villages, from which they could return home periodically to try to salvage food or property, or bury the dead. Others lived for weeks on informal settlements on islands deep in the swamp, where they hoped that government forces would not reach them. When Amnesty International researchers visited the region in July, they were told that many people were still hiding on remote, isolated islands in the swamp.

Without access to shelter, clean water, medical care, sufficient food, or even basic protection from mosquitoes, these people face extremely arduous conditions. The only source of nourishment that many people had access to for extended periods of time was the edible parts of water lilies, which would be ground into a paste and cooked, or eaten raw.

Fleeing deep into the swamp was also not a guarantee of safety, despite the fact that civilians in the area have long used the wetlands and rivers as a natural protection mechanism. Government forces and allied militia attacked islands where civilians were taking refuge, bringing the offensive to remote areas that had been considered safe in the past. Some people died from injuries they had sustained during these attacks or during the initial attacks on their villages; others died from illness, or drowned. Young children were particularly vulnerable.

Mary, a woman of around 55, told us that when her village in Thonyor, Leer, was attacked she had to flee to nearby Mer Island in the swamp. She said that around two days later the island was attacked, forcing her to flee deeper into the swamp.

When the war happened ... we moved up to Mer Island and we spent two days there and the soldiers then came to Mer and we moved up to the water and spent two days in the water. When they came to Mer, they came around 1pm and just started shooting people ... “boom, boom boom” ... They were just shooting us in the water ... people died there. We could smell the bodies ... There was no food for two days. We were just taking water.⁵⁴

30-year-old Angelina told Amnesty International that she was in Adok, Leer, when it was attacked in late April. Around 8 months pregnant, she ran to the nearby swamp where she hid for around two hours before returning. She said that when she came out of hiding, she found that her house had been burned down and all her food had been looted.

I was in Adok when the fighting reached me ... we started running just to the swamp nearby like 20 meters. The baby was still in my stomach. I had not given birth. My daughter was carrying the small child. I was pregnant. We stayed there for two hours. All we could hear during that time was gun shots. They [the attacking forces] were calling us to come out: “you come out, you come out.” When I came out the soldiers had left ... I went to my home, they had burned my tukul and taken my food.

⁵⁴ Amnesty International interview, Nyal, 6 July 2018.

They burned my clothes inside the house. I was left with nothing for me and my children. They had even burned the fence.

With nothing left, she told us that she escaped to another island in the swamp where she gave birth in the open without access to any birthing assistance.

We started to come to [an] ... island because there was nothing left there and my children were very hungry and I was pregnant, so I was having trouble moving. We spent one month...[there]. I gave birth there on 3 May. The baby was not getting enough milk. My breast were really hurting and so was my back. I never had any drugs. There was no medication. I just gave birth in the open ... It was very difficult ... Now the way the baby is, the baby is coughing a lot ... the baby was not breast feeding.⁵⁵

⁵⁵ Amnesty International interview, Nyal, 21 July 2018.

9. CONCLUSION: STOPPING THE VIOLENCE AND ENDING IMPUNITY

The consistent failure to address violations and abuses committed in the past is a key driver of renewed violence in South Sudan. As the African Union Commission of Inquiry on South Sudan (AUCISS) concluded in October 2015: “[t]here are clear patterns of a vicious cycle of violence within violence.”⁵⁶ The report made clear that impunity for atrocities committed in South Sudan’s long history of conflict and in the period following the 2005 Comprehensive Peace Agreement (CPA), meant that accountability was a priority.⁵⁷

In February 2018, the UN Commission on Human Rights in South Sudan noted that, “[t]he grave lack of accountability for gross human rights violations and serious violations of international humanitarian law perpetrated by all parties since 2013 is the foremost factor in perpetuating the current conflict.”⁵⁸ Unfortunately, South Sudanese leaders have shown a marked lack of political will with respect to any form of accountability for human rights abuses. The UN Commission on Human Rights in South Sudan also pointed out, “...the key players in these conflicts are themselves implicated in the atrocities and therefore oppose or obstruct any justice mechanisms.”⁵⁹

South Sudanese leaders have repeatedly argued that justice would undermine peace in the country.⁶⁰ There is also a history of blanket amnesties provided as part of peace agreements. Three days after signing a new power sharing agreement and a timetable for the continuation of talks, on 8 August 2018, President Kiir offered a “general amnesty” to the armed opposition.⁶¹ This allows those bearing responsibility for atrocities to continue to eschew accountability for abuses, sending a signal that violations can persist without

⁵⁶ African Union, “Final Report of the African Union Commission of Inquiry on South Sudan,” 27 October 2015, available at: <http://www.peaceau.org/en/article/final-report-of-the-african-union-commission-of-inquiry-on-south-sudan> (accessed 25 September 2017), p. 195.

⁵⁷ African Union, “Final Report of the African Union Commission of Inquiry on South Sudan,” 27 October 2015, available at: <http://www.peaceau.org/en/article/final-report-of-the-african-union-commission-of-inquiry-on-south-sudan> (accessed 25 September 2017).

⁵⁸ “Report of the Commission on Human Rights in South Sudan,” 23 February 2018, A/HRC/37/CRP.2, available at: <https://www.ohchr.org/en/hrbodies/hrc/cohsouthsudan/pages/index.aspx>, pp.113-14.

⁵⁹ “Report of the Commission on Human Rights in South Sudan,” 23 February 2018, A/HRC/37/CRP.2, available at: <https://www.ohchr.org/en/hrbodies/hrc/cohsouthsudan/pages/index.aspx>, p. 114.

⁶⁰ See “South Sudan says establishing Hybrid Court undermines peace,” *Sudan Tribune*, 30 January 2017, available at: http://www.sudantribune.com/spip.php?iframe&page=imprimable&id_article=61533, cited in Amnesty International, “Do not remain silent”: Survivors of sexual violence in South Sudan call for justice and reparations,” 24 July 2017, Index Number: AFR: 65/6469/2017, available at: <https://www.amnesty.org/en/documents/af65/6469/2017/en/>.

⁶¹ Human Rights Watch, “South Sudan: No Amnesty for War Crimes: Don’t Ignore Victim’s Rights, International Obligations,” 10 August 2018, available at: <https://www.hrw.org/news/2018/08/10/south-sudan-no-amnesty-war-crimes>.

consequence. It also underestimates the importance of justice in South Sudan in breaking the vicious cycle of conflict in the country.

UNMISS identified three individuals who they feel bear the greatest responsibility for violations committed in Leer and Mayendit counties and who had effective command and control of operations in areas in which attacks on villages and recruitment of armed youth took place.⁶² The CTSAMM Report 2018/22, “Violations against civilians, including SGBV, in southern Unity state April-May 2018,” dated 7 July 2018, likewise identifies individuals who were “aware of the scale of the violence and the activities of the SPLA personnel and the armed youth from KOCH.”⁶³

Amnesty International visited Leer county in January and February 2016 and documented violations that took place during the previous offensive on southern Unity state, between August 2015 and January 2016.⁶⁴ Our research indicated that there were four individuals who should be investigated on suspicion of responsibility for war crimes and crimes against humanity committed in Leer. Amnesty International wrote a letter to the former SPLA Chief of Staff, Paul Malong, in June 2016 calling for these four individuals to be investigated, but never received a response. Some of the individuals whom Amnesty International identified in the letter to Paul Malong appear to be the same as those suspected by UNMISS and CTSAMM of bearing responsibility for crimes committed between April and May 2018, or being “aware of the scale of the violence and the activities of the SPLA personnel and the armed youth from KOCH.”⁶⁵ The fact that individuals who possibly bore responsibility for violations in 2015 may also be responsible for violations in the same area in 2018 greatly underscores the need for accountability.

The August 2015 Agreement for the Resolution of Crisis in South Sudan (ARCSS) provided for the establishment of a Hybrid Court for South Sudan (HCSS) in collaboration with the African Union (AU). The HCSS is supposed to be responsible for investigating and prosecuting individuals bearing responsibility for violations committed since the start of the conflict on 15 December 2013. However, the South Sudan government has continuously dragged its feet on the court’s establishment. Although a draft statute and Memorandum of Understanding (MOU) were developed in 2017 and reportedly approved by the South Sudan Council of Ministers in December 2017,⁶⁶ there have been no further actions taken by the government to establish the court. The MOU has still not been signed and domestic legislation has not been adopted.⁶⁷

The newest iteration of the “revitalized” peace agreement as part of the High Level Revitalization Forum (HLRF), as of late August 2018, retains the transitional justice arrangements from ARCSS, including the HCSS. It is critical that the South Sudan government move forward in signing the MOU with the AU and domesticate the court in national legislation. Moreover, as a further means to achieve accountability, all states should investigate and, where enough evidence is gathered, prosecute crimes under international law committed in South Sudan, in keeping with their obligations under the principle of universal jurisdiction.

RECOMMENDATIONS

To the Government of South Sudan:

- Immediately cease all violations of international humanitarian and human rights law, specifically, by ending all unlawful killings of civilians, acts of sexual violence, arbitrary detention, and looting and destruction of civilian homes and property;
- Ensure full respect for international humanitarian law, including by distinguishing between civilians and combatants;

⁶² UNMISS and UN Human Rights Office of the High Commissioner, *Indiscriminate Attacks Against Civilians in Southern Unity April-May 2018*, July 2018, available at:

https://unmiss.unmissions.org/sites/default/files/20180709_final_consolidated_version_of_unmiss_hrd_report.pdf.

⁶³ CTSAMM, *CTSAMM Report 2018/22 – Violations against civilians, including SGBV, in Southern Unity State April-May 2018*, 7 July 2018, available at: <http://imecsouthsudan.org/index.php/reports/ctsamm-violation-reports/93-ctsamm-report-2018-22-violations-against-civilians-including-sgbv-in-southern-unity-state-may-2018/file>, p. 10.

⁶⁴ See Amnesty International, *South Sudan: ‘We are still running’: War crimes in Leer, South Sudan*, 28 July 2016, Index Number: 65/4486/2016, available at: <https://www.amnesty.org/en/documents/afr65/4486/2016/en/>.

⁶⁵ CTSAMM, *CTSAMM Report 2018/22 – Violations against civilians, including SGBV, in Southern Unity State April-May 2018*, 7 July 2018, available at: <http://imecsouthsudan.org/index.php/reports/ctsamm-violation-reports/93-ctsamm-report-2018-22-violations-against-civilians-including-sgbv-in-southern-unity-state-may-2018/file>, p. 10.

⁶⁶ The South Sudan Council of Ministers reportedly approved the hybrid court statute and the government’s MOU with the AU in December 2017, see, Human Rights Watch, “South Sudan: Stop Delays on the Hybrid Court-Four Years Into Conflict, Rampant Abuse,” 14 December 2017, available at: <https://www.hrw.org/news/2017/12/14/south-sudan-stop-delays-hybrid-court>.

⁶⁷ Human Rights Watch, “South Sudan: No Amnesty for War Crimes: Don’t Ignore Victim’s Rights, International Obligations,” 10 August 2018, available at: <https://www.hrw.org/news/2018/08/10/south-sudan-no-amnesty-war-crimes>.

- Immediately facilitate full and unobstructed humanitarian access to all people in need;
- Create conditions for the safe return of the tens of thousands of people who have been forcibly displaced from their homes in Unity state;
- Initiate prompt, effective, and impartial investigations into allegations of crimes under international law, and bring suspects to justice in fair trials in open civilian courts and without recourse to the death penalty;
- Ensure the comprehensive vetting of security forces and civilian officials to ensure that individuals credibly implicated with crimes under international law or other serious violations or abuses of human rights are excluded from service, or office, until allegations concerning them can be independently and impartially investigated;
- Sign the Memorandum of Understanding (MOU) on the Hybrid Court for South Sudan (HCSS) and adopt the statute and ensure that the court becomes rapidly operational;
- Work to ensure the speedy and effective establishment of the Commission on Truth, Reconciliation and Healing (CTRH), and the Compensation and Reparations Authority (CRA).

To the African Union (AU) Peace and Security Council (PSC) and the Intergovernmental Authority on Development (IGAD) Council of Ministers (CoM):

- Strongly denounce violations of international humanitarian law and international human rights law committed by the armed forces and their allied militia;
- Increase efforts to ensure the speedy establishment of the Hybrid Court for South Sudan (HCSS) in a format that complies with international law. These efforts should at a minimum include the following:
 - The urgent convening of a briefing session on South Sudan to assess the status of the implementation of previous AU decisions on the establishment of the HCSS and call upon the government of South Sudan to take immediate steps to establish the court;
 - The provision of a clear mandate and direction to the AU Commission Chairperson to prioritize and fast-track the effective operationalization of the investigatory and victim and witness protection units of the HCSS;
- Impose targeted sanctions on civilian and military officials who are responsible for violations of international human rights and humanitarian law in South Sudan;
- Take steps to ensure that member states, and particularly countries that share a border with South Sudan, strictly enforce the arms embargo adopted by the UN Security Council in July 2018;
- Ensure that member states exercise their obligations under the principle of universal jurisdiction, including investigating and, where the evidence justifies it, prosecuting crimes under international law committed in South Sudan.

To the UN Security Council:

- Hold a special session on the situation in South Sudan to formulate measures to put a stop to continued violations of human rights and humanitarian law and to enforce the arms embargo;
- Ensure that the panel of experts has the resources and expertise required to gather, examine, and analyze information regarding the implementation of resolutions 2206 (2015) and 2428 (2018), particularly the arms embargo;
- Ensure that member states, including the countries immediately neighboring South Sudan, cooperate in the imposition of the comprehensive arms embargo on South Sudan;
- Ensure that member states exercise their obligations under the principle of universal jurisdiction, including investigating and, where the evidence justifies it, prosecuting crimes under international law committed in South Sudan.

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info@amnesty.org



+44 (0)20 7413 5500

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“ANYTHING THAT WAS BREATHING WAS KILLED”

WAR CRIMES IN LEER AND MAYENDIT, SOUTH SUDAN

The military offensive that South Sudanese government forces and their allied militias launched in late April, against opposition-held areas of southern Unity state, involved widespread abuses.

Based on interviews with some 100 displaced people, this briefing details how government forces and their allied militias committed war crimes and serious human rights violations during attacks on villages in Leer and Mayendit counties. The attackers deliberately killed civilians, including women, children, the elderly, and people with disabilities. Many were killed by gun fire, but others were burned alive in their homes, hung from trees and rafters, or run over with armoured vehicles. Civilians were also hunted down and killed after fleeing into nearby swamps.

Government forces and their allied militias also systematically abducted and raped women and girls. Some women sustained serious injuries as a result of being gang raped. Many of those who resisted were killed.

The attackers also engaged in a widespread campaign of looting and destruction, setting fire to civilian homes, looting and burning food supplies, stealing cattle and other livestock, as well as civilian property. These abuses appear to have been carried out with the purpose of forcibly displacing civilians and making villages uninhabitable in the future.