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High Commissioner and the Secretary-General**

Report of the Commission on Human Rights in South Sudan*

Summary

In the present report, submitted pursuant to Human Rights Council resolution 49/2, the Commission on Human Rights in South Sudan gives an overview of the human rights situation in South Sudan and updates the Council on critical developments and incidents that occurred in 2022. The report ends with conclusions and recommendations.

An accompanying conference room paper has been prepared that reflects in greater detail the main findings of the Commission.^a

* Agreement was reached to publish the present report after the standard publication date owing to circumstances beyond the submitter's control.

^a Available on the web page of the Commission (www.ohchr.org/en/hr-bodies/hrc/co-h-south-sudan/index).



I. Introduction

1. In 2016, in its resolution 31/20, the Human Rights Council established the Commission on Human Rights in South Sudan for a period of one year. In April 2017, in its resolution 34/25, the Council extended the Commission's mandate for another year and requested it to continue to monitor and report on the situation of human rights in South Sudan, to make recommendations to prevent further deterioration of the situation and to report and provide guidance on transitional justice.

2. The Commission is also mandated to determine and report the facts and circumstances of, collect and preserve evidence of and clarify responsibility for alleged gross violations and abuses of human rights and related crimes, including sexual and gender-based violence, with a view to ending impunity and providing accountability. The Human Rights Council has requested the Commission to make such information available to transitional justice mechanisms, including those to be established pursuant to chapter V of the Revitalized Agreement on the Resolution of the Conflict in the Republic of South Sudan, including the Hybrid Court for South Sudan, to be established in cooperation with the African Union.

3. The Human Rights Council subsequently extended the mandate of the Commission, each time for an additional year, in its resolutions 40/19, 43/27, 46/23 and 49/2. The current members of the Commission, appointed by the President of the Council, are Yasmin Sooka (Chair), Andrew Clapham and Barney Afako.

4. The Commission is supported by a secretariat based in Juba. In 2022, it conducted several missions to locations within South Sudan. It also conducted missions to Kenya and Uganda. The Commission met with victims, witnesses, government officials, members of civil society and other key stakeholders. It received detailed witness statements, conducted meetings, organized focus group discussions and gathered confidential records. The evidence collected and all other information gathered is preserved in the Commission's secure and confidential database and archives.

5. Members of the Commission conducted two visits to South Sudan in 2022 and participated in various meetings and conferences, including in Addis Ababa, which hosts the headquarters of the African Union.

6. The Commission extends its gratitude to the Government of South Sudan for facilitating its missions in South Sudan and is grateful for the cooperation that it received from governments in the region. It also expresses its appreciation for the assistance of and contributions from the African Union, the United Nations Mission in South Sudan (UNMISS) and various United Nations agencies, civil society organizations and independent experts.

II. Methodology

7. In the present report, the Commission focuses primarily on establishing the facts and circumstances of incidents occurring from January to December 2022. The thematic human rights issues and the case studies that are detailed in this report do not reflect the totality of the human rights situation in South Sudan. Rather, they were selected for their significance and to illustrate the state of human rights in the country. Detailed findings and references are published in an accompanying conference room paper.¹

8. The Commission has conducted its work with reference to the domestic law of South Sudan, international humanitarian law, international human rights law and relevant criminal law. Factual determinations on specific incidents and patterns of conduct provide the basis for the legal qualification of human rights violations, crimes under the law of South Sudan and crimes under international law.

¹ Available on the web page of the Commission (www.ohchr.org/en/hr-bodies/hrc/co-h-south-sudan/index).

9. The Commission has adopted a “reasonable grounds to believe” evidentiary standard. Its work is informed by the requirement to collect and preserve evidence to a standard that would support future accountability mechanisms, including criminal accountability.

10. Where the Commission found information linking alleged perpetrators to specific violations that would be sufficient to warrant future criminal investigations or prosecutions, such evidence was collected and preserved on a strictly confidential basis. Where insufficient information was available to identify the individuals responsible for violations or crimes, and the acts or omissions came under the responsibility of organs or offices of the Government of South Sudan, the State was identified as responsible. Where the acts involved an armed group or security force, that group or force was identified as responsible.

11. The Commission employed international best practices of fact-finding, thereby ensuring the safety, security, confidentiality and well-being of witnesses. Only information for which sources had granted their informed consent and the disclosure of which would not lead to the identification of sources that may result in harm was used. The Commission thanks those victims and witnesses who shared their experiences. The Commission was guided at all times by the principles of confidentiality and “do no harm”.

III. Political and security developments

12. Since the signing of the Revitalized Agreement in 2018, South Sudan has been in a precarious political transition, characterized by often violent political contestations and other challenges, which significantly disrupted the implementation of fundamental political and security processes, as well as transitional justice mechanisms. On 2 August 2022, parties to the Revitalized Agreement agreed a two-year extension, postponing elections to late 2024. Across the country, South Sudanese people continue to face an insufferable human rights and humanitarian situation, exacerbated by continuing conflict and armed violence. The extension nevertheless presents an opportunity to credibly conclude key processes of the Revitalized Agreement, to begin dismantling an entrenched culture of impunity and to reset the country on a path toward stability and prosperity after years of conflict.

13. Failures of leadership occasioned the delays in implementation of the Revitalized Agreement and caused other severe ramifications. Many states again experienced violence that felt like armed conflict. The violence was nearly always characterized by gross human rights violations that targeted civilians and caused mass displacements in the States of Unity, Upper Nile and Jonglei. Continuing insecurity led to protracted displacement in several other states, as well as in neighbouring countries. Perpetual violence is a root cause of the epic humanitarian crisis in South Sudan. More than half the population are experiencing high levels of acute food insecurity.² Millions are deeply traumatized, and most are hungry.

14. During 2022, the entire peace process was threatened on several occasions by political violence played out at the subnational level, with the active involvement of national-level actors. For example, in early 2022, government officials in Unity State led attacks against the Sudan People’s Liberation Movement/Army in Opposition (SPLM/A-IO) positions but faced no sanction from Juba. In early March, the Chair of the Ceasefire and Transitional Security Arrangements Monitoring and Verification Mechanism cautioned that the ceasefire could be fracturing. Soon after, SPLM/A-IO suspended its participation in the ceasefire and Revitalized Agreement monitoring mechanisms, citing attacks on its cantonments in Unity and Upper Nile States. In late 2022, escalating conflict in Jonglei and Upper Nile States risked bringing the main parties to the Revitalized Agreement (with significant military assets) into direct confrontation. Separately, in December 2022, violence and displacement in the Greater Pibor Administrative Area in Jonglei State underscored the persistent security challenges posed by ethnically aligned armed cattle-keepers. In November, the Sudan People’s Liberation Movement in Government (SPLM-IG) withdrew from the “Rome talks”,

² Integrated Food Security Phase Classification, “South Sudan: IPC acute food insecurity and malnutrition analysis, July 2022–July 2023” (23 November 2022). Available at https://www.ipcinfo.org/fileadmin/user_upload/ipcinfo/docs/IPC_South_Sudan_Acute_Food_Insecurity_Malnutrition_22July_23July_report.pdf.

involving opposition groups outside the Revitalized Agreement, including the National Salvation Front (NAS),³ on the basis that non-signatories were using the talks to buy time and prepare for war.

15. Significantly, on 3 April 2022, the parties to the Revitalized Agreement settled on the unified command structure for the necessary unified forces. Subsequently, SPLM/A-IO rejoined the peace monitoring mechanisms. The first “graduation” for this new national army, incorporating soldiers from the signatory groups, took place in Juba on 30 August. Graduations followed in several other states, including Upper Nile, where, on 21 November, thousands of graduates paraded, carrying sticks. The number of graduates, the schedules for their deployment and resource allocations were among the issues that were not yet resolved as of early January 2023. Persistent underinvestment in vital elements of security sector reform, and in demobilization, has contributed to soldiers and ex-combatants preying on local communities, emboldened by a climate of impunity. Necessary unified forces soldiers currently lack sufficient provisions for their basic needs. The Commission has seen that the absence of food and salary leads to soldiers violating the human rights of the South Sudanese people, rather than protecting them.

16. In the Transitional National Legislative Assembly, the passage and legitimacy of laws was affected when SPLM/A-IO representatives boycotted proceedings from mid-June 2022, contributing to legislative delays. Ultimately, the dispute involving the Political Parties Amendment Bill was resolved, and the bill was passed in August, followed in October by the Constitution-Making Process Making Bill. On the basis of the August 2022 roadmap for the extension of the Revitalized Agreement, constitution-making is to happen from August 2022 to August 2024, leaving two months for aligning the electoral laws before the national election.

17. In December 2022, the Constitution-Making Process Act came into force. It provides for broad and inclusive consultation of the people of South Sudan as part of the constitution-making process. During the year, the Government initiated a public consultation process for developing a law to establish the Commission for Truth, Reconciliation and Healing. The experience from this process, in particular the efforts to ensure a broad representation of groups, can inform the design of the constitution-making consultations. The consultations on the Commission also underscored the need for a secure environment and sufficient resources for timely and effective public awareness and the equal participation of refugees, communities in remote areas and other marginalized groups.

18. The two-year extension of the Revitalized Agreement provides an opportunity for consequential political leadership, in particular in the critical areas of security arrangements, constitution-making and electoral processes and the transitional justice process. Each will require enhanced regional and international engagement. A holistic approach to transitional justice, based on the Revitalized Agreement, is essential for addressing widespread impunity, which is a major driver of conflict, as the Commission on Human Rights in South Sudan has documented for several years now.

IV. Civic space

19. The Commission has documented and reported on the shrinking of civic space for several years. The situation has not improved during this time; if anything, it has worsened. The civic space for engagement in public life remains broadly under attack by the State, whose security forces persistently attack people participating in legitimate civic activities. This repression and the resulting atmosphere of fear has stifled public debate and represents a failure of the democratization project to date.

20. Simple acts of organizing meetings in public places, creating and sharing petitions, attending peaceful protests and conducting regular journalism activities attract severe harassment, detention, torture or death threats. The State interferes heavily in every aspect of civil society activities, including through restrictions on the ability to hold meetings, habitual

³ “NAS” is derived from the Arabic name by which the group is commonly known; it is not an English abbreviation.

surveillance and routine intimidation. Members of the public experience arbitrary detention, torture and death threats as retaliation for commenting on social media about human rights violations. Teachers and other public servants are detained and dismissed for organizing petitions and public protests calling for improved public services and the long-delayed payment of salaries.

21. Journalists experience severe harassment, including arbitrary detention and death threats. Some have gone into hiding or have fled the country. Reporters are ill-treated, interrogated and forced to hand over equipment and to reveal confidential sources. Reporters received threats after publishing the comments of the Mayor of Juba condoning the shooting of protestors and the use of live bullets at protests. The mere coverage of parliamentary proceedings has resulted in arrests by members of the National Security Service.

22. The Government's fear of public debate and its intolerance of criticism is deep-seated. At the conclusion of the universal periodic review of South Sudan by the Human Rights Council in 2022, it rejected specific recommendations to guarantee and protect the rights of human rights defenders, journalists and individuals engaged in civic activities.

23. South Sudan is at a critical juncture in its transition. However, repression and a climate of fear will severely undermine prospects of meaningful public participation in and credible outcomes for constitution-making, transitional justice and national elections. Without an environment in which citizens can openly associate and freely discuss their country's future, the transition will not succeed.

V. Humanitarian situation

24. More than 74 per cent of South Sudanese people inside the country required humanitarian assistance in 2022, which was an increase over the previous year. One in three children suffered chronic malnutrition. The provision of aid has been reduced, while the needs of the population have increased. Shortfalls in global funding, as a result of the armed conflict in Ukraine, led the World Food Programme to make further cuts to life-saving assistance. Conditions in many displacement camps were appalling, in particular in Unity and Upper Nile States, where violent attacks on civilians had caused mass displacement. Refugee populations in neighbouring counties were also affected by cuts in humanitarian assistance.

25. Conflict exacerbated the food crisis in the six states where people experienced emergency levels of acute food insecurity. Attacks on civilian populations were often accompanied by looting and the destruction of homes and livelihood assets. Survivors of these attacks, in particular women and girls, were forced to live on wild foods and waterlilies while hiding from attackers, and then forced to rely on humanitarian assistance.

26. Personnel and facilities of United Nations agencies and other organizations delivering humanitarian aid were subjected to attacks, including roadside ambushes, and bureaucratic impediments imposed by the State. South Sudan remains one of the most dangerous places in the world for aid workers, with at least nine humanitarian workers killed in 2022. All armed groups, including government forces, often impeded the timely delivery of emergency assistance. These activities caused the suspension of vital food transport on the White Nile river. Some settlements were attacked and looted soon after food distribution had been undertaken.

27. In October 2022, more than 1 million people were reportedly affected by flooding, illustrating the scale on which weather affects livelihoods and drives displacement. Parts of the country experienced a fourth successive year of flooding, linked to the global climate emergency. Amid reports that tens of millions of dollars in government assistance for flooding responses had been misappropriated, the Humanitarian Affairs Minister, Peter Mayen Majongdit, was dismissed in November.

VI. Political economy

28. Although the country is rich in natural resources, the State has broadly failed to deliver the core government services required to enable the population to enjoy their economic, social and cultural rights, including the rights to food, clean water and sanitation, adequate health care and basic education. This is demonstrated by the country's applications for three rounds of emergency International Monetary Fund funding in three years. Such emergency funding is necessary, as corruption, economic mismanagement and dependence on imports have left the country with insufficient flexibility to deal with unanticipated shocks. Recent shocks include the decline in the price of oil, which was related to the coronavirus disease (COVID-19) pandemic, high levels of global inflation and persistent flooding in oil-producing regions.

29. To fulfil its international human rights law obligations and to invest in sustainable peace, the State must strengthen its public financial management, take meaningful steps to curb corruption and increase its non-oil revenue. Without immediate improvements in these areas, in particular the diversion of public finances, South Sudan is likely to face reductions in foreign aid and development assistance. This will have direct consequences for the population, as the country is already without the resources to fund basic services. Only 7 per cent of the population currently has access to electricity, and hospitals frequently cannot provide critical services, in part due to power outages and a lack of medical supplies. In some areas, traders have taken over land belonging to the country's schools.

30. Ever-increasing public sector salary arrears is another unmet obligation and a direct result of unchecked corruption and economic mismanagement. Public servants in South Sudan struggle to provide for themselves and their families, and many are led to engage in extortion and illegal taxation, which creates an additional barrier to accessing services. Similarly, the "checkpoint economy", in which members of security forces demand payments to facilitate the passage of goods, also increases the cost of aid – either because of bribes or by causing organizations to deliver aid by air – thereby reducing the amount of assistance received by the South Sudanese population.

31. Addressing the predatory dimensions of the political economy is an urgent human rights issue. Without improvements in these areas, the State will remain unable to fulfil a range of obligations to its citizens, including with regard to core social and economic rights, with international donors expected to cover the shortfall. As the Commission has previously explained, the misallocation and diversion of resources also fuels political competition, driving conflict and associated human rights violations.⁴

VII. Conflict-related sexual violence

32. The Commission has consistently reported on the widespread and systematic character of conflict-related sexual violence against women and girls in South Sudan.⁵ Ongoing violations are embedded in the gendered nature of safety and security in the country, and many women and girls experience the conflict through sexual violence. However, the magnitude of this violence is yet to be fully grasped, owing to the immense underreporting of cases because of fear of reprisal and stigma and threats to safety and security, including to whole families and communities.

33. Multiple witnesses and survivors described how women had been repeatedly subjected to sexual violence. In Unity State, women spoke to the Commission of experiencing rape and gang rape in 2013, 2016, 2018, 2021 and again in 2022.

⁴ See the conference room paper on human rights violations and related economic crimes in South Sudan, available at <https://www.ohchr.org/sites/default/files/Documents/HRBodies/HRCouncil/CoHRSouthSudan/A-HRC-48-CRP.3.pdf>.

⁵ See the conference room paper on conflict-related sexual violence against women and girls in South Sudan, available at https://www.ohchr.org/sites/default/files/2022-03/A_HRC_49_CRP_4.pdf.

34. During attacks on civilian populations, men often flee for fear of being killed, while women and children stay behind or hide in nearby bushes and waterways. As a result, they are more vulnerable to physical harm. Members of the same community thus experience harm differently, and according to a hierarchy that places different values on the lives and bodies of men, women and children.

35. Survivors often lack access to the medical services they need or hesitate to access care owing to concerns about a lack of confidentiality and stigmatization. Limited options for justice and accountability further discourage victims from reporting these crimes, leaving them in pain and despair. Survivors spoke to the Commission of a deep sense of dislocation and not belonging, and of feeling completely failed and abandoned by the State.

36. Sexual violence inflicts deep harm on communities and society as a whole. Its pervasiveness and impact need to be confronted and should be addressed in future efforts aimed at acknowledgement, repair and redress.

37. Amid conflict and economic crises, basic services, including medical infrastructure, law enforcement and other response mechanisms for sexual violations, have suffered. The absence of formal courts and other justice institutions in remote areas leaves communities reliant on traditional mechanisms, which are often deficient. One-stop centres and other support mechanisms, such as social workers, are welcome initiatives by the Government. This is to be commended, and the State should ensure increased resources and presence beyond the main towns.

VIII. Impact of conflict on children

38. Children continue to be victims of violence and insecurity in South Sudan. Children are beaten, abducted, raped and sexually mutilated by armed forces and armed groups. During these attacks and displacements, children are often separated from caregivers, increasing their vulnerability. Survivors are deeply traumatized.

39. Children comprise the majority of the displaced population and face acute hardships and deprivations, including lack of access to adequate food and education, and are subjected to exploitation. Schools are often used as military bases, depriving children of the right to education. Even where forces relocate from a school, they often remain nearby, perpetuating a climate of fear and disruption.

40. The armed forces and armed groups, including the South Sudan People's Defence Forces, SPLM/A-IO and NAS, continue to recruit and abduct children despite commitments to end the practice. Most children associated with the armed forces and armed groups have experienced multiple human rights violations or abuses. They have performed combat roles, the preparation of food and spying, among others. Children and their families are threatened with harm if they resist or try to escape.

41. Initiatives to release children from armed forces and groups have been inadequate (see paras. 85 and 90 below). The screening processes for the necessary unified forces do not appear to have fully addressed child recruitment. Owing to the lack of support for reintegration in the community, some boys released from a necessary unified forces training centre in Western Equatoria returned to the training centre.

IX. Emblematic incidents

A. Extrajudicial killings in Unity State

42. On 8 August 2022, a video shared widely on social media showed three men being shot dead, execution-style, by a firing squad of soldiers from the South Sudan People's Defence Forces. A second video and accompanying photos depicted a fourth man, captured by soldiers, who appeared to have been burnt alive inside a thatched hut. The imagery caused shockwaves in a country not unfamiliar with brazen and brutal violence involving security forces.

43. The victims were members of the South Sudan People's Movement/Army, a non-State armed group that had carried out a deadly attack in the town of Mayom on 22 July. Twelve people were reportedly killed, including members of the government security forces and the Mayom County Commissioner, Chuol Gatluak Manime, whose body was burnt inside his residence. Mr. Manime was an ally of the Governor of Unity State, Joseph Monytil, and the brother of the President's National Security Adviser, Tut Gatluak Manime.

44. During the following days, deadly clashes ensued in the area between South Sudan People's Movement/Army forces and the South Sudan People's Defence Forces, which announced "surgical offensive operations ... to bring justice" to South Sudan People's Movement/Army commanders, including Major General Gatluak Majok.

45. The Commission reviewed photos posted online, including on the Facebook page of Mr. Monytil's office. The photos depicted four men apparently captured in the Sudan and transferred into the custody of South Sudanese security forces in Unity State, most likely on 6 August. The Commission established, through geolocation and extensive analysis, that the killings occurred on the morning of 7 August around the village of Kiakang in Mayom County.

46. The Commission has identified with certainty that two men in the photos were victims of the firing squad, while another man is highly likely to be the third victim of the firing squad. A Commander of the South Sudan People's Movement/Army, Mr. Majok, was the victim of the apparent killing by immolation, about one hour after the firing squad shot the three victims. He was taunted, humiliated and apparently left to perish in the burning hut. The manner of his killing resembled the death of the County Commissioner Mr. Manime, suggesting that this was a revenge killing. The videos were clearly filmed openly, with the killers' knowledge.

47. In response, the South Sudan People's Defence Forces promptly acknowledged the extrajudicial killings and announced the immediate formation of an investigation committee, promising that the perpetrators would be held accountable. The Deputy Chief of the South Sudan People's Defence Forces, who had led operations in the Mayom area, reportedly submitted a report on the incidents by 17 August.

48. On 17 August, Mr. Monytil met the President, Salva Kiir Mayardit, in Juba to discuss the incident. On 22 August, Mr. Monytil was summoned to address the Council of States, after which the Upper House issued a rare resolution, recommending his removal as Governor. The President dismissed the motion but, on 12 September, established another committee to investigate the events in Mayom County.

49. The findings of the South Sudan People's Defence Forces investigation and the President's investigation committee remained unclear as of early 2023, and nobody appears to have been held accountable.⁶

50. The Commission gathered evidence that identifies several individuals who may bear individual criminal responsibility for the extrajudicial killings. They include Mr. Monytil, whose office published a statement the day after the killings applauding the South Sudan People's Defence Forces operation and taking credit for involvement. Mr. Monytil was in the area around that time, giving instructions to soldiers in the presence of senior South Sudan People's Defence Forces officers.

51. Unlawful killings by State agents, including its security forces, constitute gross violations of the State's international human rights law obligations to respect the right to life. The failure by the State to investigate, prosecute and punish these acts represent further violations of the State's obligations with regard to the right to life. The Commission has previously documented extrajudicial killings by State officials, who continue to enjoy impunity.⁷ This emboldens perpetrators of these crimes.

⁶ In a letter sent on 1 November 2022, the Commission requested further information from the Government about the work of the investigation committee.

⁷ [A/HRC/49/78](#), paras. 33–38.

B. Southern Unity State

52. Leer County is the birthplace of Riek Machar, the First Vice-President of South Sudan, and a stronghold of SPLM/A-IO since its establishment in December 2013, when conflict broke out in Juba and spread across the country. The violence that followed in Leer included major military battles and gross human rights violations. Forced displacement, the destruction of livelihood assets and the looting of food by armed groups contributed to the declaration of famine in Leer and neighbouring Mayendit County in 2017. The violence in Leer has been intense and cyclical, driven by the ferocity of national political competition and abetted by impunity for past violations.

53. As with the situation elsewhere in South Sudan, nobody has been held accountable for atrocities committed in Leer during the civil war period of 2013–2018. In fact, in early 2021, SPLM-IG reappointed Gordon Koang as the County Commissioner of Koch County, which borders Leer and Mayendit. During the civil war, Mr. Koang commanded militia from Koch, who fought against SPLM/A-IO forces and carried out widespread attacks against the civilian population in Leer. After reassuming office, Mr. Koang refused to accept power-sharing arrangements under the Revitalized Agreement and became frustrated at being unable to exercise full administrative control in Mirmir Payam, in Koch. Bordering Leer and Mayendit counties, Mirmir had hosted an SPLM/A-IO cantonment since late 2018. Tension brewed between Mr. Koang and the SPLM/A-IO Commander. In January and February 2022, Mr. Koang and others instigated a series of attacks on the cantonment by armed youth from Koch, who overran the cantonment, forcing SPLM/A-IO forces to withdraw into Leer.

54. On 14 February, forces mobilized by Mr. Koang moved from Mirmir into Leer, where they clashed with SPLM/A-IO forces in a week-long offensive. Armed with rifles and panga (knives), the Koch forces systematically attacked civilians, looted and destroyed civilian property and ransacked medical and humanitarian facilities. Residents of Padeah, a village that was attacked twice that week, hid in waterways. Women and girls were forced to carry heavy loads of food looted from a World Food Programme warehouse back to Mirmir.

55. On 6 April, SPLM/A-IO forces counterattacked, holding the Mirmir cantonment site for several hours before being pushed back into Leer. Around this time, Mr. Koang was facilitating ammunition distribution to Koch forces and to the Tahir youth militia from neighbouring Mayendit.

56. A second campaign against Leer civilians lasted from 8 April to around 12 April. Mayendit and Koch forces divided into a western and eastern flank, moving southwards through villages toward Adok, which they destroyed once SPLM/A-IO forces had retreated. Testimonies and photographs from Adok depicted a busy trading port burnt to nothing and strewn with dead bodies, including men who had been decapitated. Traumatized survivors shared with the Commission testimonies of attacks on villages between Mirmir and Adok. Their accounts record widespread killings with guns and knives, the looting and destruction of property, and forced displacement.

57. Rape and sexual violence against women and girls were widespread and systematic during these attacks. Survivors and family members of victims from multiple villages detailed rapes by armed men from Koch and Mayendit. They described how during, and in the aftermath of, attacks on settlements, women and girls were hunted down and raped in their villages, or near the waterways where they had hidden. In February and April, many of the women forced to act as porters for looted goods from Leer were then held captive in Mirmir and repeatedly raped by multiple men. Several survivors said that, upon their release, they saw other women arriving from Leer, also carrying stolen food, who they believed would also be raped.

58. The violence in February and April and resulting displacements severely disrupted the planting season when residents were already experiencing famine-like conditions.⁸ The

⁸ Integrated Food Security Phase Classification, “South Sudan: IPC food security and nutrition snapshot” (9 April 2022). Available at https://www.ipcinfo.org/fileadmin/user_upload/ipcinfo/docs/IPC_South_Sudan_Acute_Food_Insecurity_Malnutrition_2022_Snapshot.pdf.

looting and vandalization of food facilities and the destruction or removal of productive assets, including farming equipment and fishing nets, are indicators of an intention to immiserate and starve civilians in Leer. These acts, carried out by Government-aligned forces, replicate previous patterns of conflict, and involve some of the same perpetrators as before.

59. There is also evidence that civilians in Leer were targeted as a group because of a real or perceived collective political affiliation to Mr. Machar and SPLM/A-IO. Any intention to immiserate and forcibly displace the population may also constitute an element of persecution as a crime against humanity.

60. Evidence gathered by the Commission, and corroborated by credible organizations, identifies several individuals who may carry individual criminal responsibility for serious crimes under domestic law and crimes under international law for acts in Leer. They include Mr. Koang and the Mayendit County Commissioner, Gatluak Nyang Hoth, who planned coordinated attacks on Leer, including in a meeting in Mirmir on 14 February, and during a later blood pact ceremony that consecrated their alliance before the April attacks. Mr. Koang and others were also present in Mirmir during the systematic rapes of captives from Leer. Both men were still county commissioners in early 2023. Mr. Koang's reappointment as a county commissioner in 2021, and his continuation in office, represents an abject failure to deal with human rights violations and perpetuates impunity.

61. Although the South Sudan People's Defence Forces had forces stationed in Leer and Koch, they completely failed to protect the population in Leer. Officials in positions of higher authority, including the Governor of Unity State, failed to direct lower-ranking officials to desist from the attacks, nor did they institute any form of sanction against them for clear complicity in the serious crimes committed.

62. On 13 April, the President appointed a committee to investigate the situation in the area. The committee was to submit findings and recommendations within 21 working days. As of early 2023, the Commission had no information on any investigative activities that may have taken place.⁹

63. Encouragingly, soldiers at the training centre for the necessary unified forces in Muom, including South Sudan People's Defence Forces and SPLM/A-IO soldiers, provided protection to more than 20,000 displaced civilians from Leer. This illustrates the potential for State security forces to protect civilians if transitional security arrangements are implemented meaningfully.

C. Upper Nile and northern Jonglei States

64. Violence increased in Upper Nile State and northern parts of Jonglei State in August 2022, triggered by the breakdown of the "Kitgwang" alliance between former SPLM/A-IO generals Simon Gatwech and Johnson Olony. Heavy armed clashes ensued between multiple armed forces, and widespread attacks were carried out against civilians along Nuer and Shilluk ethnic lines.

65. After splitting from SPLM/A-IO in August 2021, Mr. Gatwech and Mr. Olony defected to SPLM-IG in January 2022, agreeing to integrate their forces. The generals' alliance broke down over differences regarding integration with SPLM-IG. SPLM-IG had rapidly marginalized Mr. Gatwech but, for Mr. Olony, collaboration with SPLM-IG still offered potential, including to address land claims by his Shilluk community.

66. In July, Mr. Olony's Shilluk "Agwelek" forces expelled Mr. Gatwech's predominantly Nuer forces from their joint bases in Panyikang and Manyo Counties. Forces aligned with Mr. Gatwech in Fangak County, in northern Jonglei State, then mobilized Nuer youth, referred to as the White Army.

67. On 15 August 2022, forces aligned with Mr. Gatwech and White Army forces attacked Agwelek forces and Shilluk civilians at Tonga, an important strategic port for controlling

⁹ In letters dated 27 July and 1 November 2022, the Commission requested information from the Government.

river movements and taxation. Witnesses described armed males in military and civilian clothing killing civilians as Shilluk people fled into nearby waterways and neighbouring villages. Survivors moved for days from village to village through Panyikang, with Nuer forces in pursuit. After several days on the run, civilians heading in the direction of Malakal were directed by Government officials to a makeshift displacement camp at Adidiang, Panyidwoi Payam.

68. On 18 August, having been evicted from Tonga, opposing Shilluk Agwelek forces began attacking riverside Nuer settlements. Diel, Atar and Old Fangak in Jonglei State were shelled from heavily armed Agwelek barges, which had been deployed south from north of Malakal. Nuer civilians from Diel described uniformed Agwelek forces coming ashore, expressing hate speech against Nuers and carrying out killings, rape and arson. Men were shot dead in church, a woman was raped by 10 men and left to die, and residents were made to strip off their clothing, which was then set on fire. The Commission heard testimony from a woman who was taken to a moored boat with four of her neighbours and raped over several days.

69. At Adidiang, the more than 5,000 Shilluk civilians sheltering at the camp were attacked on 7 September by forces aligned with Mr. Gatwech and White Army forces moving from Tonga. A large number of people were killed as attackers fired weapons indiscriminately, assaulted civilians with machetes and spears, destroyed temporary shelters and looted all humanitarian aid, including a large volume of food. A survivor of sexual violence said that the attackers had told her that Shilluk did not belong in the area. People who fled into the river spent hours immersed in water in fear as Nuer men on the shore fired shots at them. One woman witnessed her 14-year-old daughter being shot and killed while hiding in the water. An elderly woman recounted nursing a gunshot wound through the night while standing in water up to her neck. Despite the clear danger, no military force had been put in place to protect the civilians at Adidiang.

70. During this time, the UNMISS protection of civilians site in Malakal became stretched beyond capacity, as new arrivals significantly increased the size of its population. The conflict had increased tensions between Nuer and Shilluk at the site, and the situation was volatile.

71. By October, forces aligned with Mr. Gatwech and White Army forces had moved through government-controlled areas into Fashoda, a predominantly Shilluk county north of Malakal. In late November, these joint Nuer forces attacked the Aburoc displacement camp in Fashoda. The displaced population in the nearby town of Kodok increased to more than 20,000 as a result. On 7 December, the President's office announced the deployment of the "unified South Sudan People's Defence Forces" to protect civilians. The White Army's "prophet", Makuach, reportedly withdrew to Jonglei with some of his forces.

72. The Commission identified several leaders and members of armed military and civilian militia forces as being complicit in human rights violations and abuses in the context of attacks on civilians in northern Jonglei and Upper Nile, including in the attack on the Adidiang displacement camp. The Commission has archived this information as part of its collection and preservation of evidence of human rights violations, abuses and related crimes.

73. The "unified South Sudan People's Defence Forces" intervention in December may have saved the town of Kodok from a repeat of the violence against civilians and humanitarian infrastructure seen in Adidiang and Aburoc. However, no interventions were taken to protect civilians between August and November, including in Adidiang, where government officials had directed civilians to go.

74. Further, forces aligned with Mr. Gatwech and White Army forces enjoyed free movement through government-controlled areas to Fashoda, where they attacked Shilluk civilians. Agwelek forces also enjoyed free movement, including passage on barges through government-controlled areas moving soldiers and heavy weaponry later used in attacks on Nuer civilians.

75. Overall, the State's lack of a coherent or robust response to the horrific rounds of violence at the hands of armed groups, and the actions of State organs in enabling or even

facilitating the conflict, place the State in clear violation of multiple obligations under international human rights law.

D. Warrap State

76. Violence between rival Dinka sections continued in Warrap State, with particularly devastating cyclical attacks between armed, cattle-keeping youth in the Tonj Counties. The proliferation of light weapons enables these crises, but disarmament initiatives have been selective and non-comprehensive and have not addressed the issues related to the sources and transfers of and markets for these arms. These problems are exacerbated by the interventions of national political actors, as previously reported by the Commission.¹⁰

77. Consistent with these patterns, from July 2022, a campaign of retaliatory violence was inflicted on Rualbet Payam, Tonj North County, by joint forces of South Sudan People's Defence Forces soldiers and National Security Service officers.

78. In early June 2022, cattle-keepers from Rualbet Payam took around 100 cows during a raid in rival neighbour Awul Payam. An influential cattle owner reportedly requested authorities to intervene and recover the cows. When soldiers attempted to forcibly recover cattle in Rualbet on 25 June, armed local youth attacked them. Dozens of South Sudan People's Defence Forces soldiers were killed in the ensuing clash.

79. In response, the President sanctioned a high-level security committee that was deployed to the area on 3 July 2022. It was composed of chiefs of the Government's three main security forces, including the Director General of the National Security Service, who is from Awul. From around 1 July, reinforcements for government security forces had also deployed to Rualbet. The generals were present during the first three weeks of the retaliatory campaign, before returning to Juba, where they gave a briefing to the President at his office on 26 July.

80. The Commission received testimonies that soldiers raiding villages raped women and girls, detained men and boys and looted or destroyed civilian property. Soldiers searched medical clinics looking for wounded civilians suspected of participating in the clashes on 25 June. The Commission documented multiple accounts of arbitrary arrest and detention, beatings and psychological torture. The Commission received official information that more than 53 cases of sexual violence had been recorded between July and September, and that survivors had no access to health care. Humanitarian access was suspended for two weeks, and an estimated 12,000 people were displaced in July alone, disrupting planting in an area already facing emergency levels of acute food insecurity.¹¹

81. On 12 September, the President announced the formation of an investigation committee to examine the insecurity in Rualbet. In its final report of 6 January 2023, the committee recommended that trials be conducted for civilians and soldiers who had participated in what was characterized as "communal violence". As of early January 2023, the report was not public, and it was unclear if trials would ensue or if the State's role in the violence, including the actions of senior officers, would be subjected to further scrutiny.¹²

¹⁰ A/HRC/49/78, paras. 77–80; and the conference room paper of the Commission on Human Rights in South Sudan containing its detailed findings, to be read in conjunction with A/HRC/46/53, paras. 116–131 (available at https://www.ohchr.org/sites/default/files/HRBodies/HRC/RegularSessions/Session46/Documents/A_HRC_46_CRP_2.pdf).

¹¹ Integrated Food Security Phase Classification, "South Sudan: IPC acute food insecurity and malnutrition analysis, July 2022—July 2023".

¹² In a letter sent on 1 November 2022, the Commission requested further information from the Government about the work of the investigation committee.

E. Equatorias

Western Equatoria State

82. Although violence in Western Equatoria State significantly decreased in 2022, insecurity persisted, including in Tambura, Yambio and Li Rangu. Communities from Tambura County still endured the impact of mass violence and displacement seen from May to October 2021, when civilians from the Azande and Balanda communities were attacked by armed forces and militia along ethnic lines. The violence was sparked by political conflict, when Azande SPLM-IG members refused to accept power-sharing arrangements under the Revitalized Agreement, in particular the appointment of Alfred Futuyo as State Governor, who is an SPLM/A-IO member and Balanda. Characterized by extreme levels of sexual violence, the conflict in Tambura subsided following an intervention of the Joint Defence Board in late October 2021. The Commission has previously highlighted the complicity of public officials in the violence and the demobilization of boys involved in it as key issues that would need be addressed to enable peace and recovery.¹³

83. Displaced residents of Tambura told the Commission that trust between the Azande and Balanda communities was at an all-time low. Livelihoods are significantly affected, as many people avoid travelling between residences, farms and markets. Fear of attacks based upon ethnic affiliation has caused protracted displacement while entrenching ethnic-based segregation. Other effects include reduced school attendance and increasing frustration among idle youth. Displaced women from Tambura told the Commission that women and girls collecting firewood had been subjected to multiple rapes by armed males, whose presence is a legacy of the 2021 crisis.

84. Similar reports were received in neighbouring Yambio County, including attacks on schoolgirls by members of armed forces. The Commission also gathered further evidence (going back several years) implicating SPLM/A-IO officers, under the command of the present Governor, Mr. Futuyo, in abductions of and sexual violence against women and girls. Rather than protecting the population, members of the armed forces prey upon them, in the knowledge that they will not be held accountable.

85. In March 2022, the release of boys and girls from the necessary unified forces training centre in Maridi County was facilitated by the National Disarmament, Demobilization and Reintegration Commission with the support of UNMISS and the United Nations Children's Fund. Many of them had entered the centre in October 2021 during the relocation of forces under the command of South Sudan People's Defence Forces General James Nando, who was a key instigator of the violence in Tambura. The Commission has reasonable grounds to believe there were still children at the centre as of late 2022, including several girls who had been held against their will and subjected to sexual violence. The Commission established that some officers had hidden children when monitors visited the centre. Of the children released, some may have perpetrated human rights abuses and many are deeply traumatized, yet limited support has been available for their reintegration into the community. Amid concerns that some may be recruited back into security forces, the Commission received reports that the National Security Service had facilitated training for young people in Tambura, soon after the releases from Maridi.

86. Although political leaders have participated in several high-level events to discuss the situation in Tambura, the events have not yet yielded specific measures to address the protection concerns of different communities or to enable the return and reintegration of displaced persons. As with the other situations described in the present report, nobody has been held accountable for the violence in 2021, either under criminal law or through military discipline or removal from post. This impunity fomented ethnic-based divisions, which, alongside a lack of investment in the reintegration of former soldiers and increasing desperation, create a potent mix that might trigger further serious human rights violations.

¹³ A/HRC/49/78, paras. 63–76; and the conference room paper on conflict-related sexual violence against women and girls in South Sudan, paras. 107–121.

Central Equatoria State

87. The human rights situation in Central Equatoria State was affected by armed conflict between the South Sudan People's Defence Forces and NAS, which is not a signatory to the Revitalized Agreement. Although the scale of human rights violations appears to have diminished, the gravity remains. Despite several years of Government offensives and defections, NAS remained engaged in clashes and in ambushes on civilian vehicles in the interior of the state, although it has a more significant presence in the southern border areas. The South Sudan People's Defence Forces views rural settlements as potential support bases for NAS, and civilians are often trapped between the parties to this armed conflict.

88. For example, in October 2022, people were killed and beaten and looting was carried out during a South Sudan People's Defence Forces operation in Mukaya Payam, Lainya County. Witnesses described soldiers accusing residents of being rebels, and threatening to kill anyone who did not relocate to the Atende displacement camp in the town of Yei. This forced displacement and the related human rights violations are consistent with patterns that the Commission has documented in Central Equatoria over several years.¹⁴ While the South Sudan People's Defence Forces have established trials to prosecute soldiers for crimes against civilians in the area, including in 2022, attacks against civilians continue. Such attacks constitute war crimes.

89. SPLM/A-IO still has a presence in parts of Central Equatoria. The Commission received reports of attacks on villages in September 2022 in Morobo County, where SPLM/A-IO soldiers engaged in looting, rape and the harassment of civilians at gunpoint, also causing displacement.

90. NAS continues to abduct children and civilians, including as a tactic to bolster its forces. The trauma caused by abductions was recorded in testimonies collected by the Commission. Abductees recounted being forced to participate in attacks and clashes, as well as farming and other activities to sustain the forces. Many had been subjected to torture and beatings, and to rape. A boy recalled being too small to hold a machine gun when he was initially abducted by SPLM/A-IO commanders, who continued to hold him captive when they defected to NAS. Abductees who were informally released by NAS in 2022 fear arrest by government forces, who recruit some former abductees as spies. A lack of support for reintegration leaves few options for abductees upon leaving these groups.

Eastern Equatoria State

91. The situation in Ikotos County in Eastern Equatoria State also illustrates how ongoing contestation and violence between SPLM-IG and SPLM/A-IO leads to human rights violations against civilians, while undermining the implementation of the Revitalization Agreement.

92. On Sunday, 17 July 2022, soldiers from a garrison of the South Sudan People's Defence Forces rampaged through the town of Ikotos on a spree of shooting, looting and arson that caused significant displacement and fear. The violence was apparently in retaliation for the shooting dead of a soldier from the South Sudan People's Defence Forces earlier that day, in an altercation reportedly involving the consumption of alcohol.

93. Worshippers at a church service fled into hiding upon hearing the gunfire. Relatives of a police officer and a wildlife officer said that soldiers had taken the men from their residences and shot them in front of their families. The next day, members of the Tiger Battalion of the South Sudan People's Defence Forces deployed to Ikotos from the state capital, Torit, and reportedly stabilized the situation after making the locally based soldiers return to their garrison. When residents emerged from hiding, many found that their property had been looted or destroyed. More than 18,000 residents fled to other parts of the state and into neighbouring Uganda. Displaced residents told the Commission that they were reluctant to return because they feared further violence related to tension between the local commander

¹⁴ [A/HRC/49/78](#), para. 60; and the conference room paper on conflict-related sexual violence against women and girls in South Sudan, para. 84.

of the South Sudan People's Defence Forces and the county commissioner, who is an appointee of SPLM/A-IO.

94. A significant dynamic and apparent driver of the violence and subsequent atmosphere of insecurity revolved around the tension between government forces and the SPLM/A-IO administration. In the following weeks, two major generals and a senior political official of SPLM/A-IO were arrested by South Sudan People's Defence Forces soldiers in Ikotos and transferred to detention in Torit. A large proportion of soldiers under their command then reportedly withdrew from the necessary unified forces graduations held in Torit in late September.

X. Accountability and transitional justice

95. As with other key areas of the Revitalized Agreement, the implementation of chapter V has been severely delayed, and none of the transitional justice mechanisms required under it have been established. It is two years since the Government passed a cabinet resolution that mandated the Ministry of Justice and Constitutional Affairs to move forward with the establishment of the Commission for Truth, Reconciliation and Healing, the Compensation and Reparation Authority and the Hybrid Court for South Sudan.

96. The road map of August 2022 for the two-year extension of the Revitalized Agreement set revised milestones for the implementation of all three mechanisms. The enabling law and appointments for members of the Commission for Truth, Reconciliation and Healing were to be completed by 30 November 2022, allowing it to become fully operational by 30 March 2023. Legislation for the Compensation and Reparation Authority was to be initiated by 9 November 2022. It is explicitly stated in the road map that the African Union Commission bears responsibility for the development of broad guidelines for the establishment of the Hybrid Court for South Sudan. While work toward these milestones is in process, the deadlines have passed, and timelines for completion remain unclear as of early January 2023.

97. In October 2022, the Commission conducted a mission to Ethiopia to engage with the African Union on the establishment of the Hybrid Court for South Sudan and the implementation of the Revitalization Agreement overall. Senior African Union officials expressed frustration at the lack of progress, cooperation and serious engagement by the Government to advance the establishment of the Hybrid Court for South Sudan. Some representatives of the political elites in Juba maintain that it would be best to first pursue reconciliation through the Commission for Truth, Reconciliation and Healing before initiating other accountability processes.

98. The Commission has repeatedly underscored the importance of a holistic approach to transitional justice and the urgent need for simultaneous implementation of the three mechanisms – the Commission for Truth, Reconciliation and Healing, the Compensation and Reparation Authority and the Hybrid Court for South Sudan – which are complementary and mutually supportive. Furthermore, there is a need for both immediate and long-term interventions to address the physical, psychological, sexual and reproductive health needs of survivors, as well as the socioeconomic harms, resulting from the horrific human rights violations committed against the population. The chapter V mechanisms are intended to deal with legacies of conflict and are indispensable for addressing impunity and curtailing ongoing atrocities. These processes will allow the South Sudanese people to analyse the root causes and drivers of conflict, acknowledge and address harms suffered by victims and cultivate national cohesion and sustainable peace.

Public consultations on establishing the Commission for Truth, Reconciliation and Healing

99. On 5 April 2022, the President launched the public consultations on the design of the legislation for the Commission for Truth, Reconciliation and Healing, nearly one year after the technical committee mandated to conduct the consultations was established. Despite a faltering start and significant resource, logistical and security challenges, the committee, with support from UNMISS and the United Nations Development Programme, conducted

consultations in the 10 states and two of the three administrative areas of South Sudan between 6 May and 2 June 2022. The committee heard the views of 4,543 citizens, consisting of 3,080 men and 1,463 women, who represented a broad range of sectors, including victims' groups, internally displaced persons, youth, persons with disabilities, legislators, security actors, representatives from the business community, representatives of state and county government, faith-based groups, traditional leaders and local administrators. Notably, the committee received input from communities located in several opposition-controlled areas that had been inaccessible during similar consultations conducted between 2017 and 2018.

100. Critical challenges identified during the consultations should be addressed during future implementation processes. The 21-day period allocated for the consultations was clearly inadequate for a country the size of South Sudan, in particular in conditions of flooding and poor road infrastructure. Ongoing conflict also prevented the committee from accessing several locations. Moreover, no resources were allocated for consultations with refugees in neighbouring countries. The failure to consult refugees is particularly concerning as it was flagged as one of the most critical gaps in similar consultations carried out in 2018. The committee did not conduct timely and broad public awareness-raising to adequately prepare citizens for the consultations. As a result, despite the high levels of interest demonstrated during public gatherings, most people in South Sudan remain uninformed about the goals of the Commission for Truth, Reconciliation and Healing and its relationship with other transitional justice measures in the Revitalized Agreement.

Other justice initiatives

101. During 2022, the Government established several special investigation committees to examine situations involving human rights violations and abuses. This included several high-level initiatives by the President, including those to examine situations in Mayom County and southern counties in Unity State, and Rualbet Payam in Warrap State. However, a lack of clarity remained about the mandate of these committees, the rationale for their composition, their independence and objectivity, their activities and their findings, as well as their legal basis, including their power to institute protective measures and to refer cases to the criminal justice system. Not all committees appear to have produced reports, and when they are produced, they have not been made public or followed up with the implementation of any specific accountability measures against perpetrators. The establishment of high-level committees may undermine the efforts of formal entities mandated to investigate serious crimes, as police and prosecutors often suspend their own investigations to await the conclusions of these high-level initiatives. Overall, the Commission is concerned that these committees are not accompanied by credible measures to ensure effective accountability and deterrence.

102. Military courts have provided rare instances for accountability against South Sudan People's Defence Forces officers involved in committing crimes against civilians, in particular in a context where the State judicial infrastructure is mostly absent or chronically underresourced. In June 2022, an ad hoc general court martial convened in Yei County prosecuted 15 cases, including of killings, rapes and looting, involving South Sudan People's Defence Forces soldiers. These included the prosecution of soldiers for crimes against civilians and the prosecution of four civilians, including a 14-year-old boy. However, such military courts present significant human rights and other legal challenges. Under the Sudan People's Liberation Army Act, crimes against civilians by military personnel are to be prosecuted by civilian, not military, courts. There is no legal basis for the prosecution of civilians in military courts. The Commission found failures to ensure fair trial rights and to ensure adequate protection for and the effective participation of victims in proceedings, including measures to protect their dignity and privacy. Some victims feared returning home owing to potential reprisals from South Sudan People's Defence Forces troops still located close to their communities.

103. The Commission is aware of the significant challenges facing the administration of justice in South Sudan, including the prosecution of crimes involving human rights violations and abuses. Jurists told the Commission that they lacked the resources, guarantees of safety, independence and, in the case of serious crimes, the jurisdiction to conduct effective prosecutions and fair trials. The judiciary is woefully underresourced. These are among

critical concerns that should be addressed by the judicial reforms committee established in July 2022 pursuant to the Revitalized Agreement to study and make recommendations for judicial reforms.

XI. Conclusions

104. South Sudan is at a critical juncture in a difficult but important political transition. Its leaders must transcend political contestations and rivalries to achieve a credible conclusion to the Revitalized Agreement, following its two-year extension in August 2022. Done meaningfully, a new constitution and national elections can reflect the democratic aspirations of the people and contribute to recovery from years of destructive conflict.

105. The Revitalized Agreement remains a critical framework. Its full implementation, in particular of the priority tasks identified by the parties, is of great urgency. The leaders of South Sudan, across the political spectrum, should reinvest political efforts into finding durable settlements to the conflicts involving the various groups outside the Revitalized Agreement. As part of security arrangements, it is critical to establish the necessary unified forces as a credible force that will protect the human rights of the people.

106. Armed violence, reflecting ethnicized politics, continues to damage communities and blight the lives of the people of South Sudan, who have been subjected to gross human rights violations and abuses, including killings, torture, conflict-related sexual violence and the looting and destruction of homes and livelihoods. A multitude of State and non-State armed actors are involved in these conflicts and violations. The significant displacement of civilian populations has often been an objective or a result of the violence. The extrajudicial killings in Unity State graphically illustrated the brazen impunity for serious crimes committed by government agents, even when caught on camera.

107. Impunity enables and drives conflict and gross human rights violations throughout South Sudan, deeply damaging the fabric of the society. Certain government officials known for their involvement in serious crimes, including the fomenting of ethnic violence, remain in public office. Victims, including survivors of sexual violence, are unable to access medical care, let alone psychosocial support. Violations reflect the gendered nature of society, and many women and girls continue to experience the conflict through sexual violence.

108. Justice is elusive, as effective prosecutions are rare and remain woefully insufficient. While the Government has sought to respond to some violations through ad hoc high-level investigative bodies and military courts, few have provided accountability. Mobile courts have filled some of the justice gaps, but all elements of the criminal justice system require strengthening. Holistic transitional justice measures, in particular the mechanisms in chapter V of the Revitalized Agreement, are essential for accountability. The transition of South Sudan will not succeed unless its leaders confront and take credible steps to reverse the culture of impunity.

109. Contestations over power have driven subnational violence and human rights violations, including in Western and Eastern Equatoria States, where competition between SPLM-IG and SPLM/A-IO has contributed to insecurity, human rights violations and displacement. In Warrap State, violence between rival communities has been exacerbated by the interventions of authorities, and has underscored the consequences of failed disarmament programmes.

110. The Commission has identified several individuals who may bear individual criminal responsibility for gross human rights violations and abuses amounting to crimes, including extrajudicial killings, torture and persecution involving widespread attacks against civilian populations. The State's failure to investigate effectively and prosecute these crimes is a violation of its international human rights law obligations.

111. South Sudan has obligations to fulfil the economic and social rights of citizens, but the continued and blatant diversion and misallocation of revenues, through corruption and the enrichment of certain political and economic elites, undermines these obligations. The human impact is seen in the scale of needs, which are almost entirely unaddressed by the State.

XII. Recommendations

112. The Commission recommends that the Government of South Sudan:

(a) Provide leadership and allocate the resources necessary to ensure the timely and credible implementation of the priority tasks of the Revitalized Agreement, while reinvigorating efforts to resolve outstanding conflicts, in particular with groups outside the Revitalized Agreement;

(b) Conclude the implementation of transitional security arrangements, including by clarifying the number of necessary unified forces graduates, plans for their deployment, timelines for further graduations and programmes for the demobilization and reintegration of former combatants;

(c) Immediately establish mechanisms under the Constitution-Making Process Act and foster an enabling environment for inclusive and meaningful public engagement, including by issuing a presidential directive to all relevant entities, reiterating the State's obligations to respect and protect freedoms of expression and association;

(d) Fast-track the establishment of the transitional justice mechanisms under chapter V of the Revitalized Agreement – the Commission for Truth, Reconciliation and Healing, the Compensation and Reparation Authority and the Hybrid Court for South Sudan – and establish and resource an interim reparations programme;

(e) Urgently take measures to reverse the culture of impunity by expeditiously holding accountable public officials, security personnel and other individuals complicit in serious crimes, including extrajudicial killings, attacks against civilians, sexual violence, acts of corruption and acts of repression, including by initiating criminal investigations and proceedings and removing from office those found to be complicit;

(f) Enhance efforts to improve the status of women and girls and address the normalization of sexual violence against them, including by implementing existing commitments and instituting a zero-tolerance policy on all forms of gender-based violence, including among public officials;

(g) Prioritize the protection of civilians from all attacks, including at sites with vulnerable displaced populations, and deploy necessary unified forces personnel in coordination and consultation with UNMISS, while clearly instituting a zero-tolerance policy on harassment and human rights violations against civilians;

(h) Establish a credible and sustainable disarmament programme that addresses civilian concerns about insecurity and ensures that collected firearms are not redistributed;

(i) Develop the criminal justice system and strengthen the rule of law, including by protecting the independence and security of the judiciary and other justice sector actors, ensuring that all sectors of the justice system are non-discriminatory towards women and allocating and mobilizing adequate resources for the administration of justice;

(j) Increase resources for mobile courts and the specialized court for gender-based violence to enable them to address existing gaps in the criminal justice system on a greater scale, and take measures to ensure judicial independence in trials of members of security forces allegedly involved in crimes against civilians;

(k) Improve conditions in prisons and end the overuse of detention in pretrial and post-trial procedures and the unlawful detention of civilians at military sites;

(l) Ensure that trials under the military justice system comply with international fair trial standards, military courts can exercise independence from military chains of command and cases involving civilian victims or perpetrators are referred to civilian courts, as required under the Penal Code and the Sudan People's Liberation Army Act;

(m) Implement a moratorium on executions, abolish the death penalty and prosecute perpetrators of extrajudicial killings;

(n) Enforce the minimum age of criminal responsibility, establish more juvenile courts to hear children's cases, in line with the Child Act, and ensure special protective conditions for children involved in criminal justice proceedings;

(o) Allocate budgetary resources to cater for the reintegration of children associated with armed forces and groups and ensure effective coordination on the rehabilitation and reintegration of children, including those released informally, such as in Central Equatoria and Western Equatoria States;

(p) Substantially increase the budgetary allocations for investments in public health and education, pay civil servants decent and timely salaries and ensure that disbursements are both implemented and transparent;

(q) Address the ongoing corruption and massive theft of the country's oil and non-oil revenues, which dramatically undermines the State's ability to fulfil its international human rights law obligations and to adequately resource the urgent needs required to implement the road map to conclude the peace process.

113. The Commission recommends that all armed forces and non-State armed groups in South Sudan:

(a) Order, clearly and publicly, all members of forces and allied militias to comply fully with international human rights law and international humanitarian law and hold violators accountable in line with international standards;

(b) Allow timely and unhindered humanitarian access to conflict areas and prevent attacks on humanitarian facilities and the looting of aid, including by holding accountable the perpetrators of such attacks and of violence against aid workers;

(c) Immediately end the recruitment of children and release all children associated with armed forces, including individuals who were recruited as children, and hold the perpetrators of such recruitment accountable;

(d) Immediately vacate all schools, hospitals and other civilian infrastructure;

(e) Ensure that forces are not stationed adjacent to civilian residences, unless their presence is strictly necessary to protect civilians from attacks.

114. The Commission recommends that the African Union, the Intergovernmental Authority on Development and regional governments:

(a) As guarantors of the Revitalized Agreement, encourage and support the Government in establishing the transitional justice institutions envisaged in chapter V of the Revitalized Agreement, including through assistance in developing policy and legal frameworks;

(b) Take steps to address the laundering of public money from South Sudan in the region, which robs the country of the resources required to address its enormous human rights challenges and undermines the investments of the African Union in the peace process.¹⁵

¹⁵ See the conference room paper of the Commission on Human Rights in South Sudan on human rights violations and related economic crimes in South Sudan, paras. 183–185.

115. The Commission recommends that Member States and international partners:

(a) Provide the necessary political, financial and other support to the Government and other entities for the full implementation of the Revitalized Agreement, including the identified priority tasks for completing the transitions, action to combat impunity and support for the implementation of chapter V of the Agreement;

(b) Continue to provide support to the Government and humanitarian agencies to address the dire humanitarian crisis, while seeking durable solutions;

(c) Support the efforts and capacities of civil society and victims' and survivors' groups to ensure their effective engagement in electoral, constitution-making and transitional justice processes in South Sudan.

116. The Commission recommends that UNMISS and the United Nations system in South Sudan:

(a) Continue support to ensure that return or resettlement initiatives remain based strictly upon humanitarian principles, including the principle of "doing no harm", and demonstrate heightened diligence in instances where displacement is linked to conflict along ethnic lines and where civilians require protection;

(b) Continue critical support for the development and strengthening of the justice system, including to mobile courts in areas where permanent courts cannot yet host fair trials for serious crimes, while ensuring that assistance conforms to national law and international standards on the administration of justice.
