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**United Nations Mission in the Republic of South Sudan (UNMISS)**

# Conflict in South Sudan:

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## A Human Rights Report

8 May 2014

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## Executive Summary

1. This report presents the findings of investigations and documentation conducted by the Human Rights Division of the United Nations Mission in the Republic of South Sudan (UNMISS) since 15 December 2013. It follows from the UNMISS Interim Report on Human Rights, released on 21 February 2014. Based primarily on over 900 interviews with victims and witnesses, among others, the report finds that from the very outset of the violence, gross violations of human rights and serious violations of humanitarian law have occurred on a massive scale. Civilians were not only caught up in the violence, they were directly targeted, often along ethnic lines.
2. Fighting started in the capital, Juba, on the evening of 15 December, initially among members of the Presidential Guard. The Sudan People's Liberation Army (SPLA) split between forces loyal to the Government and forces loyal to former Vice-President Riek Machar. Fighting moved rapidly to various military installations and, by the next morning, into civilian neighbourhoods. After forces loyal to Mr. Machar were defeated, Government forces entered neighbourhoods primarily populated by civilians of Nuer origin and began targeting Nuer men. Multiple witnesses told the Human Rights Division that mixed groups of security forces went house-to-house killing Nuer men or taking them away. Thousands fled their homes and neighbourhoods were left emptied and often destroyed by security forces. In one incident, at least 300 men of Nuer origin were rounded up from the Gudele neighbourhood and detained and then killed in a facility used by several security forces as a joint operations centre.
3. Following the events in Juba, the SPLA in Jonglei, Unity, and Upper Nile States disintegrated, with large numbers of defections to the armed opposition reported. The capitals of these three States fell to opposition forces in quick succession: Bor on 18 December, Bentiu on 19 December, and Malakal on 25 December. However, each capital subsequently changed hands several times and fighting continues to date. Fighting has also reportedly occurred in rural areas, although little information is available on the extent and consequences.
4. In Jonglei State, when opposition forces initially took Bor town, civilians fled and, according to local authorities, more than 300 civilians, mainly women and children, died while trying to cross the river into Lakes State. After Government forces re-took Bor town on 25 December, reports were received that civilians seeking protection at the UNMISS Protection of Civilians site in Bor were attacked or killed after leaving. When opposition forces returned to Bor town on 31 December, the town was almost completely empty of civilians. Everyone who could leave, did, with only the vulnerable left behind. Any remaining Dinka civilians were at risk of being killed if found. Widespread destruction took place and the market was burned to the ground.
5. Heavy fighting in Upper Nile State resulted in the destruction of approximately 20 percent of the State capital, Malakal. Civilians were targeted through house-to-house searches by both parties to the conflict and widespread looting occurred. Opposition forces reportedly attacked the Malakal Teaching Hospital on 18 and 19 February. There is information that individuals from the Dinka and Shilluk communities were targeted in the attack, with many people killed and the Hospital heavily looted. Opposition forces also left a path of destruction through Baliet County, which they attacked several times as they fought for control of Malakal. Reports of widespread killing of hundreds of civilians, destruction of entire villages, and looting of livestock, food items, and other personal possessions were received.

Witnesses report moving from one location to another in search of safety. Those who survived the initial attacks were left isolated and without food, water, shelter, or basic medical supplies.

6. In Unity State, fighting initially took place in various SPLA barracks, but then quickly spilled over into civilian areas. Nuer soldiers and civilians reportedly attacked Dinkas and foreigners in nearby villages. In early January, as Government forces advanced towards Bentiu to re-take control, multiple incidents of killings, ill-treatment, looting, and destruction of property occurred, with targeting of Nuer men. As in other States, significant fighting took place in rural areas, with assaults in Guit and Leer Counties.

7. The consequences for the civilian population have been devastating. There have been attacks on hospitals, churches, mosques, and United Nations bases. All parties to the conflict have committed acts of rape and other forms of sexual violence against women of different ethnic groups. Over one million South Sudanese have been displaced by the conflict. Despite the signing of a cessation of hostilities agreement on 23 January, fighting continues with little hope that civilians will see any respite from the relentless violence.

8. On the basis of the Human Rights Division's documentation and investigations, there are reasonable grounds to believe that violations of international human rights and humanitarian law have been committed by both parties to the conflict. These violations include extrajudicial killings, enforced disappearances, rape and other acts of sexual violence, arbitrary arrests and detention, targeted attacks against civilians not taking part in hostilities, violence aimed at spreading terror among the civilian population, and attacks on hospitals as well as personnel and objects involved in a peacekeeping mission. In light of the widespread and systematic nature of many of the attacks, and information suggesting coordination and planning, there are also reasonable grounds to believe that the crimes against humanity of murder, rape and other acts of sexual violence, enforced disappearance, and imprisonment have occurred.

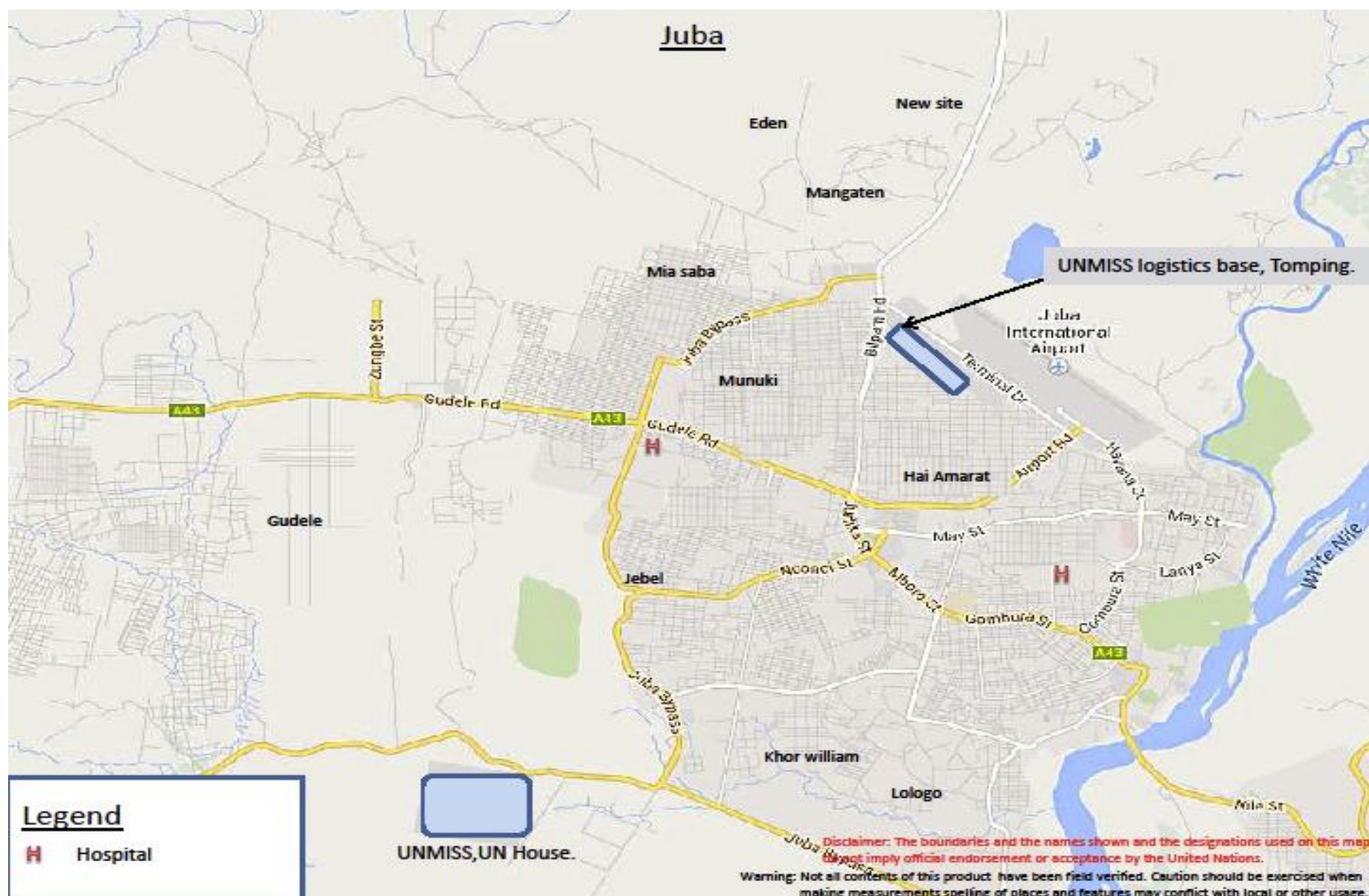
9. These conclusions call for further investigations. They also impose an obligation on the Government of the Republic of South Sudan to investigate violations and to prosecute and punish those found to be responsible. Although the Government has acknowledged that violations were committed and has established several accountability measures in response, there are serious questions concerning whether these mechanisms are sufficient to provide real accountability in South Sudan.

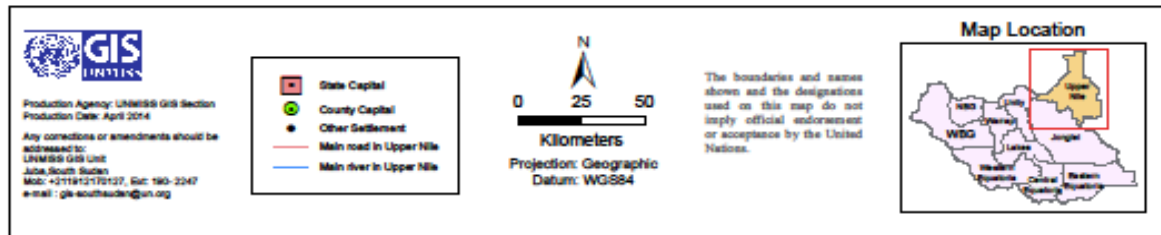
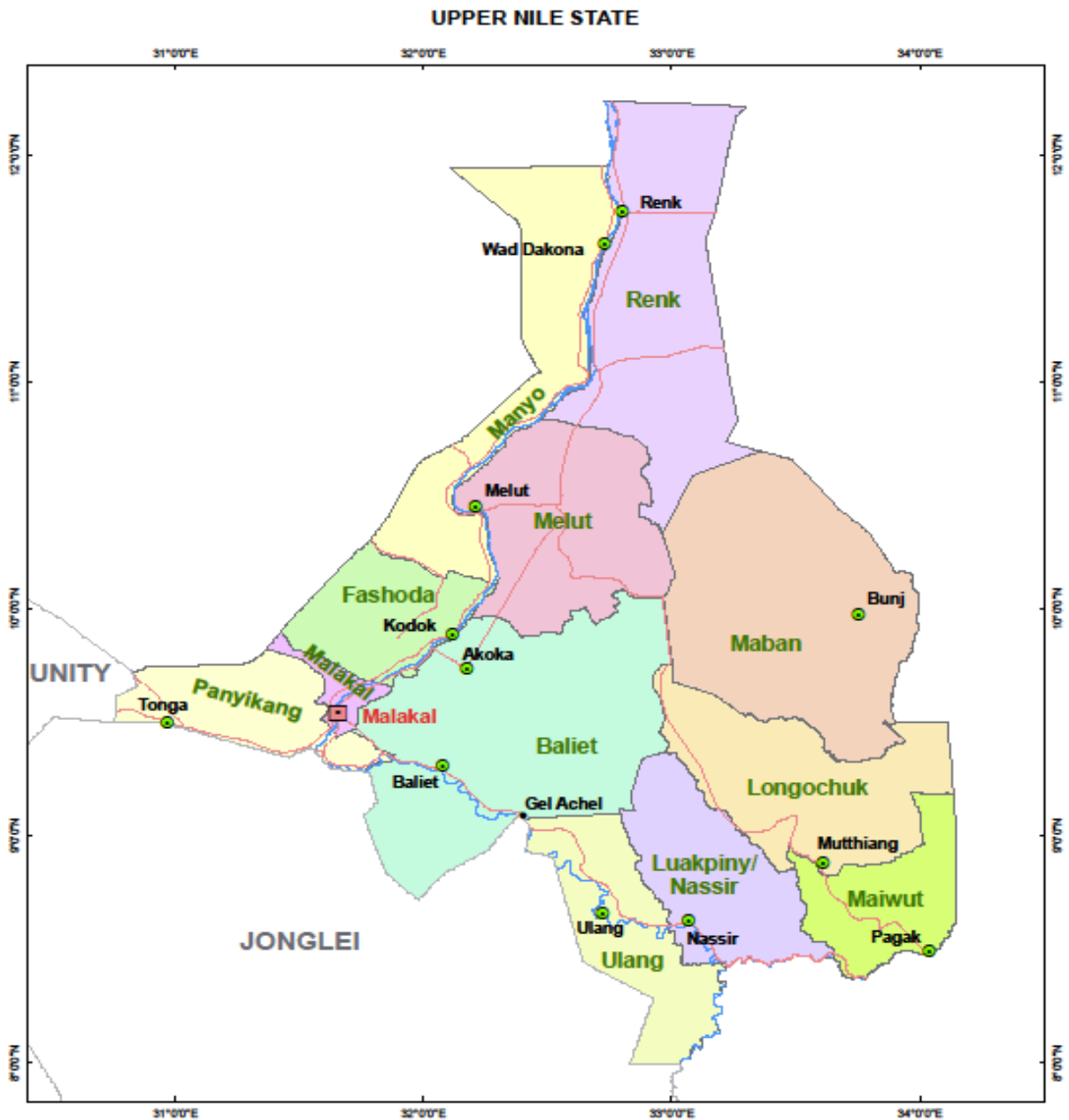
## Acronyms

|           |                                                                 |
|-----------|-----------------------------------------------------------------|
| APCs      | Armoured Personnel Carriers                                     |
| CSB       | County Support Base                                             |
| GPOC      | Greater Pioneer Operation Company                               |
| HRD       | Human Rights Division                                           |
| IDP       | Internally Displaced Person                                     |
| IGAD      | Intergovernmental Authority on Development                      |
| INDBATT   | UNMISS Indian Battalion                                         |
| JEM       | Justice and Equality Movement                                   |
| MoH       | Ministry of Health                                              |
| NPSSS     | National Prison Services of South Sudan                         |
| NSS       | National Security Service                                       |
| OHCHR     | United Nations Office of the High Commissioner for Human Rights |
| PoC       | Protection of Civilians                                         |
| SPLA      | Sudan People's Liberation Army                                  |
| SPLM      | Sudan People's Liberation Movement                              |
| SPLM/A-IO | Sudan People's Liberation Movement/Army in Opposition           |
| SSDM/A    | Sudan Democratic Movement/Army                                  |
| SSLA      | South Sudan Liberation Army                                     |
| SSNPS     | South Sudan National Police Service                             |
| UNMAS     | United Nations Mine Action Service                              |
| UNMISS    | United Nations Mission in the Republic of South Sudan           |
| UNOSAT    | United Nations Operational Satellite Applications Programme     |
| UNPOL     | United Nations Police                                           |
| UPDF      | Uganda People's Defence Force                                   |
| WFP       | World Food Programme                                            |

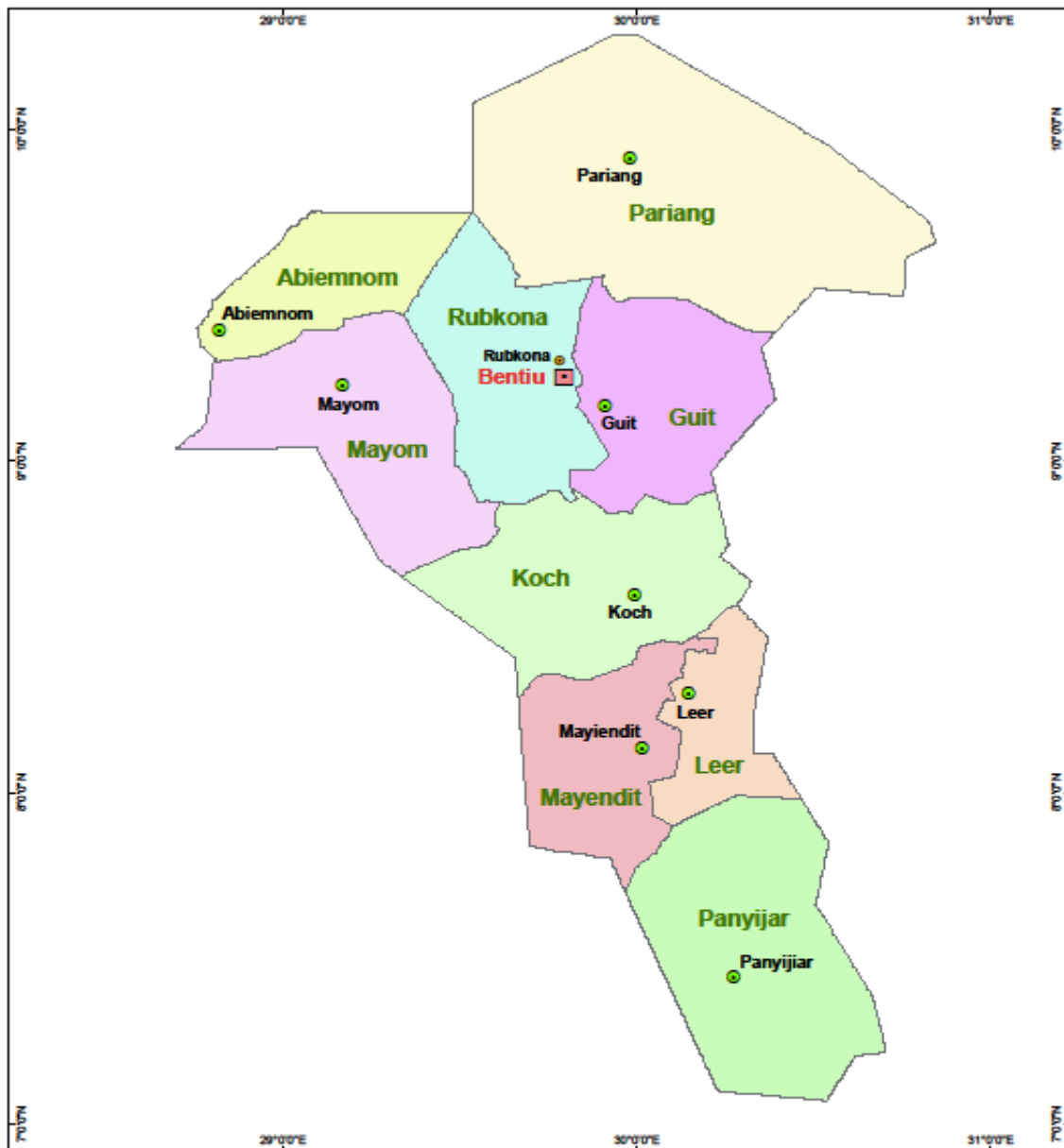
## Maps



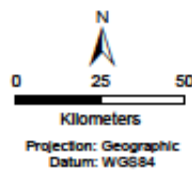
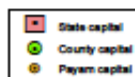




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## **I. Introduction**

1. On 15 December 2013, an internal power struggle within the Sudan People's Liberation Movement (SPLM), South Sudan's ruling political party, came to a head during a meeting of its second highest organ, the National Liberation Council. The Sudan People's Liberation Army (SPLA) became involved in the dispute, with fighting in military barracks in the capital, Juba, on the evening of 15 December, initially among the Presidential Guards. The SPLA, which had integrated several armed groups and had never become a truly national army, rapidly disintegrated and what appeared to be a political crisis spiralled into fierce fighting involving military and other armed groups, spreading across the country within days. In the days and weeks that followed, killing and displacement of civilians have been occurring on a massive scale. An estimated over one million South Sudanese have fled their homes since 15 December.

2. The gross violations of human rights and serious violations of humanitarian law that have been perpetrated in the context of the on-going conflict form the basis of this report. The report provides the findings of investigations and documentation conducted by the Human Rights Division (HRD) of the United Nations Mission in the Republic of South Sudan (UNMISS) since the outbreak of the conflict on 15 December. The report builds upon the UNMISS Interim Report on Human Rights, released on 21 February.

3. The conflict has been marked by the failure of the Government of the Republic of South Sudan (Government) as well as of the opposition forces to protect civilians from violence. The report documents numerous and various international human rights and humanitarian law violations, concentrating on the main centres of violence, namely the capital Juba and the three States of Jonglei, Unity, and Upper Nile in the greater Upper Nile region.

4. This report is by no means exhaustive in documenting the large number of violations of international human rights and humanitarian law that have occurred in South Sudan since December 2013. Rather, the goal has been to broadly document such violations where possible, with a view to impressing on the Government its primary responsibility to protect civilians and hold perpetrators to account and to call on international partners to support those efforts. As the conflict continues, UNMISS will continue to document and investigate reports of violations of international human rights and humanitarian law.

## **II. Methodology**

5. UNMISS was established on 9 July 2011 by Security Council Resolution 1996. The Security Council tasked UNMISS to monitor, investigate, verify, and report regularly on human rights and potential threats against the civilian population as well as actual and potential violations of international humanitarian and human rights law. That mandate has been renewed through Security Council Resolutions 2057 (2012) and 2109 (2013). In Resolution 2132 (2013), the Security Council emphasized that those responsible for violations of international humanitarian and human rights law in South Sudan must be held accountable.

6. Pursuant to this mandate, the HRD documented and investigated incidents of human rights and humanitarian law violations that have taken place in Central Equatoria, Jonglei, Upper Nile, and Unity States since 15 December, based on human rights monitoring and investigations methodology developed by the United Nations Office of the High Commissioner for Human Rights (OHCHR).

7. The report is based primarily on interviews with victims, witnesses, and other persons with relevant information about the events. As of 30 March, over 900 interviews were conducted with victims of violations, their relatives, witnesses, civil society organizations, Government officials, members of opposition forces, members of the security forces, human rights defenders, traditional local authorities, religious and community leaders, UNMISS staff members and United Nations partners in agencies, funds and programmes, as well as many others.

8. In addition, Human Rights Officers conducted visits to alleged incident sites; analysed video and photographic images, including satellite imagery; reviewed medical reports where available; sought forensic analysis at incident sites where feasible; and held meetings with a variety of interlocutors. Individuals and entities representing alleged perpetrators, including the Government, were also consulted both to obtain information on incidents and to preserve a right of response.

9. Protection concerns were paramount at all stages, including by exercising caution in all interactions with victims and witnesses and assessing protection concerns on a case-by-case basis. Information gathering was conducted in keeping with the principles of confidentiality, impartiality, and ‘do no harm.’ The information gathered is considered confidential; only if informed consent was expressly received and documented in writing by Human Rights Officers has specific case information been included in this report.

10. In the course of its investigations, the HRD has on occasion been provided with the names of both victims and perpetrators. The names have not been included in this report to comply with standards of confidentiality and to ensure the presumption of innocence.

11. The HRD employed a ‘reasonable grounds’ threshold in making factual determinations on individual cases, incidents, and patterns of conduct. These factual determinations provided the basis for the legal qualification of incidents and patterns of conduct as human rights violations, violations of international humanitarian and, where appropriate, international crimes. There are ‘reasonable grounds’ to believe that an incident or pattern of conduct has occurred when the HRD is satisfied that it has obtained a reliable body of information, consistent with other material, based on which a reasonable and ordinarily prudent person has reason to believe that such incident or pattern of conduct has occurred. This threshold is lower than the standard of proof required in criminal proceedings to sustain an indictment, but is sufficiently high to call for further investigations into the incident or pattern of conduct and, where available, initiation of the consideration of a possible prosecution.

12. Incidents included in the report are generally based on at least one credible source of first-hand information. Where patterns of conduct are documented, these are generally based on several credible sources of first-hand information, which are consistent with, and corroborated by, the overall body of credible information collected. The HRD assessed the credibility and reliability of the witnesses, sought corroboration where possible, and considered whether, in all the circumstances, there was sufficient information for it to report.

## *Challenges*

13. The HRD has encountered several challenges in investigating and documenting allegations of human rights and humanitarian law violations across South Sudan. The main constraint has been insecurity linked to the on-going conflict.

14. Human Rights Officers' freedom of movement has at times been limited, often as a result of security restrictions. In Juba, they were unable to leave UNMISS compounds for three days after the outbreak of violence on 15 December. Those working in Bor, Jonglei State, were relocated by 24 December for security reasons, and while they returned on 9 January, they were only able to leave the UNMISS compound on 28 January due to insecurity. Human Rights Officers working in Bentiu, Unity State, were relocated on 22 December, returning on 1 January. In Malakal, Upper Nile State, Human Rights Officers took shelter in bunkers several times during the conflict and were often unable to leave the UNMISS compound due to the surrounding fighting.

15. Freedom of movement has also been restricted by Government security forces and other armed actors. In some instances, access to areas controlled by opposition forces was limited. In others, UNMISS integrated patrols with HRD components could only be deployed if accompanied by SPLA soldiers, which negated the purpose of the mission. The HRD was sometimes denied access to locations such as detention centres, police stations and prisons, as well as to areas where violations had allegedly occurred or where dead bodies were located. The ability to conduct investigations was also at times constrained by the militarization of towns and villages, as well as the brevity of the time on the ground in dangerous areas.

## **III. Legal Framework**

16. Several legal regimes apply to the current situation in South Sudan: international human rights law, international humanitarian law, as well South Sudanese domestic law.

### *International human rights law*

17. States are responsible under international human rights law to guarantee the protection and preservation of human rights and fundamental freedoms at all times, in war and peace alike. South Sudan has not yet ratified any core international or regional human rights treaty.<sup>1</sup> However, South Sudan is bound by provisions of international human rights law which have attained customary status in international law and include many if not all of the rights set out in the Universal Declaration of Human Rights.

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<sup>1</sup> In May 2013, the Council of Ministers approved a 'human rights package' of the following international and regional treaties: International Covenant on Civil and Political Rights, 1966; International Covenant on Economic, Social and Cultural Rights, 1966; African Charter on Human and Peoples' Rights, 1981; Convention Governing the Specific Aspects of Refugee Problems in Africa, 1969; International Convention on Elimination of All Forms of Discrimination against Women and Optional Protocols, 1979; International Convention on All Forms of Racial Discrimination, 1979; Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment, 1984. The National Legislative Assembly has since approved ratification of the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment and the Convention on the Rights of the Child, which are pending ascent by the President.

18. The most basic human rights obligations, in particular those emanating from peremptory international law (*ius cogens*) bind both the State and armed opposition groups in times of peace and during armed conflict. In particular, international human rights law requires States, armed groups and others to respect the prohibitions of extrajudicial killing, maiming, torture, cruel inhuman or degrading treatment or punishment, enforced disappearance, rape, other conflict related sexual violence, sexual and other forms of slavery, the recruitment and use of children in hostilities, arbitrary detention as well as of any violations that amount to war crimes, crimes against humanity, or genocide.

### *International humanitarian law*

19. South Sudan is in a state of non-international armed conflict.<sup>2</sup> International humanitarian law governs the conduct of the parties to the conflict. South Sudan is a State Party to the four Geneva Conventions of 1949 and the two Additional Protocols of 1977. Both Government and opposition forces participating in the conflict are, therefore, bound by Article 3 Common to the Geneva Conventions. This Article encapsulates the most fundamental principles of respect for human dignity, including prohibitions on violence to life and person. To the extent that opposition forces, under responsible command, exercise control over territory so as to enable them to carry out sustained and concerted military operations, the Government and opposition are also bound by Additional Protocol II to the Geneva Conventions. In addition, the Government and opposition forces are bound by customary international humanitarian law.<sup>3</sup>

20. International humanitarian law establishes binding rules on how conflicts, including non-international armed conflicts, are conducted and how the various actors must be treated. The most fundamental principles include that civilians must be protected at all times. Parties to the conflict are required at all times to distinguish between civilians and armed elements. The parties must only attack military personnel and targets: civilians and civilian objects must not be the target of attacks.

21. The parties are required to meet minimum standards of treatment for civilians and any armed elements no longer able to participate in the fighting, generally because they have surrendered, are detained, or are wounded. Further, those sent to provide assistance to civilians without directly taking part in hostilities, including humanitarian workers and organizations and United Nations peacekeepers, also receive protection under international humanitarian law.

22. Second, military operations and attacks must not be indiscriminate so as to strike military objectives and civilians or civilian objects without distinction. They must not employ a method or means of combat which cannot be directed at a specific military objective; or employ a method or means of combat the effects of which cannot be limited as required by international humanitarian law. In planning and conducting military operations, constant care must be taken to spare the civilian population, civilians, and civilian objects. All feasible precautions must be taken to avoid, and in any event to minimise, incidental loss of civilian life, injury to civilians and damage to civilian objects.

23. International humanitarian law continues to bind each party to the conflict, regardless of whether any other party is failing to comply. Each party to the conflict, including armed opposition groups, must also ensure respect for international humanitarian law, in particular by its armed forces and other persons

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<sup>2</sup> See ICRC Press Release of 6 January 2014: <http://www.icrc.org/eng/resources/documents/news-release/2014/01-06-south-sudan-juba-peter-maurer-president-visit.htm>.

<sup>3</sup> For a summary of relevant norms see International Committee of the Red Cross, Customary International Humanitarian Law, vol. 1: Rules (2009).

or groups acting on its instructions, or under its effective direction or control. It is likely that many of the non-state armed groups involved in the current conflict in South Sudan have reached a certain threshold of organization and effective control of territory to be bound by relevant rules of international humanitarian law on non-international armed conflict.

### *International Criminal Law*

24. Gross human rights violations and serious violations of international humanitarian law may also constitute international crimes, notably war crimes and crimes against humanity.

25. International law requires holding personally accountable perpetrators of international crimes, including military commanders and civilian officials who order the commission of such crimes. A military commander can be held responsible for crimes committed by forces under his effective command and control or for failing to exercise control properly over such forces where: (1) The commander knew or, owing to the circumstances at the time, should have known that the forces were committing or about to commit such crimes; and (2) The commander failed to take all necessary and reasonable measures within his/her power to prevent or repress their commission or to submit the matter to the competent authorities for investigation and prosecution.<sup>4</sup>

26. On the same basis, a civilian superior who knew or consciously disregarded information which clearly indicated that subordinates within his/her effective responsibility and control were committing crimes will incur criminal responsibility if the civilian superior fails to take all necessary and reasonable measures within his/her power to prevent or repress their commission or to submit the matter to the competent authorities for investigation and prosecution.<sup>5</sup>

27. The HRD also recalls the established principle of international law that perpetrators of international crimes are not relieved of criminal responsibility on the basis that they have acted on superior orders, because orders to commit crimes of such gravity are manifestly unlawful.

### *Domestic law*

28. The obligation of the Government to respect, uphold, and promote human rights is primarily enshrined in the Bill of Rights of the Transitional Constitution of Republic of South Sudan (Constitution). The Bill of Rights protects several fundamental human rights, including the right to life and human dignity; the right to liberty and security of the person, including the right to be free from arbitrary arrest and detention; the right to a fair trial; and the right to equal protection of the law.

29. The Constitution contains provisions on states of emergency, declaring that while part of the Bill of Rights may be suspended, the protections of the right to life, prohibition on torture, right of non-discrimination, the right to litigation, and right to a fair trial may not be limited. For other rights, derogations are permitted only if they are clearly proclaimed in accordance with the law, limited to what is strictly required by the situation, and not discriminatory. The declaration of a state of emergency for Jonglei, Unity, and Upper Nile States issued by the President do not specify which provision of the Bill of Rights it purports to suspend.

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<sup>4</sup> See Article 28, Rome Statute of the International Criminal Court (Rome Statute).

<sup>5</sup> *Ibid.*

30. The rights to life and physical integrity are also protected by South Sudan's criminal law in several provisions of the Penal Code Act, 2008. Ordinary criminal provisions prohibit murder; bodily injury and intimidation; kidnapping, abduction and violations of personal liberty; offences related to rape and other sexual offences; armed robbery; and damage to or destruction of property, among others.

31. The Sudan People's Liberation Army Act, 2009, provides for the establishment, governance, and discipline of the SPLA. It establishes a system of military justice for both criminal and disciplinary offences and provides that criminal offences are adjudicated by military courts. However, it also provides for exclusive civilian jurisdiction over crimes committed by SPLA members against civilians.

#### **IV. Background and Context**

32. South Sudan fought two civil wars against the Government of Sudan (1955-1972 and 1983-2005) to secure independence, a struggle that claimed over 2.5 million lives. On 9 July 2011, the new Republic of South Sudan brought together some 11 million people representing more than 60 indigenous ethnic groups and 80 linguistic groups. At independence, the SPLA became the national army while its political wing, the SPLM, became the ruling party and formed the great majority of the Government. The Chairman of the SPLM, Mr. Salva Kiir Mayardit, a Dinka from Bahr el Ghazal who had fought in both civil wars, became the President of the Republic of South Sudan. Mr. Riek Machar Teny Dhurgon, a Nuer from Unity State who had joined the SPLM/A at its founding in 1983 but created his own faction in 1991, returning to the SPLA in 2002, was appointed Vice-President of South Sudan.

33. South Sudan assumed independence with daunting challenges to its aspiration of nation-building, many emanating from long-standing structural and systemic issues as well as historical divisions among communities and within political and military elites. Many of these issues came to the fore almost immediately from the first year of independence.

34. The dominant position of the SPLA and its ubiquitous role in all aspects of life in South Sudan has been among the most pronounced of these issues. The SPLA was formed out of the loosely organized guerrilla movement that fought the civil war; after independence, it was expanded with various armed militias. By all accounts, these different groups have retained their distinct identities.

35. The SPLA has dominated every critical aspect of life in South Sudan beside the military establishment, notably the Government and the SPLM. This has seriously undermined governance and state institutions, making it difficult to establish the rule of law. Further, a lack of professionalism and proper training in the SPLA, coupled with weakness in command and control, has made accountability difficult. By contrast, other governance institutions have been much weaker, with little ability to demand accountability of the SPLA. The national law enforcement and justice systems suffer from a serious lack of capacity and South Sudan has a long history of impunity for past crimes.

36. Maintaining social cohesion among the more than 60 ethnic groups in South Sudan has also been an immense challenge. Ethnicity has often been manipulated to foster discord when it served political interests. Unresolved discord among numerous groups has assisted this, and indeed, many communities have a long history of conflict. Of note, ethnically-targeted killings between the Nuer and Dinka in the current conflict have revived memories of the 'Bor massacre' of 15 November 1991, when an estimated

2,000 Dinka civilians in Bor were killed by Nuer fighters from Mr. Machar's SPLA-Nasir faction with the help of armed Nuer youth known as the 'White Army'.

37. As the national elections scheduled for 2015 appeared on the horizon, political rivalries and ethnic grievances put pressure on the SPLM senior leadership, which largely depend on ethnic-based constituencies. In March 2013, Vice-President Machar disclosed his ambition to replace President Kiir as Chairman of the party.

38. A political struggle unfolded, as key figures traded accusations of unilateral decision-making, ethnic patronage, corruption, and bad faith against the background of fundamental disagreements about the future direction of the party, its leadership selection procedures, and its relationship with the Government of the Republic of Sudan. On 23 July 2013, President Kiir dismissed Vice-President Machar along with almost the entire Cabinet. Mr. Machar accused President Kiir of moving towards dictatorship and announced that he would challenge him for the presidency. A loose opposition against President Kiir's leadership came together around Mr. Machar and other party officials. On 6 December, Mr. Machar and other senior SPLM leaders accused the President of dictatorial tendencies and unilateral decision-making at a press conference.

39. The repeatedly postponed meeting of the SPLM's National Liberation Council which was to discuss and approve four key documents, namely the party's manifesto, constitution, code of conduct, and regulations, took place at the Nyakuron Cultural Centre in Juba on 14 and 15 December. After a day of heated debate on 14 December, Mr. Machar and a few other National Liberation Council members did not turn up for the session on 15 December, at which the party adopted the documents. Following the meeting, fighting broke out at the SPLA Headquarters barracks in Juba between members of the Presidential Guard, also known as the Tiger Division, splitting between soldiers loyal to the Government and those who supported Mr. Machar, largely along ethnic lines. Fighting rapidly spread throughout Juba.

40. On 16 December, President Kiir gave a press conference in which he claimed that a group of SPLA soldiers allied to Mr. Machar had attacked the SPLA General Headquarters in an attempted *coup d'état*. Mr. Machar has denied these allegations. On 17 December, the Government announced that 11 people had been arrested in relation to purported coup attempt. On 19 December, Mr. Machar announced to the press that he had appealed to the SPLM and SPLA to remove the President from office. On 21 December, he told the press that he was in rebellion against the Government of President Kiir.

41. After the events in Juba, the SPLA in Jonglei, Unity, and Upper Nile States disintegrated, with large numbers of defections to the armed opposition reported. As in Juba, fighting often began at military installations and quickly spilled into civilian areas. The SPLA 8<sup>th</sup> Division defected in large numbers, and took the Jonglei State capital of Bor on 18 December, while the SPLA Division in Unity State similarly defected and claimed control of the state capital of Bentiu on 21 December. The Unity State capital of Malakal was taken by defecting soldiers of the SPLA 7<sup>th</sup> Division and the White Army on 25 December. State capitals have subsequently changed hands numerous times, either following fighting or after the other party retreated. Control of a state capital often did not entail full control of all the counties in the state as defensive lines remained fluid.

42. On 1 January, President Kiir issued a Presidential decree declaring a state of emergency in Jonglei and Unity States, which was followed by a state of emergency declaration for Upper Nile State on 17 January. On 20 January, the National Legislative Assembly unanimously approved the President's

decision for six months. On 23 January, the Government and the delegation representing Mr. Machar at the Intergovernmental Authority on Development (IGAD) led peace talks in Addis Ababa, Republic of Ethiopia, signed agreements on the cessation of hostilities and on the status of political detainees arrested in relation to the purported coup attempt. Mr. Machar's representatives signed the agreements under the name Sudan People's Liberation Movement/Army in Opposition (SPLM/A-IO).<sup>6</sup> Almost immediately upon signing, both sides traded accusations of ceasefire violations in Jonglei, Unity, and Upper Nile States.

43. At the time of writing, despite the cessation of hostilities agreement, fighting continues in Jonglei, Upper Nile, and Unity States. The parties to the conflict continue to target civilians, largely along ethnic lines. Attacks against UNMISS have increased, endangering the Mission's ability to effect its protection of civilians mandate.

### *Armed Actors*

44. The conflict has been marked by how frequently and quickly both Government and opposition forces have been joined by other armed groups, with the result that the composition of attacking forces has been both diverse and in some cases very fluid.

45. Government forces are mainly constituted by SPLA soldiers who remain loyal to the Government. The SPLA, which was estimated to consist of approximately 120,000 soldiers in the fighting divisions prior to the onset of the current conflict, has been supported by various armed groups. These include the Sudan Democratic Movement/Army-Upper Nile Faction (SSDM/A), a largely Shilluk insurgent militia, which was about to be integrated into the SPLA, as well as one faction of the South Sudan Liberation Movement/Army (SSLA) that had been integrated into the SPLA in Unity State. Armed groups from the Republic of Sudan have also supported the SPLA, namely the Justice and Equality Movement (JEM). Finally, the Government has received support from the Uganda People's Defence Force (UPDF), notably in Juba and Jonglei State.

46. Mr. Machar's forces primarily include former SPLA soldiers who defected to support him, notably SPLA soldiers in the 4<sup>th</sup> Division in Bentiu, 7<sup>th</sup> Division in Malakal, and 8<sup>th</sup> Division in Bor. Soldiers from all ethnic groups defected, although the vast majority are ethnic Nuer, who constituted about 65 percent of SPLA troops prior to the conflict. In most cases, defected SPLA forces have continued to wear their SPLA uniforms but with additional coloured headbands, making them distinguishable from Government forces. Opposition forces in Jonglei State were joined by an SSLA faction. Nuer armed youth, known as the White Army, have also been active, operating out of the opposition strongholds of Nassir in Upper Nile State and Akobo in Jonglei State; Mr. Machar has claimed that they operate under his command. Finally, some Darfuri militias have allied with opposition forces in the northern part of Unity State.

47. A number of uniformed security forces have also fought on both sides of the conflict. These include elements from the South Sudan National Police Service (SSNPS), the National Prison Services of South Sudan (NPSSS), the Auxiliary Police, the Fire Brigade, and the Wildlife Services, as well as specialised joint units that bring together different forces.

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<sup>6</sup> Subsequent to the signing of the cessation of hostilities agreement, forces loyal to Mr. Machar are often referred to as the SPLM/A-IO. Given the fluidity of the composition of Mr. Machar's forces and for ease of reference, this report will use the term 'opposition forces' to refer to armed groups fighting against the Government in the current conflict.

48. Finally, it also should be mentioned that civilians have taken up arms and joined either armed opposition or Government forces, or acted on their own to attack other communities or to loot. Alarming reports of child recruitment by both parties to the conflict, including forced recruitment, have also been received, particularly in February and March in Unity State. UNICEF reports that over 9,000 children have been recruited into armed forces by both sides.

## **V. Overview of Human Rights and Humanitarian Law Violations**

49. From the very outset of the violence, gross violations of human rights and serious violations of humanitarian law have occurred on a massive scale. Civilians were not only caught up in the violence, they were directly targeted, often along ethnic lines. In some cases, nationals of particular foreign countries were also targeted. As violence erupted, civilians fled their homes, often to UNMISS bases in areas designated as ‘Protection of Civilians’ (PoC) sites. By 21 December, only six days after the violence commenced, UNMISS was hosting more than 35,000 civilians in its bases. By 23 December, an estimated 81,000 people had been displaced by the conflict.

50. The consequences of the conflict for the civilian population have been devastating. The number of civilian casualties is high, likely in the thousands, although to date no one has been able to establish an exact figure. A dismal pattern of violence and destruction has emerged as the two parties to the conflict gain and lose control of towns and surrounding areas. As armed groups moved through towns and villages, people fled, losing loved ones, and leaving everything behind. Many remained in hiding for days and weeks, without food or assistance. Those who sought protection in sites for internally displaced persons (IDPs) often found dismal conditions. On 12 February, the Under-Secretary General for Humanitarian Affairs declared a Level 3 Humanitarian System-Wide Emergency Response for South Sudan, the highest level of emergency. On 18 March, the South Sudan Human Rights Commission released an interim report on the crisis, finding that human rights violations were committed by both parties to the conflict. By 22 April, over 78,000 IDPs were being protected at UNMISS bases, out of an estimated over 1,000,000 displaced across South Sudan and to neighbouring countries. The humanitarian community has warned that, due to this massive displacement, South Sudan faces a high risk of famine.

51. The following section provides an overview of the progress of the conflict and the accompanying international humanitarian law and human rights violations that occurred in the four most-affected States, Central Equatoria, Jonglei, Upper Nile, and Unity. Much of the information concerns urban areas where intense fighting has taken place; these are also the areas where the HRD is most concentrated. However, given the movements of the parties to the conflict and the patterns of violations reported, there is strong reason to believe that grave violations have occurred across rural areas. These areas and witnesses with relevant information have often been difficult to access for reasons outlined above. It should also be noted that not all incidents documented or sites visited by the HRD have been included in this report. Finally, as the conflict is on-going, the HRD’s investigations continue.

### **Central Equatoria State**

52. On the evening of 15 December, heavy gunfire was heard throughout the capital of Juba, Central Equatoria State. In the early morning of 16 December, there was fighting in the SPLA barracks at Bilpam and the SPLA armoury in the Newsite neighbourhood. The faction of the Presidential Guard loyal to the Government defeated the defecting troops loyal to Mr. Machar in the barracks and, as the latter retreated,

the former chased them through civilian neighbourhoods, shooting at them on the way. General confusion, and then panic, was reported as civilians saw troops moving into their communities.

53. Many soldiers began conducting house-to-house searches, killing, looting, and conducting arbitrary arrests. Corroborated witness accounts indicate that Nuer civilians were targeted and gross violations of human rights and humanitarian law were committed in the process. The violence, which spread widely in matter of hours, subsided after three days. Moreover, due to the devastation and lasting fear generated by the violence, tens of thousands of civilians remain in IDPs sites, too afraid to return home. By 17 April, over 79,000 people were displaced in Central Equatoria State and by 22 April, over 32,000 civilians were seeking protection in UNMISS PoC sites in Juba.

54. The following section provides a description of some of the humanitarian law and human rights violations that occurred with the initial outbreak of violence in Juba; a mass killing in a Juba neighbourhood; an attack on the home of Mr. Machar; and restrictions on freedom of expression that have been imposed in the context of the conflict.

### *Juba, 16-18 December*

55. After fighting in the barracks, and with the pro-Machar defecting troops of the SPLA defeated and retreating from Juba, soldiers in SPLA uniforms swarmed into neighbourhoods in Juba. The first neighbourhoods affected were those close to military installations, namely Giada and Bilpam barracks. The attacks then spread across Juba.

56. Numerous witnesses who spoke to the HRD told consistent stories of house-to-house searches in multiple neighbourhoods across Juba, notably Jebel, Newsite, Mia Saba, Lologo, Khor William, Gudele, Eden, and Mangaten. These neighbourhoods are spread across Juba and cover large areas of the city: Jebel in the southwest; Mia Saba in the northern, central city; Lologo and Khor William near the southeast; and Newsite in the north. Many, such as Mia Saba and Newsite, are known as predominantly Nuer residential areas. Many also border on military barracks, including Jebel which is near the Giada barracks; Lologo near Khor William; and Newsite which is adjacent to the SPLA Headquarters at Bilpam and an SPLA armoury.

57. Security forces killed unarmed civilians, detained and otherwise took people away, destroyed homes, and stole valuables. Most incidents allegedly occurred between 15 and 18 December, although the vast majority of incidents took place on 16 December. Over the course of these few days, whole neighbourhoods were emptied. By 18 December, 8,500 people sought shelter overnight at UNMISS Tomping; a further 8,000 sought shelter at the UN House compound. Thousands also sought refuge in other locations, such as churches. Dead bodies were seen across the city, in Jebel, Munuki, Lologo, Newsite, Mia Saba, Tomping, Khor William, Gudele, Eden, Mangaten, and the Juba University area. Photographs received by the HRD support these reports. Reportedly, bodies were taken, in some cases by truck, to one or more unknown disposal sites, likely between 16 and 19 December. The Government has informed UNMISS that it recorded some burials in Juba.

58. According to sources, security forces targeted men of Nuer ethnicity. Several sources relayed how Nuers were identified by facial markings; if an individual was not identifiable by facial markings, security forces reportedly questioned them in the Dinka language or asked about their ethnicity. If a person questioned in this way admitted to being Nuer, could not speak Dinka, or was able to speak Nuer,

that person would be shot. Several Nuer survivors reported that they believe their lives were spared because they could speak other languages such as Anyuak or Dinka or because they claimed to be members of non-Nuer ethnic groups.

59. The perpetrators were members of the security forces, mostly armed and in uniform. Although the majority of allegations implicate the SPLA and the SSNPS, other security forces were reportedly involved, including the National Security Service (NSS), the Wildlife Service, the NPSSS, and even the Fire Brigade. In many cases, it was reported that members of the security forces spoke the Dinka language or bore identifying facial marks specific to the Dinka ethnicity.

60. From various accounts, security forces entered neighbourhoods on foot, in official vehicles, and/or in tanks. Several sources reported that security forces ran over homes with the tanks. Reportedly, in some cases the security forces or even neighbours announced in Arabic that people should come out of their homes. At least one witness with some knowledge of the Dinka language indicated that in his area, an individual called out in the Dinka language that Dinkas should not be concerned as Nuers were the ones being sought.

61. While each individual witness account could not be verified due to a variety of factors, the general pattern of events described by witnesses is credible due to the large number of reports received, the consistent nature of the reports, as well as the presence of additional corroborating information.

62. In the Mangaten neighbourhood, for instance, early in the morning on 16 December, the fighting was reportedly very intense. A Nuer man decided to leave his home and make his way to Mia Saba, to escape the fighting. He walked with a group of about 300 or 400 other Nuer for about an hour. The fighting followed them. The witness then walked about an hour and a half to a relative's home in Gudele, after hearing it was still safe. Only a few hours after arriving, he heard gunshots. A woman who was sent to look at what was happening in the street reported back that "the Dinka police are killing Nuer". The witness as well as others in the house ran, but were caught by police and detained for several days before escaping.

63. In Newsite, on 16 December, several witnesses reported that, not long after the Nuer soldiers were defeated at the SPLA armoury, soldiers in uniforms and speaking the Dinka language entered Newsite in big numbers in tanks and by foot. One witness reported that, after soldiers entered Newsite, 18 men were ordered to make a line and were tied together with rope. They were directed to walk for about 15 minutes until they reached a location with several tukuls.<sup>7</sup> As many as 200 Nuer men were detained in these tukuls and subsequently taken in groups to be interrogated in the Dinka language, or in Arabic if they could not speak Dinka. In a few cases, following the interrogation, men would be returned to the tukuls; in the majority of cases they did not. Gunshots could be heard throughout the night. Those who remained the next morning were reportedly released into the custody of NSS personnel and thereafter detained and interrogated for some days. The approximately eight men who survived reportedly either could speak Dinka or spoke only English. None of the survivors had Nuer facial markings.

64. In Khor William, on 16 December, as a witness was trying to escape the neighbourhood, he was stopped by SPLA at a checkpoint and told to sit down with approximately ten other Nuer men. Three of the men were shot; the remaining men were taken to an SPLA barracks and questioned for about six hours

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<sup>7</sup> A tukul is a small, thatched hut (usually made of mud walls). It is a single-family dwelling.

before being released. On 17 December, a Nuer witness reported that after being arrested on the street by SPLA soldiers in Khor Romla, near the Khor William area, he was detained along with 200 Nuer males, both soldiers and civilians and including some children, in containers in a factory in Jebel Kujur area. Many of the men were released and transported to the UNMISS PoC area on 18 December after being interrogated by two senior SPLA officers.

65. In Mia Saba, on 16 December, around 14:00, one man saw a group of security forces, mostly comprising SPLA soldiers but with some SSNPS, enter the neighbourhood. He reports that they were organized “in big groups” and were “collecting” Nuer civilians from the street and from houses and tying their hands behind their backs to take them on foot to other locations. He saw three lines of civilians tied together with ropes and clothes; in one line, there were between 10 and 20 people.

66. Also in Mia Saba, several witnesses report that, on 16 December, they were taken from their houses by Dinka SPLA in a group of around 40 Nuer men, tied together with bed sheets and forced to walk to the Newsite cemetery. Along the way, a witness saw the soldiers bringing different men being taken from their homes. Smaller groups of between four and eight men were shot dead as they walked. One witness reported that, every time the group came across a dead SPLA soldier, they killed four or five men from the group. This reportedly took place between two and three times during the walk. Around 20 of those who reached the cemetery were then shot. Those who were not shot were detained for three days and then released.

67. In Tomping, on 16 December, a witness reported that about 40 or 50 SPLA soldiers wearing uniforms arrived carrying heavy weaponry, including RPGs and AK-47s. They told everyone to come out of their houses, speaking in Dinka. Seven soldiers entered his house, ordered him outside and made him kneel on the ground. He recognized some of the soldiers as his neighbours. The witness was ordered to give the soldiers his car keys and money. The soldiers then told him to find his way to UNMISS or they would kill him.

68. In Lologo, on the afternoon of 16 December, a witness reports that a group of five SPLA soldiers forcefully entered his house. He ran away, although his housemates were left behind. He heard several gunshots as he ran. While on the way, he saw SPLA soldiers raiding houses and shooting civilians. According to the witness, “Nuer were being killed like chickens.”

69. Credible allegations have been received that, after people fled their homes in search of safety, SPLA or other security forces have occupied them. This is particularly acute in areas targeted in the initial searches. This has been acknowledged by several local officials, including in the security forces, to UNMISS.

### *Mass killing in Gudele*

70. One incident that has been well documented by the HRD illustrates the nature and the scope of the violence in Juba. It involves the killing of at least 300 Nuer men in the Gudele neighbourhood on 16 December.

71. According to numerous accounts received by HRD, including those of survivors of the incident, beginning on the morning of 16 December, until the afternoon, Nuer men from Gudele were rounded up by various members of security forces. One victim was at home with several relatives who had fled to

Gudele, believing it was safe from the fighting in Newsite and Mia Saba. Around mid-day, police came to the home and took everyone from the house. One person who tried to resist was shot.

72. In many reported instances, members of the security forces seemed to know which houses were occupied by Nuer families following discussion with Dinka neighbours; in some instances, the Dinka members of the security forces were neighbours of the Nuers they targeted. The perpetrators were reportedly primarily from the SPLA and the SSNPS, although some victim testimonies also implicate the NSS, the Wildlife Service, and the Fire Brigade. Many of the perpetrators were recognizable to witnesses as members of the Dinka ethnicity.

73. Several witnesses reported that Nuer men were ordered to come out of their houses and stand in a line, with women specifically left behind. Individuals who resisted were shot. Their clothes were tied together and they were ordered to raise their hands as if surrendering. They were ordered to start walking. Several witnesses reported that Dinka community members insulted them as they walked by. Many witnesses had all of their valuables, such as money and identification documents, taken from them. One victim stated that Gudele road was closed to traffic and all the people walking in the street were being stopped and questioned about their ethnicity.

74. According to information gathered from various reliable sources, at least 300 Nuer men, possibly up to 450, were rounded up in this way. They were brought to a building nearby, across from the Lou Clinic, which the vast majority of witnesses referred to as a police station. The facility is, according to sources, located in a building formerly used by the Sudan Armed Forces which now houses the SPLA, SSNPS, and Auxiliary police. This building apparently functions as a centre for joint military/police operations. One witness reported that there were many dead bodies on the street around the facility. Another victim ran to the police station, fleeing the house-to-house searches in Gudele, thinking that the police would protect him. Once there, the victim's friends were shot, and he was detained.

75. The men were ordered into a small room in the building with several windows. Several witnesses reported that boys were among the crowd. All were Nuer. One victim reported that some of the men and boys in the room had been brought not only from Gudele, but from other neighbourhoods such as Newsite, Mangaten, and Mia Saba. When some of the men asked why they had been detained, they were reportedly informed that it was because they were Nuer.

76. The door and windows were then locked and the men were left in the room for several hours. It was hot and difficult to breathe. One witness indicated that it was "unbearable". Several men reportedly died of suffocation.

77. At around 20:00 hours, unknown individuals shot through the windows and door into the group of men in the room. According to more than one account, this took place several times throughout the night, for several minutes each time. After the shooting, individuals in uniform went inside the room with torches to check if anyone was still alive; those found alive were shot again or killed with knives. The vast majority of men in the room were killed. A small number of men were reportedly saved by dead bodies that fell on them, hiding them and providing a shield.

78. A few of these survivors escaped. Others were reportedly released by members of security forces, with various witnesses indicating that it was the SPLA, SSNPS, or the NSS who discovered their presence. Survivors were taken to hospital in some cases, sometime between 17 and 18 December. It is

assessed that at least 12 men survived the incident. The SSNPS has informed UNMISS that it is investigating this incident.

### *Attack on the residence of Riek Machar*

79. On 17 December, the Juba residence of Mr. Machar in the Hai Amarat neighbourhood was reportedly attacked. The former Vice-President departed Juba in the early hours of 16 December. Several members of his security detail, at least 35, including the SPLA Tiger Division and NSS personnel, remained at the residence.

80. Civilians, including women and children, were also at the residence and according to one witness, could have been as many as 60, while others provided lower numbers. Some civilians were brought there by soldiers on 16 December, although it is unclear whether it was for protection or under coercion. One interviewee indicated that Nuer civilians who arrived in the compound were running from the shooting and targeting of Nuer in other areas in the city, thinking that the residence of Mr. Machar would be a safe place to stay.

81. Several witnesses noted that the security personnel inside the residence were told to disarm by SPLA from the Tiger Division who had deployed outside the perimeter of the residence. One witness indicated that there were approximately 200 or 250 soldiers. The order was complied with and, as indicated by some interviewees, all those inside the residential compound, both security personnel and civilians, were thereafter not allowed to leave the compound.

82. The following morning, a significant number of security forces surrounded the compound. At approximately 09:00, the compound was attacked by a large group of heavily armed security forces. Five sources stated that the attackers were a mix of security forces, including SPLA, SSNPS, Wildlife Service, and the SPLA Tiger Division. Most of the interviewees stated that they saw at least two tanks as well as pick-up trucks mounted with machine guns and other heavy weaponry. At least one source reported that the tanks broke through the walls of the compound.

83. Multiple sources reported that the attacking security forces shot at unarmed individuals. While they scattered in different directions, it is reported that at least five of the unarmed soldiers were killed and at least five more wounded. One source reported that the security forces shot at the residence where civilians were staying. The shooting reportedly went on for hours and stopped sometime between 13:00 and 15:00 hours when, according to witnesses, NSS personnel arrived. The injured were taken to the Juba Teaching Hospital while other civilians and security personnel were arrested and taken to different locations. Several civilians, including women and children, were reportedly killed although the HRD has not been able to establish an exact number.

### *Violations of freedom of expression and censorship of the press*

84. In the months prior to the outbreak of conflict, the climate for freedom of expression in South Sudan had progressively worsened. With the outbreak of violence on 15 December, a sharp deterioration was evident. In mid-January, the HRD was informed of dozens of incidents involving the illegal arrest, detention, intimidation, harassment, and expulsion of national and foreign journalists, as well as the surveillance and censorship of media houses. Dozens of human rights defenders and local human rights

organisations also reported that they were being threatened and that their property had been looted. One was forced to shut down its operations and leave the country.

85. The *Juba Monitor*'s distribution was temporarily suspended in February and copies of the newspaper were confiscated by NSS personnel several times. On 16 January, for example, copies were reportedly confiscated after the publication of an article referring to the 2015 elections. On 24 March, copies were reportedly confiscated at the Juba airport after arriving from Khartoum where they had been printed, reportedly because the newspaper was believed to contain statements critical of the Government. A staff member was ordered to follow NSS personnel to their offices, where the papers were held for about three hours before being released after review. The next day, the HRD was informed that the NSS had told media houses that newspapers would be closed if they published articles that were condemnatory of the Government or written by four identified opinion writers who are considered to be critical.

86. By mid-February, sources reported that only two radio stations in Juba were broadcasting their usual programming due to surveillance and intimidation by NSS personnel. On 3 March, the Arabic-language newspaper *Al-Maghar Asiysia* was reportedly suspended by the Ministry of Information indefinitely on the grounds that it had published false information, failed to comply with Government policy, and covered stories on the rebels. Legal efforts to revoke the suspension have apparently not been successful to date.

87. On 11 March, numerous media outlets reported that the Minister of Information had warned journalists in a telephone conversation not to broadcast or publish interviews with armed opposition leaders in South Sudanese media. He added that this constituted 'subversive activity' and 'an offence', although he did not cite a specific legal provision to substantiate the assertion. The measure seems to have been applied retroactively. On 13 March, an international correspondent was questioned and briefly detained by NSS for an interview he had conducted with Mr. Machar on 9 February. He was released after a few hours following pressure from the embassy of the country of his nationality.

## Jonglei State

88. Witnesses report that, between 22:00 and midnight on the night of 15 December, the commander of the Auxiliary Police in Bor ordered Nuer police to confiscate all guns in the barracks, located just east of the UNMISS compound in Bor town. Around 03:00, Nuer police reportedly began looting the properties of their disarmed Dinka colleagues and harassing them. At least two Dinka policemen were injured, and the families of Dinka police fled the barracks out of fear. By the morning of 16 December, approximately 40 women – the wives of Dinka Auxiliary Police – had arrived at the gates of the UNMISS compound in Bor, seeking physical protection and shelter with their children.

89. On the night of 16 December, two Dinka brothers were allegedly killed in their home in eastern Bor town by unidentified assailants. While the motive behind the killing and the identity of the perpetrators remain unknown, news of the incident spread quickly, causing alarm among civilians. On 16 and 17 December, Government authorities in Bor continued to try to calm tensions and keep the peace in the town. On 17 December, as news of fighting spread, approximately 500 people sought shelter in the UNMISS base in Bor town overnight.

90. The signal event in Bor occurred in the early morning hours of 18 December, when fighting erupted at key military installations in the SPLA 8<sup>th</sup> Division Headquarters at Panpandier and Malualchat

military barracks, south of Bor town. Hundreds of Government soldiers fled and some were reportedly injured or killed in the process. Civilian residents of Panpandier village, located next to the military barracks, are reported to have fled to a nearby forest. It is believed that some civilians may have been caught in the cross-fire though the extent of casualties has not yet been ascertained.

91. Bor town fell under the control of opposition forces on 18 December, after the Commander of the SPLA 8<sup>th</sup> Division, Major-General Peter Gadet, defected along with most of his Nuer soldiers. By the afternoon of 18 December, these defected SPLA and other security forces entered Bor town, and approximately 12,500 civilians entered the UNMISS PoC area over a period of three hours.

92. As in the other locations around South Sudan where there has been fighting, Bor town subsequently changed hands several times. After taking over the town, Mr. Machar's forces controlled Bor for a mere seven days, with Government forces re-taking control over Bor from 25 to 31 December. The entire town of Bor was vacated in the first week of fighting and, by 31 December, approximately 7,000 people were seeking protection in the UNMISS Bor PoC site. Mr. Machar's forces, which reportedly included child soldiers, regained control for about three weeks, from 31 December to 18 January, at which point the SPLA retook Bor town, maintaining control since. The forces which re-took Bor town were observed to consist of approximately 60 percent Ugandan troops and 40 percent SPLA.

93. Many parts of Jonglei State have been affected by the fighting, including counties north of Bor. UNMISS has made a number of attempts to reach these areas, but required security assurances have often not been provided by the SPLA. By 17 April, over 200,000 people were displaced in Jonglei State and by 22 April, over 4,800 civilians were seeking protection in the UNMISS PoC site in Bor.

94. The following section provides an overview of humanitarian law and human rights violations that occurred in Bor town and surrounding areas as the conflict raged, as well as description of attacks on a church, a hospital, and two United Nations bases.

### *Fighting in Bor South County*

95. On 19 December, opposition forces established a headquarters and claimed control of Bor town. At this time, the rule of law and any semblance of public order dissipated, with Bor town descending into chaos.

96. Various officials of the civilian Government in Bor, including the Bor County Commissioner and the Bor Mayor, were reportedly attacked. At approximately 17:00, the Deputy Governor and others called UNMISS to report that Government officials were under attack and to request evacuation by UNMISS. By approximately 19:00, Government officials, including the Caretaker Governor, the Deputy Governor, and State Ministers, arrived at the UNMISS camp in a large convoy without UNMISS escort. Reportedly the convoy was attacked while en route by unknown perpetrators. The HRD has not been able to confirm details of the alleged attack on Government officials that led them to seek protection at UNMISS.

97. Law enforcement personnel loyal to the Government were attacked by opposition forces at both the police station and the prison in Bor. The two facilities are across town from each other, demonstrating that the fighting moved through town, endangering civilians, especially those attempting to flee. One witness who had fled town on the morning of 18 December told the HRD that he returned to the town to collect some personal belongings in the afternoon. On his way back, he said that he was caught in a

crossfire between opposition forces and the SSNPS on the road in front of the police station, sustaining a serious wound to his right thigh. He pretended to be dead until the fighting stopped and the armed actors had left.

98. Bor Prison reportedly came under attack by opposition forces that same afternoon. Prison personnel interviewed by the HRD in both Bor and Awerial reported that the attackers wore uniforms belonging to the SPLA, SSNPS, and Wildlife Services, while one witness also mentioned seeing attackers in Fire Brigade uniforms. Approximately one hour later, prison officials realized that they would not be able to hold off opposition forces and they decided to release the prisoners. Subsequently, prison personnel and prisoners fled. Multiple sources indicated that both prison personnel and prisoners were killed, although it is unclear whether they were killed in the cross-fire or were targeted. The attack reportedly resulted in the deaths of at least five Dinka prison personnel and 5 Dinka prisoners, including one woman.

99. On 5 March, UNMISS found the prison deserted except for one decomposed body. On 13 March, officials reported that five prisoners including one woman had died in the attack, and that one prisoner who had been held in leg chains had subsequently died of dehydration. They reported to UNMISS that there had been 271 inmates at the prison on the morning of the attack. The officials did not say how many prison officers had died in the attack itself, but reported that 56 prison officers in total had been killed in the course of the conflict.

100. During the initial days of violence, there was extensive looting and some destruction of property in Bor town, by both uniformed individuals as well as civilians. Witnesses reported that Nuer soldiers broke into the Kenya Commercial Bank and Equity Bank and stole large sums of cash. United Nations staff observed bags of American bank notes being carried into the PoC area. Foreign traders told the HRD that they were threatened and their shops looted by opposition forces. One foreign shopkeeper remarked, “They said to us, ‘Do you want your life or the money?’ and so people would turn over all their money to save their lives.”

101. Between 18 and 22 December, Mr. Machar’s forces reportedly also attacked villages to the south of Bor, including Pariak, Malek, and Goy. In Pariak, the armed opposition reportedly engaged in heavy shooting, killing at least two civilians. In the attack on Malek, one witness told the HRD that he had recognized some of the perpetrators as Nuer he had shared Sunday fellowship with. In Goy, sources reported that at least four elderly people were killed by gunshot. Opposition forces burned everything along the road from Pariak to Goy, looting extensively, including cattle. On 23 December, the number of IDPs in Awerial County, Lakes State, reached over 28,000 people.

102. Despite the many stories of ethnically-motivated attacks during this time, various accounts also emerged of individuals who helped individuals of other ethnicities. One Dinka man told the HRD how his Nuer friend protected him from an attack by opposition forces: “While on the way to UNMISS compound, a group of Nuer army wanted to kill me, but my Nuer neighbour saved me. He told the Nuer rebels, ‘He is my brother, don’t kill him.’” One Nuer woman recounted how she and her husband fled Bor with a Dinka in-law. The couple eventually spent over a month at a Dinka settlement on an island in the Nile River, their in-laws hiding them and providing food, water, and shelter. Several Dinka, including a pastor, told the HRD that they were escorted to the UNMISS PoC area by uniformed opposition forces, and other elderly Dinka reported surviving in town during the entire period of fighting.

103. Once Government forces returned to Bor on 24 and 25 December, many Dinka civilians left the UNMISS PoC site. Many Nuer and some other minority groups remained, fearing reprisals from Government forces. During this time, UNMISS received reports that civilians seeking protection at the UNMISS PoC site were attacked and/or killed when they left. The retreating opposition forces moved north, reportedly attacking villages along the way. Witnesses told the HRD that armed elements – some in civilian clothes and some in uniform – passed through Baidit Payam between 24 and 26 December. As civilians fled to the surrounding bush, some were shot and killed. Those who had returned to their villages after the attacks told the HRD that they found many tukuls had been burned down.

104. Significant information indicates that minority groups and foreigners were the subject of targeted attacks in Bor town between 18 and 29 December, with at least 13 separate incidents. Minorities targeted include the Anyuak, Murle, and Shilluk and foreigners targeted include Ethiopians, Eritreans, Kenyans, and Ugandans. Reports include allegations of extrajudicial killings, rapes, abductions, and threats to life and physical integrity. While not all of these allegations could be verified, the number of credible reports suggests a pattern of targeting.

105. By the time opposition forces recaptured Bor on 31 December, the town was almost completely empty of civilians. The Government advised people to leave and everyone who could, did. Those who remained were the most vulnerable, including the disabled, elderly, and sick. They hid in their homes or gathered in churches, assuming they would not be targeted.

106. The opposition forces who returned, however, included many more armed Nuer youth, in addition to defected SPLA and other security forces. Several witnesses and victims who were in Bor town in early January, including UNMISS personnel, describe these forces as ill-disciplined and the destruction they caused as more indiscriminate and wholesale than that of December. During this second period of opposition control, the entire Bor Market was destroyed and, over a series of days, burned to the ground. Any remaining Dinka civilians were at risk of being killed if found. The HRD believes it is during this period that civilians seeking refuge at both St. Andrew's Church and Bor Hospital were attacked and killed, as discussed below.

107. While opposition forces controlled Bor town, from 31 December to 18 January, they pushed south, and heavy fighting occurred between Government forces supported by the UPDF and opposition forces along the Bor-Juba road. Between 11 and 16 January, UNMISS is aware of several instances of aerial bombardments by Ugandan forces in areas south of Bor. UNMISS military personnel in Bor at the time reported hearing loud explosions believed to be anti-aircraft fire from approximately 12 kilometres south of the UNMISS compound in Bor, in the vicinity of Malek, while Human Rights Officers in Awerial County heard air strikes across the river. This is further supported by information received from retreating combatants and opposition forces leadership at the time.

108. On 7 February, the United Nations Mine Action Service (UNMAS) found physical evidence of the use of cluster munitions in the Malek area of Bor County, approximately 16 kilometres south of Bor along the Juba-Bor Road.<sup>8</sup> Cluster munitions can be fired in a variety of ways, including by being dropped from aircraft. They explode in the air, each cluster releasing about 150 bomblets over a wide area. Cluster munitions are banned by the Convention on Cluster Munitions as they have wide area effects that do not allow a distinction between combatants and civilians and because they leave behind large

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<sup>8</sup> See Secretary-General's statement on South Sudan of 12 February 2014.

numbers of dangerous unexploded ordnance. Approximately 20 percent of the bomblets fail to explode, but can do so years after they are dropped. Used in areas where civilians are regularly present during or after fighting, they are indiscriminate in their impact. While South Sudan is not a party to the Convention, Uganda has signed but not yet ratified it. Both States have denied the use of cluster bombs.

109. There is no information to suggest that this route south of Bor was occupied at the time by civilians, as most had ample warning that it was an active conflict zone. UNMISS has not yet had the opportunity to visit the villages in the area to assess what damage may have occurred as a result.

110. Reeling from this heavy assault from the south, by 17 January, opposition forces had completely vacated Bor town. The UPDF and SPLA marched into Bor on 18 January, re-establishing Government control, which has been maintained in the State capital since.

111. A comprehensive assessment of Bor town by Human Rights Officers and other Mission components after the Government re-gained control revealed that nearly all of Bor town was depopulated, and that the market had been completely destroyed and some tukuls, perhaps five or 10 percent, burned. The devastation to the town, as well as hundreds of dead bodies, was sufficient to keep the population away.

112. United Nations Operational Satellite Applications Programme (UNOSAT) analysis of images taken on 19 January shows 1,962 destroyed residential and related properties, and 93 warehouse or commercial structures, destroyed. The destroyed structures were estimated to represent approximately 8.4 percent of the total number of pre-conflict structures in Bor.<sup>9</sup>

113. In late January, local authorities began an effort to collect, identify, and bury the bodies. The HRD coordinated with local authorities to visit incident sites and document evidence prior to removal and burial, where feasible. With the support of United Nations Police (UNPOL) forensic advisors, the HRD spent several days moving throughout Bor town for this purpose and observed more than 100 bodies, almost all civilian, many women and children.

114. Local authorities have since estimated a total casualty figure of 2,007 individuals killed in Bor County, including those buried by local authorities, those reportedly buried by families, those drowned, and those reportedly missing. According to the authorities, the vast majority of these victims were Dinka; reportedly 50 were in SPLA uniform. The authorities acknowledge that opposition forces buried Nuer bodies, uniformed and civilian, before leaving town on 17 January. While the HRD cannot verify the local authorities' figures, it can verify that approximately 525 bodies were buried in collective graves in Bor town organized by the Government. Moreover, based on HRD interviews and investigations, 2,007 seems to be a reasonable estimate for the number of casualties in Bor County. The HRD is not in a position to determine the Nuer casualties.

### *Displacement from Bor*

115. The HRD interviewed more than 150 individuals who fled their homes in Bor town after opposition forces took control, including Dinka, Nuer, Anyuak, Murle, Shilluk, and foreigners, among others. The sum of these interviews paints a picture of arbitrary killings and other threats to physical integrity, as well as looting, as civilians were fleeing Bor town.

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<sup>9</sup> UNOSAT: <http://www.unitar.org/unosat/node/44/1917><http://www.unitar.org/unosat/node/44/1917>.

116. One witness described the panic as she ran, telling the HRD that she saw a naked man who had fled from the bath with a gunshot wound, and a woman crying because she had left her baby behind. Another witness described seeing about five dead bodies as he fled to UNMISS. Of the dead, he recognized only one, a former fighter who had been demobilized and was wearing civilian clothes. As he continued, the witness found another civilian man who had been shot in the stomach and helped to bring him to UNMISS.

117. Many of those who fled sought refuge at the UNMISS base, east of town; by 20 December, an estimated 15,000 people were seeking protection at the UNMISS PoC site. However, many also reported that the way to UNMISS had been blocked by armed opposition soldiers. The majority of Dinka civilians hid in the bush northwest of town, or fled across the river. By 19 December, approximately 2,000 people had reportedly arrived in Minkaman, Awerial County, Lakes State, fleeing violence in Bor County.

118. According to local authorities who conducted an initial body count in late December, more than 300 civilians, primarily women and children, died while trying to cross the river in the initial days of fighting. Of these, 18 reportedly presented visible gunshot wounds, while others were presumed to have died from drowning. Many civilians interviewed explained that even those who could not swim had no choice but to attempt to cross the river, as armed men were chasing and firing upon them. One witness described fleeing across the Nile with his relatives on 19 December. During the crossing, three of his brother's children and his uncle's wife drowned. The witness stated: "We didn't mind to stop because we knew the rebels would kill us."

119. After opposition forces re-captured Bor town on 31 December, civilians continued to flee from the villages of Bor County across the river, seeking refuge on islands in the Nile or crossing to Awerial County, Lakes State. By 10 January, the displaced population in Awerial County was estimated to have reached over 84,000, primarily Dinka, along with some Shilluk, Murle, Anyuak, and other groups. In addition, some members of the Nuer population left the UNMISS Bor PoC area, to head to the northern counties of Jonglei. By 28 February, when Human Rights Officers met with the County Commissioner of Akobo, he reported that some 18,000 IDPs, primarily from Bor and Malakal, were in Akobo. By 13 January, approximately 20,000 Dinka from Bor, Duk, and Twic Counties were in IDP sites in Nimule, Eastern Equatoria State. Meanwhile, foreigners and other minorities who were at risk in Bor were evacuated to Juba in January.

120. The HRD conducted three missions to Awerial County, in January, February, and March, interviewing 69 people. Several witnesses who fled across the river to Lakes State in early January told the HRD that armed men chased them to the water's edge. Some of the armed men reportedly constructed rafts out of jerry cans, which they used to try to chase the civilians across the river, while the armed men remaining on the shore shot across at the civilians. Many civilians hid in the swamps and on islands, until they could reach safety across the Nile. One witness described hiding in the water, holding onto reeds with everything but his face submerged, to avoid being shot. A victim recounted being attacked by armed men while trying to cross the river in early January: "They started firing at us. In the process, I was wounded on the thigh and whilst trying to flee, I broke my leg. Another man trying to flee was killed on the spot. Other civilians helped me to arrive to Awerial."

121. Since January, civilians began returning to Bor town very slowly. At the time of writing, some Dinkas had returned from Lakes State, and small numbers of Nuer and minorities who had been staying at

the UNMISS Bor PoC area moved back into town. This movement increased significantly when the Caretaker Governor returned to Bor with most of his government in March, and traders began operating small businesses again. In addition to returnees, newly displaced individuals arrived to Bor in late March and early April as a result of attacks in neighbouring Twic East and Duk Counties in Jonglei State, attributed to cattle raids and clashes between SPLA and opposition forces, respectively.

122. On 25 February, an UNMISS patrol observed eight IDP areas between Bor port and Panpandiar, along the Nile River bank, with a total of approximately 2,000 persons, mostly women and children. On a visit to schools on 27 March, the HRD was informed that while one primary school had recently opened for classes, one was occupied by the SPLA and all other 58 primary and secondary schools in Bor County remained closed. By 4 April, approximately 85,000 IDPs remained in Awerial County, Lakes State, and on 22 April, just under 5,000 IDPs remain in the UNMISS Bor PoC area.

123. Even though Bor has been under Government control for over two months, the re-establishment of state authority and the provision of basic services has been slow. Until security and services are sufficiently available in Bor and surrounding areas, these displaced populations continue to prefer to stay in a cramped camp or out in the open under trees.

### *Bor State Hospital*

124. Credible information suggests that most medical and other personnel left the Bor State Hospital between 18 and 23 December, fleeing fighting in town or rumours of an impending attack. In the following month, according to two alleged survivors, three people were killed in the Hospital by gunfire coming through a window, although it remains unclear whether the victims were hit by direct fire or were caught in crossfire. Two sources saw dead bodies in the Hospital, two and three each, although the cause of death of these victims is not known. There are also reports that at least one soldier subjected some women to sexual violence in the Hospital.

125. After the Government regained control of Bor on 18 January, reports emerged that the Bor State Hospital had been attacked. On 19 January, Government officials brought international journalists to the site and in subsequent days, media reported that patients were murdered in their beds. A Ministry of Health (MoH) team arrived at Bor Hospital on 24 January to assess damage to the Hospital and to make it operational. They reportedly found 14 dead bodies in various parts of the Hospital compound and declared that all of the persons killed at the Hospital were patients.

126. The HRD first visited the Hospital on 29 January, the day after UNMISS security restrictions were lifted and Human Rights Officers were able to leave the UNMISS compound in Bor, and again on 31 January with UNPOL. The team found eight bodies in the mortuary and was told by the MoH team that family members had already claimed six others. The UNMISS team noted that two bodies had visible gunshot wounds to the head; others were in an advanced state of decomposition – some reduced to just bones – and therefore no cause of death could be determined.

127. The UNMISS team was led on a tour of the Hospital by members of the MoH assessment team, visiting five main sites: the maternity/obstetrics ward where the MoH team had reportedly found the bodies of two pregnant women who were killed there; the Medical Director's office, which had reportedly been looted with valuables stolen, such as the computer, and where a graffiti drawn on the wall presented a crude picture of a soldier shooting a person with a gun; the medical ward where four bodies (three

males, one female) had reportedly been found inside the building, and one outside; the outpatient department, where four bodies had allegedly been found outside the building (one female and three males); and the surgical ward, where three bodies (all male) had reportedly been discovered. During the attack, three ambulances were reportedly stolen and two were destroyed.

128. Most of the rooms where killings had allegedly occurred had been cleaned by the MoH assessment team who used bleach and Dettol on the floors and walls. The bed mattresses or linens also appeared to have been cleaned. On the grounds of the compound, garbage piles had been burned, but there was still significant debris, including shell casings from fired ammunition in at least two different areas – on the grounds near a looted ambulance and in the wall of the medical ward. There were no casings found by UNMISS in any other alleged killing site.

129. There is therefore some information suggesting that some individuals were killed at the Bor State Hospital. However, the HRD has been unable to determine when an attack occurred, how many attacks occurred, or the identities or affiliations of the perpetrators. Government sources allege that an attack was carried out by opposition forces and information suggests that patients were threatened by soldiers of Nuer origin during the first period of opposition control of Bor.

### *St. Andrew's Episcopal Church*

130. According to credible sources, while many civilians fled Bor as the fighting began, some were unable to flee, particularly the elderly, sick, and disabled. By 25 December, approximately 15 to 20 elderly men and women had reportedly sought refuge at St. Andrew's Episcopal Church in Bor town, a large compound that includes a church, school, and several internal compounds with many tukuls in each.

131. Between 31 December and 11 January, armed men reportedly came to the Church and put several women into a line, pushing at least one elderly woman to the ground. Most of the women were shot. A survivor, who had also been beaten, pretended to be dead amongst the bodies and remained there, lying on the ground, until rescued by a pastor and an SPLA soldier.

132. Witnesses who went to the Church between 18 and 23 January found approximately 14 dead bodies scattered around the compound. Two sources reported seeing a body with a deep cut across the throat, while another reported a body with a cut on the head. One source reported seeing a knife near a body and others saw several bullet shells.

133. The HRD first accessed the site on 28 January, due to security restrictions, returning on 30 January with UNPOL for a full assessment. The team found thirteen bodies. Other actors, including local authorities, armed actors, Church officials, and family members, had already accessed the site, and bodies had been moved and placed in body bags. According to sources, 12 bodies were found inside the Church compound, while the thirteenth was found south of the compound. Bullets were seen on the site and an examination of the bodies indicated that at least six of them displayed visible gunshot wounds. One body exhibited a deep cut to the throat and another appeared to have a wound to the chest. However, the type of fatal injury suffered was not apparent in all victims. Allegations were also received that sexual violence occurred, which the HRD continues to investigate.

134. Information about the number and identities of the perpetrators was inconclusive, although some information suggests that they were armed men of Nuer origin. Opposition forces controlled Bor during the period in question.

### *Attack on UNMISS Akobo CSB*

135. From 17 December, both Dinka and foreign civilians began to seek protection at the UNMISS County Support Base (CSB) in Akobo, in the north-eastern part of Jonglei State. On 18 December, there were at least 30 non-United Nations personnel in the CSB, the majority of whom were South Sudanese, including the Acting County Commissioner (Executive Director), the Deputy Executive Director, a Payam administrator, and other Government officials, as well as approximately seven international civilians. Based on the threat analysis and advice of the UNMISS state security and Chief Security Advisor, it had been decided by Mission leadership to extract UNMISS staff and Dinka civilians from the CSB.

136. On 19 December, at 15:00, an UNMISS flight from Nassir arrived in Akobo to deliver supplies. Members of the Indian Battalion (INDBATT) went to the airstrip, about 800 meters away, to meet the flight in two armoured personnel carriers (APCs). A large crowd gathered around the airport; credible reports suggest that a rumour had circulated that UNMISS was going to evacuate Dinka individuals seeking protection in the CSB from Akobo. On their return, as the APCs were entering the gate, they were attacked by a large group of armed individuals, including women, wearing a mix of civilian clothing and SPLA and SSNPS uniforms. Some civilians were armed with guns.

137. The armed group forcibly entered the CSB. Witness accounts are inconsistent with respect to the number of attackers, but suggest a range of one to two thousand. There were over 50 United Nations uniformed and civilian personnel present at the CSB. During the attack, some UNMISS staff hid in a bathroom tent, while others went to an accommodation tent. Armed men, reportedly including SSNPS, entered the accommodation tent, searched the UNMISS personnel, taking their money and phones, and looted other personal property. There was widespread looting across the CSB.

138. Credible sources indicate that Dinka civilians were targeted and killed by the attackers. The killing of five individuals was witnessed, including the killing of the County Executive Director and Deputy Executive Director, and one international staff member of an international organization. Two INDBATT peacekeepers were killed and one was left seriously injured. Witnesses report that individuals who were visibly foreign or indicated their status with identification cards were spared. Witness accounts indicate that the killings were carried out by SSNPS personnel and individuals in civilian clothing, and the SPLA took control of the scene subsequently. Some witness accounts also implicate the SPLA Commander, a Lieutenant Colonel, who was present at the scene.

139. Witnesses indicate that, after the killings, armed men brought UNMISS personnel from their hiding places to an office tent. There, they were guarded by men armed with AK-47s. At about 1830, the SPLA Lieutenant Colonel came to the tent and the UNMISS personnel were ordered out of the tent and told to sit in a row on the footpath. One witness indicated that UNMISS personnel and other survivors were then counted. They were subsequently ordered to walk to the SPLA barracks, approximately one kilometre away from the CSB, across the airstrip, purportedly for protection. They spent the night in an open space. At approximately 09:00 on 20 December, the survivors were evacuated by UNMISS from the airstrip to Malakal.

140. On the evening of 19 December, in an effort to resolve the situation, UNMISS officials met with a local official, who was in Bor. The official stated that opposition SPLA forces loyal to General Peter Gadet were responsible for the attack on the Akobo CSB. The official claimed the SPLA Lieutenant Colonel in Akobo had incited civilians and security forces to attack UNMISS in order to target the Dinka civilians on the CSB. The official facilitated the evacuation of UNMISS personnel and civilians by linking UNMISS officials to the Lieutenant Colonel in Akobo.

141. The HRD interviewed over 20 people who were present in the CSB at the time of the attack. The HRD also undertook fact-finding missions to Akobo on 28 February and 10 March along with other Mission components. Security restrictions prevented the HRD from visiting Akobo earlier. The site was heavily looted, with all personal effects and UN equipment removed, including computers, desks, chairs, beds, and refrigerators. The site was also thoroughly cleaned, with little remaining physical evidence. The floors of the tents were swept and cleaned, leaving little to no traces of blood or other bodily fluids. According to local sources, one of the alleged perpetrators arranged for the site to be cleaned ahead of the UNMISS visit. No weapons or casings were found at the site.

142. The team also met with the then Akobo County Commissioner who stated that he was not in Akobo at the time of the attack and therefore had no first-hand knowledge. He claimed, however, that six South Sudanese civilians died in the attack, in addition to the two peacekeepers. He provided no information concerning the whereabouts of the bodies of the dead.

143. Many civilians were killed in the attack. Due to the chaotic circumstances and the inability of survivors to observe the full attack as their movements were restricted, the HRD has not been able to determine an exact figure of fatalities. However, any Dinka civilians not evacuated by UNMISS are presumed dead, and at least 20 civilians, as well as two peacekeepers, were killed.<sup>10</sup> Two witnesses indicated that the bodies of the dead, save for the UNMISS peacekeepers whose bodies were evacuated by UNMISS, were taken by the perpetrators to an unknown location. Despite several requests by UNMISS, the local authorities have not provided any information regarding the location of any bodies.

### *Attack on UNMISS Bor Camp*

144. The situation had been largely stable for weeks in Bor when, on 17 April, a large group of at least two hundred individuals, including Dinka youth, approached the UNMISS compound under the guise of peaceful demonstrators intending to present a petition to UNMISS demanding the evacuation of “Nuer White Army youth” from the camp within 72 hours. As the group advanced to the UNMISS compound, however, it did not proceed to the main gate but moved directly to the PoC site. Uniformed SPLA and SSNPS personnel nearby did nothing to stop the advance. As the mob approached the PoC site, projectiles such as rocks and other objects were thrown over the berm walls. Firing started almost immediately and the mob breached the perimeter of the PoC site – it is not known at this time which occurred first. Approximately 5,000 IDPs were seeking protection in the site at the time. UNMISS military returned fire, from both static positions and mobile forces. This use of force killed several attackers, caused the remaining mob to retreat, and saved many lives.

145. Human Rights Officers were present in the PoC site when firing broke out. They assisted IDPs to cross the barbed wire perimeter to safety and attended to the wounded until medical assistance arrived.

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<sup>10</sup> Report of the Secretary-General on South Sudan, S/2014/158, 6 March 2014.

Human Rights Offices then documented the scene, including by taking photographs and identifying victims. The HRD continues to investigate the incident, although many witnesses remain too traumatized to provide information. Due to the security situation in Bor town, the HRD has been unable to visit to assess reported casualties at Bor Hospital.

146. The HRD has determined that at least 51 people were killed in the attack (25 male and 26 female; 38 adults, 4 adolescents, and 9 children), with the death toll likely to rise. The vast majority of victims were Nuer IDPs. 46 of the victims were found inside the UNMISS compound while two were found outside. An additional three people passed away after being transported to Juba for medical treatment. To date, it is not known if some IDPs ran out of the UNMISS PoC site during the attack.

147. Despite calls for accountability by President Kiir and the Caretaker Governor of Jonglei State, and despite the fact that the identities of many individuals involved in the attack are known, there have been no arrests in connection with the attack.

## Upper Nile State

148. Upper Nile state has seen the heaviest fighting in the conflict in South Sudan, resulting in serious violations of human rights and humanitarian law. Fighting began on 19 December in the Wanding SPLA barracks in Nassir County, to the east of the state capital Malakal. From 19 to 23 December, UNMISS received various reports of military build-ups and deployments by both parties and of sporadic fighting in specific SPLA locations, but not of major military engagements. However, by 24 December, in light of the tense security situation, many Government officials had left the State, with the exception of the Governor who had returned on 18 December. On 24 December, Malakal town was attacked by opposition forces.

149. Numerous military engagements followed the initial attack on Malakal town, ranging right across Upper Nile State through March. While the civilian administration was largely absent, nowhere is it clearer than in Upper Nile State that the various military chains of command remained intact and capable of directing diverse operations. The opposition mobilized various groups of Nuer youth and the former Commissioner of Nassir County commanded White Army elements aligned with the opposition forces. Reinforcements for both parties were brought in from neighbouring Jonglei State as well as from several SPLA Divisions, including the 1<sup>st</sup>, 6<sup>th</sup>, 7<sup>th</sup>, and 8<sup>th</sup> Divisions, which all suffered massive defections. The breakup of security forces also affected the police and other agencies, and meant that opposition forces were on occasion observed to comprise SPLA, SSNPS, Wildlife Service, mobilized Nuer, and occasionally the Fire Brigade personnel.

150. On-going fighting in Malakal town and across Upper Nile State has severely restricted the HRD's operations and investigations. By 17 April, over 197,000 people were displaced in Upper Nile State and by 22 April, over 19,000 civilians were seeking protection in UNMISS PoC sites in Malakal and Melut. The following section provides an overview of the humanitarian law and human rights violations in Malakal town, as both parties fought for and gained control of the State capital; attacks on churches and the Malakal Teaching Hospital; and a human rights assessment of the impact of the conflict on civilians and civilian property in rural Baliet County.

## *Malakal town*

151. Malakal town has been the most contested state capital and has seen nearly continuous fighting. The town changed hands six times between December and April. It was first captured by opposition forces on 25 December. Heavy fighting including with tank and artillery fire ensued, with both Government and opposition forces present in Malakal town until it was recaptured and held by the SPLA from 28 December to 13 January. From 14 January to 19 January, the State capital was again under opposition control. Government forces recaptured it on 19 January and held it until 18 February. Notwithstanding the entry into force of the Cessation of Hostilities Agreement on 24 January, fighting continued and the opposition retook the town, from 18 February to 19 March. On 19 March it came back under SPLA control.

152. The impact of the violence on the civilian population of Malakal town has been severe. The continued fighting and escalating scale of the damage caused significant displacement. By 28 December, approximately 12,000 people were in the UNMISS Malakal PoC site and 103 were in the UNMISS Melut PoC site. The opposition capture of Malakal on 14 January nearly doubled this number, and by the end of January, there were an estimated 28,821 IDPs at the Malakal PoC site, with an estimated 157,000 people displaced in the State.

153. Civilian property was extensively destroyed or damaged. UNOSAT's preliminary damage assessment taken on 18 January, reported 515 residential and related structures, and 58 warehouse or commercial structures, destroyed. UNOSAT noted, "[m]ultiple indications of looting are evident in the warehouse area and in residential areas along the southeast edge of town." In the two months between this initial assessment and the following update on 15 March, opposition forces and SPLA had each held the town for a month, and UNOSAT reported 9,878 residential and related structures, and 204 warehouse or commercial structures, destroyed. Active fires were still visible. In total, fully 22 percent of the State capital was destroyed.<sup>111</sup>

154. The UNMISS compound and PoC site in Malakal did not escape the fighting. While it was not targeted directly, firing was reported around the UNMISS base and airport on 23 December. In fighting on 25 December, the UNMISS Malakal PoC site itself was in the cross-fire: on this day, the UNMISS Level II hospital in Malakal treated 20 SPLA soldiers and 20 to 30 civilians for gunshot wounds. On 26 December, UNMISS had to advise both parties to withdraw their troops and cease fighting near the UNMISS base and PoC area. On 26 December, heavy fighting close to UNMISS continued, with tanks, anti-aircraft guns, mortars, and heavy machine guns: thousands of IDPs in the PoC site were allowed into the main UNMISS compound to provide at least some greater degree of safety. On 14 January, UNMISS and the IDPs in the PoC site were again in the crossfire; 38 IDPs and one UNMISS military officer were wounded. A 14 year old boy was killed.

155. Both parties reportedly conducted extensive house-to-house searches during their various periods of control. In this context, gross human rights violations, such as extra-judicial killings and sexual violence, occurred. For example, on 29 December and 2 January, SPLA forces were reportedly conducting house-to-house searches for people of Nuer origin believed to be loyal to Mr. Machar. From 15 to 17 January, it was members of the White Army, with red, black and green cloths tied around their heads, who were reportedly conducting house-to-house searches for people of Dinka origin believed to be

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<sup>1111</sup> UNOSAT: <http://www.unitar.org/unosat/node/44/1961>.

loyal to the Government, as well as other communities such as the Shilluk. On 21 January, reports were again received that SPLA forces were conducting house-to-house searches for White Army youth.

156. Witnesses also reported widespread looting. For instance, on 25 December, opposition soldiers reportedly entered a private home and demanded money and mobile phones. After receiving the money, the soldiers beat and shot a resident who later died. On 27 December, approximately seven SPLA soldiers reportedly went to a private home, ordering the residents, at gunpoint, to lie down on the floor and give them their money. The house was turned upside down in a search for money and other property. On 15 January, approximately seven opposition forces reportedly entered a private home and began looting and breaking things. The resident was reportedly told to take a few items of clothing and leave. As he was fleeing, he noticed neighbouring houses broken into, looted, and burned.

157. On 15 January, the day the leader of the Nuer White Army, General Gathoth Gatkuoth, 'declared' himself Governor, widespread looting occurred, including of the World Food Programme (WFP) warehouse and UNICEF offices. Reportedly, opposition forces offered weapons training to civilians in mid-January. On 18 February, several opposition forces, dressed in military and civilian clothing, came to a private home, and demanded money and phones. Two members of the family who did not have money were killed. The perpetrators told the family that they were killing Shilluk people because the Shilluk were not supporting them.

158. In late January, UNMISS integrated team patrols visited several locations where people were seeking protection, including churches, hospitals and schools; each hosted hundreds, and in some cases, thousands, of people. The market was closed and deserted, bodies remained in the streets, and newly burned homes were observed. UNMISS patrols recorded dead bodies in the streets of Malakal on numerous occasions. Assistance was requested from UNMISS, as well as local and international NGOs, to help clear the bodies. The total civilian casualties in Malakal Town, and the wider State, has yet to be counted, but between 30 December and 3 January alone, a total of 218 bodies were buried at the Molekia Cemetery.

159. By mid-February, the town was deserted and thoroughly looted. Dead bodies were still observed in the streets. As opposition forces were battling for control for the third time on 18 February, fighting broke out in the Malakal PoC site between IDPs, leaving six dead and approximately 150 wounded.

160. UNMISS raised the violations in Malakal town with the various commanding officers of both belligerent parties. On 16 January, the commander of opposition forces met with UNMISS and asked to meet IDPs. He acknowledged the looting and indiscriminate shooting by Nuer youth in Malakal town. On 27 January, UNMISS met the Upper Nile State Governor, Lt. Gen. Simon Kun Puoch, who also acknowledged that some SPLA personnel were engaged in 'targeted killings' in Malakal. While he claimed that steps were being taken to rectify the situation, he reported that the SPLA command had 'lost control' of some troops.

### *Attacks on Churches*

161. Throughout the conflict, thousands of civilians have sought shelter in several churches around Malakal. Neither Government nor opposition forces respected the sanctity of churches, with numerous witnesses reporting to the HRD that armed men would enter, in some cases nearly every day, harassing

IDPs, demanding money and other goods, targeting certain individuals on the basis of their ethnicity, engaging in killings and ill-treatment, and abducting and sexually violating women and girls.

162. At the Presbyterian Church, more than 4,000 people were seeking protection by 18 January. On approximately 20 January, a pastor was reportedly shot and killed by an SPLA soldier at the Church. One witness reported that on 25 January, SPLA soldiers came to the Church and asked for people of Nuer origin. Another source states that opposition forces killed at least one Shilluk man on 18 February; there is some corroboration for this allegation.

163. Another witness reported that on 20 February, opposition forces including the White Army came to the Church and shot indiscriminately, allegedly killing approximately 30 people, mostly of Shilluk origin. Another source states that, on or around 22 February, a group of about 200 IDPs decided to try to reach the UNMISS PoC site from the Church; on the way, the group encountered about 20 opposition soldiers who started shooting at them. The IDPs ran in all directions, with one family running to the river and hiding in the water. When opposition forces found them, three Shilluk men were shot and killed. Other witnesses provide some corroboration for this incident.

164. By 18 January, following a deterioration of the security situation with the opposition's capture of Malakal in mid-January, approximately 3,000 to 4,000 people had sought protection at the St. Joseph Roman Catholic Cathedral, including prisoners who had reportedly been freed by opposition forces from the Malakal Central prison on 15 January. Between 14 and 16 January, opposition forces reportedly made attempts to break into the Cathedral but were prevented by church authorities. Two reports indicate that opposition soldiers killed people of Shilluk origin, and took money and other valuables from the IDPs.

165. In mid-February, witnesses reported that armed men came to the Cathedral and killed IDPs. One witness stated that on 19 February, opposition forces consisting mainly of White Army youth of around 12 to 18 years of age, came to the Cathedral and asked for Shilluk and Dinka individuals. When no one was singled out, they told all Nuer to leave the Cathedral as they would return to destroy it. Two witnesses reported killings at the Cathedral by opposition forces, on 21 and 22 February; one incident reportedly involved the selection and killing of Shilluk men and boys.

166. At Christ the King Church, one witness reported that on 19 February, opposition forces including the White Army killed two people in the Church compound. On 19 and 20 February, opposition forces looted both food and non-food items from the Church. Three witnesses report that on 25 February, a group of opposition forces, including the White Army, picked out young women and sexually assaulted them. Hundreds of IDPs were extracted from the Church by UNMISS and taken to the UNMISS PoC site for protection.

### *Malakal Teaching Hospital*

167. The Malakal Teaching Hospital is the major hospital in Upper Nile State and is located in the Jalaba area at the centre of Malakal town. When the crisis erupted, many people sought refuge at the Hospital, believing in the safety of the facility. Numbers of IDPs at the Hospital were fluid, with people constantly moving in and out. On 3 January, the HRD conducted a monitoring visit to the Hospital, and were told that both water and electricity had been cut. The HRD saw the SSNPS screening people at the entrance for arms and ammunition. On 26 January, the HRD conducted another assessment and was informed that approximately 3,000 people had sought shelter at the Hospital.

168. Early on the morning of 18 February, Malakal was the scene of heavy fighting, with automatic weapons firing, explosions, and high-intensity shelling occurring in many locations around town. People ran to seek shelter; approximately 1,000 to 2,000 fled to the UNMISS Malakal PoC s

169. ite, while others went elsewhere, including to the Malakal Teaching Hospital. Reliable sources indicated that opposition forces attacked the Hospital at least twice, although there is information to suggest that they attacked it more than two times.

170. On the morning of 18 February, opposition forces entered the Hospital, reportedly armed with guns, pangas, and spears. Several witnesses reported that they had red cloth tied around their heads. The soldiers forcefully took money, phones, and other valuables from patients and medical personnel. Often those who did not have valuables were beaten; others were shot. There is information that opposition forces targeted individuals from the Dinka and Shilluk communities. There is some indication that all Nuer patients were separated out or allowed to leave before the killings began.

171. One woman reported that soldiers shot and killed her young son as he was sleeping next to her. Another woman reported seeing two young men shot. One witness stated that he and three others were told to lie down and were shot; he was shot in the chest but managed to survive while the others died. Another witness saw a Dinka woman and Shilluk boy taken from the Hospital and killed. Another witness saw her five brothers killed by perpetrators whom she identified as former police officers. Another source saw five people killed, including a relative. One witness saw seven people killed, including two children. One witness reported that many young girls were abducted.

172. According to a source, the Hospital was heavily looted, including hospital equipment, mattresses, vehicles belonging to the Hospital, an ambulance, and the drugs from the pharmacy. Parts of the Hospital were burned.

173. Opposition forces returned on 19 February, again demanding money and valuables from patients, and killing several. One source reported that the perpetrators included youth between 12 and 17 years old. One witness indicates that remaining items were looted, including clothing and medicines. One witness saw an elderly Shilluk man killed because he could not hand any valuables over; another witness saw a young girl being beaten for the same reason. Another witness saw ten people killed, all Shilluk and Dinka. Reportedly, women were forced to carry looted items out of the Hospital. Two witnesses reported that those remaining were told by opposition forces to leave the Hospital that evening because Nuer opposition forces would return and kill anyone left.

174. UNMISS integrated team missions, including HRD personnel, visited the Malakal Teaching Hospital on 22, 23, 25, and 26 February when security conditions permitted. Several dead bodies, approximately 15, were visible outside and within the Hospital compounds, and many more decomposing inside the wards. Due to a lack of personnel, dead bodies remained in the wards with the sick and elderly who were unable to leave on their own. There was no food; those who could move were getting water from the river. The HRD received two reports that many dead bodies were thrown into the Nile River. Between 23 and 27 February, UNMISS and other partners extracted over 100 patients and IDPs from the Hospital and brought them to the UNMISS Malakal PoC site. Allegations of sexual violence during the attack on the Hospital were also received, and the HRD is investigating.

## *Attacks on Baliet County*

175. Baliet County is one of 13 counties in Upper Nile State and contains Baliet town and other main payams. Baliet town is located along the Sobat River, which connects South Sudan to the Republic of Ethiopia, and is thus the main river route for business between Upper Nile State and Ethiopia. Baliet town lies between the Counties of Nassir, Malakal, Longochuk, Ulang and, Fashoda and is the main town between Nassir town, believed to be the strong hold of opposition forces, and Malakal. It is thus the main route to Malakal from Nassir and other neighbouring counties. Its strategic location, particularly in terms of access to Malakal, has made Baliet a target of attacks.

176. From approximately 23 December onwards, opposition and Government forces swept back and forth through Baliet County, as they fought for control of Malakal and the rest of Upper Nile State. As they moved through the County, opposition forces left a path of destruction. Hundreds of civilians were reportedly killed, entire villages were destroyed, and livestock, food items, and other personal possessions were looted. It is difficult to estimate the number of displaced. Witnesses report moving from one location to another seeking safety and few were able to reach an IDP camp or PoC site quickly. By 30 March, over 16,000 IDPs were registered at three IDP sites in Melut, to the north of Baliet, with the County Commissioner reporting to UNMISS that a large number of the IDPs are from Baliet County.

177. Baliet County was initially attacked when opposition forces, including the White Army, first advanced on Malakal. Residents who survived this attack and were fit enough, fled to the bush for safety, many crossing the Sobat River from their payams to reach Baliet Town. As many displaced people returned to their payams, they were attacked and forced to flee a second time by opposition forces who had been driven out of Malakal and were on their way back to Nassir between 1 and 2 January.

178. The HRD gathered over 70 witness accounts concerning attacks across the County, which include allegations of serious human rights and humanitarian law violations, including killings. Those who survived the initial attacks were left isolated and without food, water, shelter, or basic medical supplies. Precise dates and locations of attacks were not always clear; witness testimony varied and many were not able to provide precise detail, likely due to the chaotic circumstances and trauma. While some of the testimony could not be verified, due to access constraints, a bleak picture nonetheless emerges of devastation as civilians were killed or fled their homes into the bush.

179. Initial fighting occurred in Adong Payam between 22 and 23 December. Reportedly, opposition forces were mostly Nuer youth from Nassir County, dressed in both civilian and military uniforms, carrying AK-47s. One witness claimed they were hundreds. Most people in the village fled to the bush. Several witnesses reported that many civilians were killed; two witnesses report losing most of their relatives. One witness lost seven brothers, including young boys. Homes were burned.

180. On or about 24 December, opposition forces fought with Government forces in Baliet town. One witness described the opposition forces as mostly Nuer youth, dressed in both military and civilian clothing, carrying AK-47s. People ran to the nearby forest for safety. One witness saw opposition forces kill his brother and said that all of his surviving family members and neighbours hid in the bush for approximately one week. One witness reported that many people died from thirst while hiding. Another witness reported seeing 10 people, including children, killed in front of her.

181. Two sources report that on or about 24 December, individuals in SPLA uniforms speaking Nuer attacked Banglai Boma in Nyongliar Payam after the SPLA withdrew. The attackers reportedly killed people at random, with one witness reportedly seeing 40 dead bodies including women and children. The assailants also reportedly looted private property, including cows.

182. Opposition forces attacked Abwong Payam twice, with the first attack between 24 and 31 December. One witness stated that opposition forces surrounded the entire village and started shooting randomly. Another witness fled to the forest while his livestock were looted and his home burned. Those who could not make it to the forest, such as the elderly and sick, were killed. A source reported that 192 individuals were killed, while another reports that 80 were killed and 4,500 cattle were looted.

183. On or about 31 December, opposition forces reportedly from Nassir, Ulang, and Longochuk Counties attacked SPLA forces in Adong Payam. Government forces withdrew to Baliet. People ran into the forest but those who could not, including the elderly and sick, were left behind and killed.

184. Several witnesses reported that Abwong Payam was again attacked in early January, around 1 or 2 January. One witness reported that opposition forces came in the middle of the night and started shooting at people in their sleep. People were rounded up, asked what tribe they belonged to and whether they supported President Kiir or Mr. Machar; if they were Dinka, they were reportedly killed on the spot. One witness stated that everyone was running away, and his four adult children were killed. Another witness reported that many people tried to cross the river to Baliet town; those that could not cross were killed, while those that made it to Baliet town found that there was no one there, only dead bodies.

185. Opposition forces reportedly then proceeded to Baliet town, where they allegedly indiscriminately opened fire on people fleeing for safety. People ran in all directions; many to the bush and some, especially the elderly, to the Presbyterian Church. Those who could not run were left behind. According to a witness interviewed by UNMISS, as a family was fleeing, one woman lost her children in the chaos, and has not been able to find them since. Another witness was found in her home with her children; as she tried to run, she could only grab the hands of two of her children. She saw the others shot, one by one.

186. One witness, having run to the forest after the first attack on Baliet town, returned seven days later to find soldiers again storming the town. She ran once again. Similarly, another witness tried to return to Baliet town around 1 January, thinking the fighting was over. As she tried to cross the river, opposition soldiers shot at her. She reported that, every morning, soldiers would come to the forest and conduct a search, “killing those they found”. When she was found, opposition soldiers “showed her mercy” because she was with a small child.

187. Several witnesses reported that many people hiding in the bush, especially small children, died from thirst. One witness reported that she ran to the river to hide in the dry grass. Opposition forces set fire to the area, and as people fled, they were shot. Some survived by hiding in the river. The witness reported that when she returned to Baliet after its re-capture by the Government, she saw at least 70 bodies in town.

188. One witness reported seeing 13 people, including children, killed by opposition forces as they were running away. Another witness reported that, after spending a few days in the forest, he was “shocked” to see many bodies lying on the streets and in the Church. He decided to leave town with other

IDPs to save his life. Another witness reported that, after hiding in the bush, people were “desperate” to leave. As they were trying to return to Baliet by boat across the river, there was a panic and the witnesses’ mother was killed.

189. Another witness reported that he ran from Baliet town when he heard that opposition forces were coming. When he reached Rian Nom Payam, he was surprised to meet Nuer soldiers who “shot randomly and killed many people”. He ran to Malakal, then to Akokoa, later to Paloich, and finally to Melut.

190. On approximately 10 January, opposition forces pushed Government forces to Adong Payam. Heavy fighting ensued, with artillery and tanks. People ran to the bush. A witness reported that the attackers were armed with machine guns, spears, and machetes. One source reported that opposition forces pursued them, opening fire. He saw nine bodies in the bush.

191. On 28 January, Government SPLA forces re-captured Baliet. One source reports that a Government assessment team counted 370 bodies in civilian dress when they surveyed the extent of damage to Baliet County. Fighting continued in the County through February.<sup>12</sup>

## Unity State

192. By 16 December, hostilities had spread to oil producing Unity State. Initially characterized by fighting within SPLA barracks, by 18 December these incidents spilled over to have serious effects on the civilian population. On 21 December, the Commander of the SPLA 4<sup>th</sup> Division, along with most of his personnel, defected to the opposition and declared himself Caretaker Governor of the State. Bentiu came under opposition control that same day.

193. In the subsequent weeks, fighting centred on Bentiu town, as well as Pariang and Mayom Counties. In the fight for Mayom, the SSLA, whose allegiance had been unclear, joined the SPLA. On 8 January, Government forces comprised of the SPLA, SSNPS, NPSSS, Wildlife Service, and JEM made a significant advance towards Bentiu, taking the town on 10 January.

194. The entry into force of the Cessation of Hostilities Agreement on 24 January had little impact on the military operations in Unity State. By 25 January, Government forces controlled the northern counties, while the opposition controlled the southern counties. The situation stabilized from early February, with Government forces controlling the vast majority of the State and Government officials beginning to return on 9 February. However, opposition forces once again attacked on 15 April and have taken control of Bentiu and the Unity Oil Field.

195. Civilians bore the brunt of the fight for Unity state. By 17 April, over 236,000 civilians were displaced in Unity State and by 22 April, over 22,500 civilians were seeking protection in the UNMISS PoC site in Bentiu. There has been widespread killing, ill-treatment, destruction of property, and looting in Rubkona, Bentiu, and the southern counties. The following section provides an overview of violations committed in SPLA barracks as well as a description of the targeting of civilians in various locations around the State as the parties to the conflict fought for control.

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<sup>12</sup> Human Rights Officers also received reports of attacks on Kokpiet Payam; Patany Payam; Wun-Nyok Payam; Nyok Kuoch Payam; and Dudi Payam during this period. Opposition forces then proceeded to attack Malakal, which they captured on 14 January.

## *Barracks incidents*

196. On 17 December, shooting occurred between two factions of the SPLA at the Hufra Military Barracks in Pariang County, north of the state capital Bentiu. By 21 December, incidents had taken place within eleven other SPLA barracks across the State. The HRD has interviewed soldiers from all of these barracks and visited Khaljak and Lalob barracks at the invitation of the SPLA.

197. Many interviewees reported attempts by Nuer soldiers to disarm Dinka soldiers at the barracks, although this did not occur in all instances. One interviewee reported that his unit did not comply, having received instructions not to disarm directly from a senior officer in Juba. In other cases, soldiers refused to disarm and engaged in fighting with Nuer SPLA in the barracks. In one instance, witnesses reported that a senior officer protected them by enabling them to reach an UNMISS PoC Site.

198. The total numbers of SPLA killed in these incidents remains unclear. The HRD has obtained lists which contain the names and ethnicities of those allegedly killed in several of these incidents. For instance, one list received from the SPLA enumerates 85 SPLA killed (all Dinka) in the 4<sup>th</sup> Division Headquarters, Rubkona County; while another lists 32 SPLA killed (19 Dinka, six Bari, one Luo, one Lotuka, one Shilluk, one Mundari, two Azande, one Peri) in the Tank Unit, 4<sup>th</sup> Division Headquarters, Rubkona County.

199. When soldiers surrendered their weapons or were disarmed, they are *hors de combat* and no longer a legitimate military target. It is also typical for family members and other civilians to live with soldiers in SPLA barracks. The HRD has therefore focused on cases where civilians were caught up in fighting within barracks, and on two cases where the fighting spread beyond the barracks to the surrounding civilian populations.

200. Khaljak Barracks reportedly housed primarily wounded SPLA soldiers and those with disabilities. Nuer SPLA along with Nuer civilians entered Khaljak Barracks and began shooting on 19 December, allegedly with the aim of targeting non-Nuer individuals. A letter from the SPLA alleges that 29 individuals, including one or two women and several children, were killed in the incident, but the HRD could not verify this information. A witness claimed to have witnessed the deaths of 28 Dinka SPLA soldiers, two Dinka women, and one Shilluk woman. After a delay due to security restrictions and UNMAS clearance, the HRD visited the area on 1 April and observed at least 12 skulls, with two possibly belonging to children, and the remains of a human body, as well as remnants of both military and civilian clothing.

201. At Lalob Barracks, one witness reported that on December, Nuer soldiers began firing at Dinka soldiers who were caught by surprise and did not return fire. At least five Dinka soldiers were allegedly killed. Approximately 70 surviving Dinka soldiers were then detained for two days with their hands tied behind their backs. On 22 December, the Dinka soldiers were transported to UNMISS, ostensibly for protection, with an escort composed of Nuer soldiers. During the journey, the escort stopped the convoy and Nuer soldiers from Military Intelligence selected six individuals from the group of Dinka soldiers and shot them. The remaining soldiers reached UNMISS.

202. The HRD was shown four alleged mass graves at Lalob Barracks during a site assessment on 18 February. The alleged graves appeared to have been excavated recently and, in one case, a mound of earth was visible, which according to local custom is considered as a sign of a traditional grave. The entire

camp appeared to have been burnt, and a significant presence of unexploded ordnance was observed. Further analysis is required to confirm or refute the presence of mass graves at the site.

203. The HRD received and investigated similar allegations of disarmament and shooting at the Thomas House barracks on approximately 21 December. One witness reported that she was in her tukul when the shooting started. Her one year old son was killed, probably by a stray bullet. One witness alleged that 38 soldiers were killed at the barracks. As the area had not been declared cleared of unexploded ordnance, the HRD has not been able to visit.

### *Unity SPLA Barracks, GPOC, and Unity Village*

204. Violence began in Unity barracks, the Headquarters of the 23<sup>rd</sup> Brigade, on 18 December. At approximately 22:00, many of the soldiers were sleeping when shooting erupted. One witness reported that as Dinka soldiers ran out of their rooms, they were surrounded by Nuer soldiers and told not to move. Those who tried to escape were reportedly shot. The witness saw at least seven dead bodies, including that of a one year old child, and claimed that many other people were killed. Another source indicated that 30 soldiers were killed in the shooting, as well as an undetermined number of civilians. The HRD has obtained a list of those killed which includes 30 names, 29 of them of Dinka ethnicity.

205. The same night, and into 19 December, unrest spread to the nearby oil field, the Greater Pioneer Operation Company (GPOC) compound, about half a kilometre away from the Unity barracks. According to two witnesses, around 23:00 hours, Nuer workers organized themselves inside the compound and attacked non-Nuer workers, targeting Dinkas and foreigners. One witness reported there were about 40 Nuer workers in this group of attackers. Two witnesses reported that SSNPS officers called Nuer civilians from the nearby village to join the attack. Dinka policemen had reportedly already been chased away or killed. The group of civilians and SSNPS started looting.

206. Witness reports indicated that killings were carried out mainly with spears and pangas, although guns were also used. One witness reported that five workers were killed and another reported that ten or eleven Dinka SSNPS were killed. Another reported that a worker from Equatoria received a gunshot injury and later died in the Bentiu Hospital. One witness reported that the oil workers managed to contact a Government official for assistance and that Government officials arrived, gathered the surviving Dinka and other non-Nuer in one place, and ordered some SPLA to guard them.

207. After the attacks at the barracks and the GPOC compound, a mixed group of armed individuals, including defected SPLA, police and civilians, reportedly went to Unity village. The village is located just outside of the GPOC compound, with many Dinka oil company workers and family members of Dinka soldiers living there. One witness reported that Nuer soldiers and civilians surrounded the village, reportedly looking for Dinkas, and killed at least two civilians, including one unarmed oil worker who was shot in the back while he was trying to run away and another man who was reportedly shot dead in his tukul by a civilian and an SPLA member. Several witnesses reported that people were so scared that they left their homes and went to the GPOC compound for protection.

208. Several witnesses reported that those Dinkas who managed to escape from Unity village were brought by a senior SPLA officer to the GPOC compound for protection. One witness reported that his wife and young daughter were killed by a Nuer SPLA soldier who was guarding the group as they went

into a bush to relieve themselves. Later on 19 December, the surviving group was transported to the UNMISS PoC site. A witness stated that 105 people were rescued.

209. All witness accounts indicated that the perpetrators of the incidents at Unity barracks, GPOC, and Unity village were Nuer.

210. The HRD visited the Unity barracks and GPOC compound on 11 February, after the clearance of unexploded ordnance. At the Unity barracks, the HRD inspected a site where the SPLA alleged that at least 70 bodies of Dinka soldiers and civilians were buried after the 18 December incidents in the Unity barracks and GPOC compound. The site appeared to have been excavated within the previous weeks and a small piece of bone was observed on the site. However, it was not possible to confirm whether the bone was human or to determine any connection between this element and the events, or to confirm the presence of a mass grave.

211. At the GPOC compound, the HRD observed that the entire compound had been looted and destroyed. Several sections of the compound had floors stained with large patches of blood and blood stained cloths. The HRD also observed a site where witnesses alleged that at least 15 bodies of civilians working with the GPOC were burnt, with inconclusive results.

#### *4th Division barracks, Rubkona town, Bentiu town*

212. Sources reported that, by 18 December, Nuer and non-Nuer soldiers at the SPLA Division Headquarters and barracks in Rubkona had begun to ‘separate themselves’ along ethnic lines and some Dinka and other non-Nuer soldiers were requested to disarm. Some sources claimed that the order to disarm came from superior officers, while an SPLA officer claims it happened at the unit level. Many soldiers did not comply. According to a dozen interviews, shooting reportedly followed at around 18:00 on 19 December.

213. The ensuing shootings reportedly resulted in several deaths. According to one account, soldiers as well as some civilians were killed, including family members of SPLA living at the barracks. SPLA sources claim that more than 100 soldiers from the predominantly-Dinka artillery and tank units were killed. At least one source reported that at around the same time as the shooting started, at least one detainee in the military prison was removed from a cell and shot dead.

214. The HRD went to the barracks on 28 January and was shown three areas by SPLA sources where soldiers are alleged to have been buried. Although there was evidence which support the assertions that killings took place at the sites, the identity of the perpetrators and victims, and the circumstances of the deaths, could not be clarified from the evidence examined.

215. On 19 and 20 December, the violence spread to Rubkona town. The HRD received numerous reports of arbitrary killing, sexual violence, and looting and destruction of property in Bentiu and nearby Rubkona on those dates.

216. Many witnesses reported incidents of killing and looting in Bentiu on the night of 19 December, between approximately 18:30 and midnight. In three of the reports, SSNPS officers allegedly entered houses, sometimes stole valuables, and shot and killed one or more civilians or unarmed SSNPS officers

while wounding others. In several instances, the alleged perpetrators were of Nuer ethnicity, the alleged victims of Dinka ethnicity.

217. Eight witnesses reported killings of civilians or members of the SPLA, caught unaware or hiding, in Rubkona on 19 December between 18:00 and midnight. The perpetrators were often identified as members of SPLA, but in many cases were referred to as “Nuer SPLA.” In one incident, on the evening of 19 December, four soldiers (three Dinka and one from Equatoria), reportedly arrived at a private home seeking to hide. Shortly thereafter, a group of Nuer SPLA arrived, accusing the residents of hiding Dinka soldiers. The Nuer SPLA found the hiding soldiers and shot them. After a scuffle, they also shot and wounded a resident of the home. Several other witnesses reported killing and looting by SPLA, SSNPS, and other security forces.

218. Another witness reported that he saw Nuer members of the SSNPS, prison service, and wildlife service in a group of approximately 20 with civilians carrying spears and pangas in a market near Rubkona. The group went from door to door, asking residents if they were Dinka and were shooting at people and looting property.

219. The HRD received at least three further reports of separate incidents in Rubkona on 20 December. All involved alleged shootings or killings by what witnesses referred to as “Nuer SPLA”. On 22 December, UNMISS observed the presence of around 30 dead bodies in Rubkona Market and elsewhere, although it could not be confirmed if these individuals were civilians.

### *Targeting of Dinkas in Tharjath*

220. A number of incidents reportedly occurred in Tarijath, which is located about 70 kilometres from Bentiu. Two witnesses reported that on the morning of 19 December, SSNPS officers at the Tarijath police Headquarters were asked to disarm. A few hours later, Nuer SSNPS retrieved their guns, while preventing Dinka SSNPS from getting theirs. The Nuer SSNPS reportedly shot their Dinka colleagues, killing three.

221. Four witnesses report that, on either 17 or 19 December, a Kush Air flight to Juba from Tharjath airport was cancelled. While the 50 or 60 passengers were waiting to return to Bentiu, the Dinka passengers were reportedly instructed by the Kush Air manager to board a military pickup. They were driven away to an unknown location. One witness reported that when she called one of the passengers who had been taken away, an unknown person answered the passenger’s cell phone and informed her that the passenger had been killed. The remaining passengers then travelled by bus back to Bentiu. On their way, the bus was stopped by security forces, reportedly comprising the NPSSS, SSNPS, and the Wildlife Service, who ordered them off the bus in order to identify any Dinka.

### *Pariyang Police Shooting, 19 December*

222. Two witnesses report that on 19 December, Nuer police officers in Yida market were shot by Dinka civilians, leaving one Nuer police officer wounded. The Nuer officers were subsequently taken to Pariyang so that onwards transport to the UNMISS base could be arranged. Pariyang is predominantly Dinka. While the 24 Nuer police officers waited there, one witness reports that an armed group started shooting at them. Two witnesses report that the perpetrators were from the SSNPS, NSS, and Wildlife Service; one of these witnesses indicates that civilians were involved. One witness reports that some of

the Nuer police returned fire. Both witnesses independently report that six Nuer police officers were killed.

### *Government forces' advance to Bentiu and Rubkona*

223. During the first week of January, Government forces comprising of the SPLA, the SSLA, and JEM began an advance to retake control of Bentiu, Rubkona, and other area. By 10 January, Government forces entered Rubkona.

224. Several sources reported that as opposition forces retreated south, between approximately 7 and 9 January, they looted homes and stores. Civilians also fled, and some reportedly joined opposition forces in looting. The WFP's premises were completely looted, and cars of some United Nations agencies were forcibly seized. Several sources reported that vehicles belonging to INGOs were looted, with some apparently given to local officials.

225. As Government forces arrived, multiple incidents of killings, shooting, ill-treatment, looting, and destruction of property occurred. In search of protection, most civilians of Nuer origin fled to the UNMISS PoC site or south. Ten interviewees reported that 31 individuals were killed while fleeing or after failing a language test to reveal their ethnicity. Most victims were Nuer men. Witnesses reported being able to survive attacks because they were able to speak Dinka, or were with someone who could. In one case, a man returned home to find that his two wives and three of his children had been killed and that two of his three surviving children had been shot in the legs.

226. There were at least 10 separate incidents of bodily harm from shooting by groups of armed personnel. The perpetrators were reportedly mainly Dinka SPLA forces, but included JEM and armed men in civilian clothing. The victims were mainly Nuer civilians, but Darfurians were also among the victims. In other cases, Dinka soldiers and JEM elements reportedly demanded money and mobile phones from victims, who were shot or attacked with machetes if the demand was refused. Two sources reported burning of civilian property by Government forces including JEM on 11 and 12 January.

227. On 10 January, Human Rights Officers witnessed SPLA elements shooting at civilians, killing one man outside the UNMISS base. Human Rights Officers also observed Government forces stopping a car on the way to the UNMISS PoC site. When at least two passengers tried to run away, they were shot at and appeared to have died. Human Rights Officers could not leave the UNMISS base to verify, due to insecurity. That same day, the HRD observed more than 20 dead bodies in Bentiu and Rubkona. Many were evidently civilians, including a child. Some bodies had their hands tied behind their backs.

228. Human Rights Officers and other UNMISS personnel saw some male Dinka IDPs break down the barrier of the UNMISS PoC site and leave the camp when Government forces arrived in Rubkona. Some were given weapons outside the camp. Together, they began looting tukuls on the main road, destroying civilian property, and attacking civilians.

229. UNOSAT satellite imagery taken on 13 and 18 January of Rubkona and Bentiu, respectively, shows evidence of destruction of civilian property. In Rubkona, UNOSAT determined that the majority of the town has been destroyed, primarily by fire, with a total of 3,996 burned or otherwise destroyed

structures identified. Indications of looting, consisting of debris piles, were evident in multiple locations.<sup>13</sup> In Bentiu, almost 1,200 destroyed structures were identified and primarily affected homes and related structures. UNOSAT estimates that about eight percent of structures in Bentiu have been destroyed.<sup>14</sup>

### *Guit County*

230. As rumours of an imminent attack on Rubkona and Bentiu by Government forces spread between 7 and 9 January, many Nuer civilians fled in search of protection to the UNMISS PoC site in Rubkona as well as to villages in nearby Guit County and southern Unity State. Guit County lies to the east of Bentiu. Many people spent one to two months hiding in small villages in Guit and other counties, sometimes moving as Government forces were advancing in search of opposition forces.

231. Many civilians indicated that they eventually decided or were forced to return to Bentiu and Rubkona due to the conditions they faced while displaced, including a lack of food, shelter, and medical care. A number of witnesses indicated that while civilians were fleeing from one village to another to escape the fighting, they saw civilians – including women, pregnant women, the elderly, and children – die of hunger, thirst, disease and, in one case, an untended wound.

232. One witness reported that after the arrival of Government forces in Bentiu and Rubkona on 10 January, she fled with her family to Guit County. She stayed in the bushes in Tharip along with 80 to 90 other individuals of Nuer ethnicity, including students, women, and children. About one week after Guit was captured, SPLA soldiers found them in the bush, surrounded them, pointed their guns at them, and demanded that they give their belongings. After they did so, the SPLA soldiers reportedly forcefully transported the entire group back to Bentiu. Two boys between 14 and 15 years old were taken by the SPLA soldiers and their whereabouts are unknown.

233. Many witnesses reported that they returned to Bentiu and Rubkona to find their houses or neighbourhoods burnt. The majority of destruction appears to have taken place in Rubkona, which the SPLA passed through on their approach to Bentiu, reportedly causing extensive damage on the way.

### *Leer Town and County*

234. By the evening of 19 January, Government forces had reportedly arrived in Leer County – the home county of Mr. Machar – and civilians were being advised to leave. On 20 January, shooting was reportedly heard throughout the day around Leer town. One source reports that this was the result of Nuer armed elements shooting as a warning that Government forces, allegedly composed of SPLA, SSLA, and JEM, were approaching Leer. Many civilians began to leave Leer town for outlying payams.

235. Between 19 and 21 January, destruction and looting were reportedly carried out in Leer town. One source alleged that this was carried out by Nuer civilians and police officers, targeting stores belonging to foreign nationals such as Darfurians. On 21 January, the compound of an international NGO was reportedly looted by opposition forces who, according to one source, used military tanks. Two of the NGOs' vehicles were reportedly stolen. One witness indicated that, by 26 January, all NGO compounds within Leer town had been looted. Shelling into the town was reported before the arrival of Government forces.

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<sup>13</sup> UNOSAT: <http://www.unitar.org/unosat/node/44/1915>.

<sup>14</sup> UNOSAT: <http://www.unitar.org/unosat/node/44/1919>.

236. Witness testimonies differ widely as to the exact date when Government forces entered Leer town, ranging from 20 January according to one witness and 30 January according to another. The testimonies reflect an escalation of fighting when Government forces entered the town. One witness reported that as soon as Government forces arrived in Leer town and the surrounding payams, they started burning and shooting indiscriminately. Another witness stated that Government forces caused massive destruction in Leer town, with only two churches left unburned.

237. By this time, most civilians had fled along with opposition forces, mainly to Gandor, Ger, and Tiep bomas in Juong Kang Payam; Ger boma in Thonyor Payam; and Guat Payam. According to several testimonies, Government forces followed civilians into the bush in pursuit of the opposition forces who had run along with civilians. Several sources reported that approximately 20 vehicles were looted from humanitarian NGOs.

238. The HRD has not yet been able to visit Leer town due to insecurity. UNMISS has twice tried to access the area but, upon arrival, was not permitted to remain by local SPLA.

239. UNOSAT satellite imagery taken on 2 February shows extensive destruction to Leer town, including tukuls, other residential structures, and commercial structures. Analysis indicates that a large portion of the town has been destroyed, primarily by fire. The imagery shows active structural fires and smoke as at 2 February, as well as evidence of looting.<sup>15</sup>

### *Opposition Forces' Attack on Bentiu, 15 April*

240. On 15 April, opposition forces overran Bentiu town and nearby Rubkona which had been under Government control since 10 January. Allegations have been received that hundreds of civilians were killed subsequently, notably in the mosque, the Hospital, the Kalibalik market and its surroundings, and in Rubkona, especially towards the SPLA Headquarters. Multiple bodies were observed by UNMISS in these areas. Investigations into all of these allegations continue.

241. Since February, many foreign traders had been sleeping in the mosque as it was considered safer than the market place. The mosque is located in the Kalibalik area of Bentiu and is home to many foreign nationals. On 14 April, hearing that opposition forces were about to attack Bentiu, many foreign traders attempted to reach the UNMISS PoC site. Witnesses interviewed by the HRD reported that they were stopped by SPLA stationed at the bridge, apparently on the instructions of high-ranking officials from the State administration. As a result, the traders were obliged to return to the Kalibalik area.

242. On 15 April, opposition forces attacked Bentiu from the north as well as the south-east. Several units, with a decentralized chain of command, entered town. UNMISS peacekeepers who patrolled Bentiu in the late morning saw thousands of IDPs gathered in the vicinity of the Hospital and the WFP compound, as well as an estimated 35 to 40 bodies along the roadside leading to the Hospital compound, some of whom were in military uniform.

243. Opposition forces attacked and killed several hundred civilians at the mosque on 15 April. Information gathered to date suggested that killings at the mosque occurred in several steps. Around mid-morning, about 20 to 25 opposition soldiers accompanied by armed civilian entered the mosque compound and began shooting at civilians who were in the mosque yard. At least two civilians were

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<sup>15</sup> UNOSAT: <http://www.unitar.org/unosat/node/44/1929>.

killed and one was injured. People inside the mosque then locked the doors from the inside. Opposition forces broke the windows and demanded money and mobile phones; out of fear, the people inside opened the doors to let them in. After several minutes, opposition forces reportedly left the mosque without further incident. However, shooting were reported from the market area and therefore those sheltering inside the mosque decided to stay.

244. A second group of opposition forces reportedly arrived at the mosque around mid-day. After extorting money and other belongings from civilians, some of the opposition forces began shooting into the crowd inside the mosque. Multiple shooters were identified by witnesses, including one with a machine gun and one with an AK-47; both shot at civilians from the steps of the mosque. Other opposition forces reportedly also shot through the windows.

245. After the shooting, opposition forces reportedly recognized some Ethiopian traders amongst the survivors and asked the Ethiopians and Eritreans to identify themselves. Opposition forces then proceeded to escort the Ethiopians and Eritreans out of the mosque. Many Darfurians were then shot. Approximately 20 civilians were killed near the minaret. At that point, most of the opposition forces left the mosque compound.

246. At approximately 15:00, another group of opposition forces arrived at the mosque, including two officers and their bodyguards. They secured the perimeter and told survivors that no further killing would take place. Survivors remained in the mosque until a military truck and two vehicles arrived to transport them to the Hospital, around 20:00. Reportedly, about a dozen male Darfurians were left behind to collect the bodies. That evening, over 200 bodies were reportedly loaded into military trucks and taken to a location about a two hour drive from Bentiu, in the direction of Kaljak. On 16 and 21 April, the HRD visited the mosque and observed corpses, blood stains, and multiple bullet impacts on the interior and exterior walls.

247. At approximately 15:30 on 15 April, Radio Bentiu FM aired messages from opposition force commanders Maj. Gen. James Koang Chuol, Brig. Gen. Michael Makal, and Peter Thot, who called for an end to tribalism. At 16:15, Maj. Gen. Chuol was announced as the Governor of Unity State. Thereafter, an individual alleging to be the SPLM Secretary General of Unity State came on the air and stated, in a mix of Nuer and local Arabic languages, that Dinka SPLA and JEM had raped Nuer women and now their wives were pregnant with Dinka and JEM babies. He called upon young men to meet at the SPLA 4<sup>th</sup> Division Headquarters the next day in order to go to Dinka areas and do what the Dinka did to their wives and girls. Thereafter, another individual who claimed to be the acting Commissioner for Rubkona reiterated the same message and stated that Dinkas are not good people, that people should not stay with them, and advised all Dinkas to leave Bentiu. At approximately 17:30, an individual claiming to be the Commissioner for Guit County stated that he had seen people lying down with tribal marks like those of President Kiir and that those supporting them will sleep like them, presumably referring to Dinka soldiers and civilians.

248. On 16 April, UNMISS extracted approximately 400 civilians from the Hospital and has subsequently extracted about 35 civilians from various locations around Bentiu. On 19 April, the HRD visited the Bentiu Hospital and observed approximately 20 bodies in a pit located behind the Hospital. The HRD was unable to ascertain whether these individuals were killed at the Hospital. Between 20 and

25 April, UNMISS documented the removal of 148 bodies from the Kalibalik area and the Hospital. They were buried in separate graves to facilitate future investigations.

249. On 25 April, the HRD met with a commander of opposition forces. The commander acknowledged that killings took place at the mosque, but claimed that those killed were combatants. He further stated that an opposition soldier allegedly involved in the killing of four Nuer at the Bentiu Hospital had been arrested and is under investigation.

## **Conflict Related Sexual Violence**

250. The conflict has exacerbated the vulnerability of women and children in South Sudan to sexual violence, notably in the most affected States of Central Equatoria, Jonglei, Upper Nile, and Unity. \

251. Within the HRD, a team of Women Protection Advisers led the monitoring of indicators and investigation of reported incidents of conflict-related sexual violence. This team used the OHCHR guidelines for monitoring and investigating gender-based violence, as well as the World Health Organization Guidelines on Researching and Documenting Sexual Violence in Emergencies and the Inter-agency Standing Committee's Guidelines on response to Gender-Based Violence in Humanitarian Settings.

252. Sexual violence is well-known to be under-reported during peacetime; during conflict, obstacles to reporting are even greater. Since 15 December, UNMISS and humanitarian actors have documented the breakdown of healthcare services in conflict-affected States. Hospitals and primary care clinics were attacked in Jonglei, Unity and Upper Nile States, while security forces exerted a strong presence in health care centres that remained operational, such as Juba Teaching Hospital. The ability of survivors of sexual violence to receive services in this environment was severely diminished. Consequently, most incidents of sexual violence could not be reported to health actors, or documented or verified through medical reports. The alleged perpetration of sexual violence by security forces undermined the credibility of these institutions to receive reports of sexual violence. The closure of Government offices and the diversion of police to security operations further prevented reporting to security, judicial, and social welfare actors. Social stigma also prevented reporting. Even when incidents were reported, investigations often could not proceed in order to protect the survivor. While some incidents have been verified, many remain under investigation. Investigation of sexual violence in conflict can take time in order to overcome challenges to reporting and to ensure protection of victim/survivors.

253. All parties to the conflict have committed acts of rape and other forms of sexual violence against women of different ethnic groups. Credible information suggests that sexual violence took place in connection with the occurrence of human rights and humanitarian law violations before, during, and after heavy fighting, shelling, looting, and house searches. Women of nationalities of neighbouring countries were also targeted. The forms of sexual violence used during the conflict include rape, sometimes with an object (guns or bullets), gang-rape, abduction and sexual slavery, and forced abortion. In some instances, women's bodies were mutilated and, in at least one instance, women were forced to go outside of their homes naked.

254. The incidence of sexual violence in Central Equatoria State increased in the days following 15 December. At least 27 incidents were documented, of which 22 incidents were attributed to Government security forces and mainly to the SPLA. These include 14 incidents of rape and gang-rape, one attempted

rape and four cases of sexual slavery. In four other incidents, the alleged perpetrators were not identified. An IDP also raped a woman outside a POC site, reportedly on ethnic grounds. The majority of identified survivors are Nuer women, but at least one act of sexual violence perpetrated against a Dinka woman has been confirmed. For example, in the days following 15 December, Nuer women were stopped in a street of Juba by SPLA soldiers and taken to unknown places. They were then assigned to soldiers who repeatedly raped them. In some instances, survivors were subsequently taken as “wives” by the soldiers. On 16 December, three girls under 18 years old were gang-raped by SPLA soldiers when they broke in their house and found them alone.

255. Eleven incidents of conflict-related sexual violence were reported in Jonglei State. These include five incidents of rape, four incidents of gang rape (one followed by a forced abortion), one attempted rape, one incident of abduction and sexual slavery, and one incident of women abducted and threatened with rape. Alleged victims are Dinka and Nuer. The SPLA was reportedly involved in six of these acts, opposition forces in three, while in two other incidents the perpetrators were not identified.

256. Twenty-one incidents of conflict-related sexual violence were reported in Upper Nile State. These include eleven incidents of rape, two incidents of gang rape, two incidents of attempted rape, two incidents of abduction and sexual slavery, one incident of abduction leading to other forms of sexual violence, one incident of sexual violence and one incident of sexual harassment. Alleged victims include foreign nationals and members of the Shilluk, Nuer, Dinka and Murle ethnic groups. SPLA allegedly perpetrated six of these violations, opposition forces were implicated in nine, one incident was perpetrated by IDPs against an IDP, and in four incidents the perpetrator could not be identified.

257. The capture of women to use as “wives” or sexual slaves was reported in Upper Nile State. For example, two incidents were confirmed of opposition soldiers capturing women and holding them for many days in a house where they were raped. In one of the incidents, the perpetrators stated that they intended the women to be their “wives.” These types of incidents occurred after active fighting had taken place.

258. Twenty-five incidents of conflict-related sexual violence were reported in Unity State, comprising 14 incidents of rape; nine incidents of gang rape; and two incidents of sexual harassment. Victims included foreign nationals, and persons of Nuer and Equatorian ethnicity. Allegations have been received involving all parties to the conflict.

259. On the evening of 20 December, seven foreign women were gang raped in their work places by national security forces in SSNPS and SPLA uniforms. On 16 February, Government forces attacked the Mayendit area during which at least 20 women were reportedly raped by JEM elements, together with some Dinka SPLA soldiers. According to an eye witness, women suffered rape and soldiers urinated into victims’ mouths. Some women subsequently died and others were left in critical health condition. In another incident, three boys were allegedly raped by JEM. The youngest one reportedly died as a result of the rape.

260. Multiple incidents of rape and gang rape by JEM were reported in Leer County. When opposition forces recaptured Bentiu town on 15 April, some foreign women who were fleeing the attacks on the Hospital and mosque were allegedly sexually assaulted while being subjected to physical searches by opposition forces. After assaulting them, the soldiers stole any money and personal belongings they found on them.

## **Violations Against Individuals Seeking Protection at UNMISS Protection of Civilians Sites**

261. Within the first four weeks of the crisis, almost 500,000 persons were displaced within South Sudan and around 74,300 people had crossed into neighbouring countries. Many of the displaced fled into PoC sites in UNMISS bases, namely, Tomping and UN House in Juba, Central Equatoria state; Bor, Jonglei State; Malakal and Melut, Upper Nile State; Bentiu and Pariang, Unity State; and Rumbek, Lakes State. By 22 April, an estimated 78,477 IDPs were being protected in UNMISS PoC sites.

262. This is the first instance of any United Nations mission providing protection to civilians facing imminent threat of physical violence on this scale or for this length of time. In addition to physical protection, UNMISS has also worked, in coordination with humanitarian partners, to ensure that humanitarian and other protection assistance has reached these IDPs.

263. However, UNMISS continues to receive reports that, when leaving PoC sites, IDPs have been subjected to ill-treatment, sexually assaulted, arbitrarily detained, or even killed. As UNMISS' peacekeepers have been limited in number, their tasks of protecting the PoC sites, externally and internally, has constrained their ability to protect individuals in the vicinity of the PoC site. While it was often difficult for the HRD to confirm each individual report received, the number of reports received and their consistent nature indicates that the pattern of targeting is credible and that individuals seeking protection continue to be at risk of imminent threat of physical violence should they attempt to return home.

264. In Jonglei State, for instance, the HRD has received multiple reports that IDPs who left the UNMISS Bor PoC site were attacked and, in some cases, killed. Such allegations increased when the Government re-captured Bor town, from 24 to 30 December, and spiked again in March. Community leaders produced a list of 33 individuals who were staying in the PoC site and were allegedly killed in the vicinity of the site during this period. Multiple similar incidents were reported in Juba. For instance, a Nuer man reported that, on 20 January, when he left a PoC site to check on his home which had reportedly been looted, he was caught by a group of SPLA soldiers in uniform, speaking in the Dinka language, who told him that he should not have tried to go back to his house. The soldiers subsequently assaulted him. In Unity State, a report was received that, on 30 and 31 January, multiple Nuer individuals were arbitrarily detained by Government forces outside the UNMISS PoC site in Rubkona.

## **VI. Findings and Legal Responsibility**

265. As outlined above, countless incidents of gross violations of human rights and serious violations of humanitarian law have occurred during the conflict in South Sudan. These include extrajudicial killings, enforced disappearances, rape, the direct targeting of civilians, often along ethnic lines, as well as ill-treatment and the destruction of property. These are crimes for which perpetrators bear individual criminal responsibility.

266. There are reasonable grounds to believe that both parties to the conflict have perpetrated violations. UNMISS has frequently raised concerns about the conduct of hostilities with the highest levels of Government as well as the leadership of the opposition. Although there has been some acknowledgement of responsibility at different levels, there have also been many claims that soldiers

were not following orders or that commanders had lost control of troops. Such claims must be interrogated. It is clear in many cases that military operations were planned and that command and control was in place. Military objectives were often announced – and therefore clearly devised – in advance, and troops were deployed to achieve those objectives. This is true not only of Government forces, but also of opposition forces. Notably, Mr. Machar has informed UNMISS that the White Army is under his command and control. As such, responsibility for violations lies with commanders as well as with individual soldiers.

267. Below are some, but not all, of the gross violations of human rights and serious violations of international humanitarian law that there are reasonable grounds to believe have been committed by both parties to the conflict. As noted above, such a determination does not rise to the standard of proof required in criminal proceedings, but rather calls for further investigations into the incident or pattern of conduct in question.

### *Targeted attacks against civilians*

268. Civilians not directly taking part in hostilities are not a legitimate target of attack. At all times, the parties to a conflict must distinguish between civilians and combatants. Intentionally directing attacks against the civilian population as such, or against individual civilians not taking direct part in hostilities is a war crime in non-international armed conflicts. In the conduct of military operations, due care must be taken to spare the civilian population, civilians, and civilian objects.<sup>16</sup>

269. There is ample information to indicate that civilians have been frequently attacked during the conflict in South Sudan, both as direct targets of attack and as the victims of indiscriminate attacks. The civilians targeted were not taking part in the hostilities. Rather, they were often deliberately targeted on the basis of their ethnicity, as the killings of civilian Nuer men in Juba or the targeting of Dinka in Bor and Malakal demonstrate. Further, attacks were often directed against towns and villages which offered no military advantage. In major towns – Bor and Malakal being the most serious – fighting took place through civilian areas with no attempt to spare the civilian population. Rural areas, such as Balia County, also saw fierce fighting directly in and through villages. Further, as this report shows, armed elements frequently entered not only villages but also individual tukuls specifically to target civilians, including the most vulnerable civilians who had been unable to flee.<sup>17</sup>

270. UNMISS therefore finds that there are reasonable grounds to believe that targeted attacks against civilians have been committed by both parties to the conflict.<sup>18</sup>

### *Violence aimed at spreading terror among the civilian population*

271. Acts or threats of violence the primary purpose of which is to spread terror among the civilian population are prohibited in non-international armed conflicts. Examples of prohibited acts include indiscriminate and widespread shelling; assault, rape, abuse, and torture of women and children; and mass killing.

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<sup>16</sup> See Article 13, Additional Protocol II to the Geneva Conventions.

<sup>17</sup> See Article 3, Universal Declaration of Human Rights; Common Article 3(a), Geneva Conventions; Rules 1 and 7, International Committee of the Red Cross, Customary International Humanitarian Law, vol. 1: Rules (2009).

<sup>18</sup> See Article 8(2)(e)(i), Rome Statute; Common Article 3(a), Geneva Conventions; Article 13, Additional Protocol II to the Geneva Conventions; Rule 1, International Committee of the Red Cross, Customary International Humanitarian Law, vol. 1: Rules (2009).

272. Commencing on the evening of 15 December, organized groups of Government security forces, primarily the SPLA, targeted predominantly Nuer neighbourhoods in Juba. Witness after witness recounted horror as they watched security forces enter their communities, sometimes in tanks and with heavy weaponry, and round up their relatives and neighbours. In some cases, victims were killed immediately; in others, they were taken to other locations and killed. This pattern spread widely throughout Juba, with similar tactics seen in various neighbourhoods, suggesting organization and planning. The lasting fear borne from these early events in Juba is evidenced by the 32,000 people that remain in UNMISS PoC sites in Juba as of 22 April.

273. Opposition forces have engaged in similar tactics. When opposition forces entered major population centres, such as Bor and Malakal, they targeted civilians and engaged in wholesale destruction. As described above, when Bor fell to opposition forces for the second time, on 31 December, any Dinka civilians who remained in town risked death and the market was destroyed and burned to the ground. House-to-house searches by opposition forces were reported in Malakal. Moreover, opposition forces were often not content with controlling towns or villages, they deliberately pursued civilians into rural areas as they attempted to flee the onslaught in town. The fear of returning to major towns was so great that, according to several witnesses, many people died of thirst while hiding in the bush. The brutal acts undertaken by opposition forces as they attacked towns and villages and their relentless pursuit of civilians into the bush suggests that such attacks were undertaken at least in part in order to terrorize the civilian population.

274. With regard to the crime of spreading terror among the civilian population, UNMISS finds that the pattern of the conflict shows that there are reasonable grounds to believe that violence was committed by both Government and opposition forces with the primary purpose of spreading terror among the civilian population and that related war crimes were committed.<sup>19</sup>

### *Destruction of property*

275. Attacks on civilian objects are prohibited, as are attacks which are not directed at a specific military objective. Pillaging a town or place amounts to a war crime. The same applies to destroying or seizing the property of an adversary unless such destruction or seizure be imperatively demanded by the necessities of the conflict.

276. As described above, witnesses indicate that, in all locations where fighting occurred, civilian homes were deliberately destroyed, often by burning, and extensive looting of private homes and commercial enterprises occurred. Such damage was not incidental to the hostilities but was deliberately carried out. Moreover, armed forces often used artillery and heavy weapons in rural and urban areas, causing extensive damage to towns and villages in Bor, Leer, Rubkona, and Malakal. Satellite imagery confirms the extent of destruction to civilian areas. Destruction of this sort, in the context of South Sudan, can make civilians extremely vulnerable, including by bringing a risk of starvation and disease.

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<sup>19</sup> See Article 3, Universal Declaration of Human Rights; Article 13(2) and Article 4(2)(d), Additional Protocol II to the Geneva Conventions; Rule 2, International Committee of the Red Cross, Customary International Humanitarian Law, vol. 1: Rules (2009).

277. With regard to the prohibition on attacking civilian objects, UNMISS finds reasonable grounds to believe that both parties to the conflict have breached the prohibition on attacks on civilian objects and that related war crimes were committed.<sup>20</sup>

### *Attacks on personnel and objects involved in a peacekeeping mission*

278. Directing an attack against personnel and objects involved in a peacekeeping mission in accordance with the Charter of the United Nations, as long as they are entitled to the protection given to civilians and civilian objects under international humanitarian law, is prohibited in non-international armed conflicts and amounts to a war crime.

279. The attack on the Akobo CSB, as well the recent attack on the UNMISS Bor compound, violated this rule. The peacekeepers and civilians in these UNMISS camps were not taking a direct part in hostilities and were entitled to protection. There is information suggesting that these attacks were orchestrated and carried out, at least in part, by organized armed groups. There are, therefore, reasonable grounds to believe that the prohibition on attacks on personnel and objects involved in a peacekeeping mission has been breached by both parties to the conflict and that related war crimes were committed.<sup>21</sup>

### *Attacks on hospitals, medical units, and personnel*

280. Directing an attack against hospitals and places established to shelter the wounded, the sick, and civilians from the effects of hostilities is prohibited in non-international armed conflicts and amounts to a war crime to the extent that they do not amount to a military target.

281. Information suggests that opposition forces attacked hospitals, including the Malakal Teaching Hospital and the Bor State Hospital. UNMISS therefore finds reasonable grounds to believe that the prohibition on attacks on hospital has been breached by opposition forces and that related war crimes have been committed.<sup>22</sup>

### *Accounting for missing persons and the dead*

282. Each party to the conflict must take all feasible measures to account for persons reported missing as a result of armed conflict and must provide their family members with any information it has on their fate. With a view to the identification of the dead, each party to the conflict must record all available information prior to disposal and mark the location of the graves.

283. There is sufficient information to suggest that the Government as well as opposition forces have not only not taken all feasible measures to account for missing persons and the dead, but have in fact often concealed their whereabouts. For instance, authorities have not provided UNMISS with any information concerning the whereabouts of those civilians whom UNMISS was protecting at the Akobo CSB when it was attacked and who remain unaccounted for.

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<sup>20</sup> Article 8(2)(e)(v) and (xii), Rome Statute; Rules 52 and 156, International Committee of the Red Cross, Customary International Humanitarian Law, vol. 1: Rules (2009).

<sup>21</sup> Article 8 (2)(e)(iii), Rome Statute; Rule 33, International Committee of the Red Cross, Customary International Humanitarian Law, vol. 1: Rules (2009).

<sup>22</sup> Article 8(2)(e)(iv), Rome Statute; Article 11(1) and Article 9, Additional Protocol II to the Geneva Conventions; Rules 25, 26 and 28, International Committee of the Red Cross, Customary International Humanitarian Law, vol. 1: Rules (2009).

284. UNMISS finds that there are reasonable grounds to believe that the obligation to account for missing persons and the dead have not been complied with.<sup>23</sup>

### *Crimes against humanity*

285. Crimes against humanity entail gross human rights violations of a scale and level of organization that shock the conscience of humanity. Crimes against humanity have a high legal threshold. Two elements must coincide. First, individuals must commit inhumane acts with the requisite criminal intent. Second, these inhumane acts must form part of a widespread or systematic attack directed against a civilian population. The Rome Statute also requires that the attack must be directed against a civilian population and be pursuant to, or in furtherance of, a state or organizational policy.<sup>24</sup>

286. The types of conduct amounting to inhumane acts largely overlap with those recognized as constituting gross human rights violations. The inhumane acts most relevant for present purposes are: extermination; murder; persecution on ethnic grounds; torture; imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law; rape and gender-based persecution; enforced disappearance of persons; other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.<sup>25</sup>

287. The inhumane acts listed above do not amount to crimes against humanity if they constitute isolated or sporadic events. Instead, they must form part of a larger attack against a civilian population. This attack must be either widespread or systematic. An attack is widespread if it involves “massive, frequent, large scale action, carried out collectively with considerable seriousness and directed against a multiplicity of victims.”<sup>26</sup> A systematic attack requires “organized action, following a regular pattern, on the basis of a common policy and involves substantial public or private resources... there must exist some form of preconceived plan or policy.”<sup>27</sup>

288. Government forces have engaged in widespread and systematic attacks against the civilian population of South Sudan. For instance, the violations committed in Juba constituted a widespread attack against the civilian population. The entire city was affected, with whole communities emptied and destroyed. Thousands were victimized, with many killed and many more displaced to IDP sites in search of protection. The method by which these violations were carried out suggests that the attack was also systematic. The perpetrators constituted groups of various state security forces indicating that some degree of coordination must have taken place at a higher level. The security forces engaged in similar tactics, such as house-to-house searches, across different locations, and targeted the same victim profile, Nuer men, suggesting that their actions and the violence was, at least in part, planned, deliberate and guided by policy directives from a superior level. Moreover, security forces were able to employ State

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<sup>23</sup> See Articles 1 and 2, Declaration on the Protection of All Persons from Enforced Disappearance; Rule 98, International Committee of the Red Cross, Customary International Humanitarian Law, vol. 1: Rules (2009).

<sup>24</sup> For the most part, Article 7 of the Rome Statute, and the specifications in the Rome Statute’s Elements of Crimes, reflect the definition of crimes against humanity under customary international law as that concept stands today. See Antonio Cassese and Paola Gaeta, *Cassese’s International Criminal Law*, 3rd ed. (Oxford, Oxford University Press, 2013), p. 105; Julian Fernandez and Xavier Pacreau, *Statut de Rome de la Cour Pénale Internationale* (Paris, Editions Pedone, 2012), p. 419.

<sup>25</sup> Article 7(1), Rome Statute.

<sup>26</sup> *Prosecutor v. Akayesu*, Case No. ICTR-96-4-T, Judgment, 2 September 1998, para. 580. See also *Prosecutor v. Musema*, Case No. ICTR-96-13-T, Judgment, 27 January 2000, para. 204; *Prosecutor v. William Sameo Ruto, Henry Kiprono Kosgey and Joshua Arap Sang*, Case No. ICC-01/09-01/11, Decision on the Confirmation of the Charges Pursuant to article 61(7)(a) and (b) of the Rome Statute, 23 January 2012, para. 176.

<sup>27</sup> *Prosecutor v. Musema*, Case No. ICTR-96-13-T, Judgment, 27 January 2000, para. 204.

resources, such as heavy weaponry and tanks, to carry out the attacks. In Gudele, a facility used by multiple security forces was used to detain and then murder hundreds of Nuer men who had been brought there over the course of one day; this could not have occurred without prior planning, coordination, and some level of knowledge by senior security sector personnel. Finally, there is information suggesting a concerted effort to remove and conceal evidence of crimes, such as bodies. Several inhumane acts occurred in the context of these attacks, including murder, imprisonment, rape and other acts of sexual violence, and enforced disappearance.

289. Similar acts occurred in the context of other widespread and systematic attacks against the civilian population carried out by Government forces. As described above, Government forces' advance to Bentiu and Rubkona in early January was accompanied by gross violations including murder. Once again, population centres were devastated as victims were systematically sought out on the basis of their ethnicity by a mix of armed groups, suggesting planning and coordination.

290. Opposition forces have also carried out widespread attacks against the civilian population in Jonglei, Upper Nile, and Unity States. As described above, when opposition forces swept through rural areas, or entered major population centres, they did not merely engage in military confrontations or assume control of a military objective. Rather, they engaged in a wholesale assault against the civilian population. Towns and villages were thoroughly looted and often saw major destruction. Hundreds of thousands of civilians have been forced to flee from opposition forces. Moreover, tactics were similar across different locations and during different periods of the conflict. Organized groups of forces, including defected state security forces and armed youth, targeted civilians, primarily Dinkas but also other groups that were perceived to be against them, such as Shilluk and Darfurians. On many occasions, civilians were not only sought out but also relentlessly pursued as they fled to rural areas, as noted above. Opposition forces attacked villages, places of worship, and hospitals where civilians from other ethnic groups were concentrated in a targeted manner to seek out and kill, beat, or pillage. Recurrent patterns of the same type of inhumane acts occurred in the context of these attacks, including murder, enforced disappearance, and rape and other acts of sexual violence. This suggests that opposition forces were coordinated by a command structure and were guided by directives from a superior level.

291. SPLA soldiers and opposition forces regularly failed to take concerted action to stop violations against civilians, being instead often the driving force. As further outlined in the subsequent section, there is also a general lack of political will on both the Government and the opposition leadership's part to arrest and prosecute perpetrators and prevent the recurrence of future attacks. These factors constitute additional indicators that perpetrators from both sides are acting under directives, rather than mobilising by themselves without superior instructions.

292. UNMISS therefore finds that there are reasonable grounds to believe that crimes against humanity have been committed during the conflict by both Government and opposition forces.

## **VII. Accountability Measures**

293. Accountability is a condition necessary to redressing gross human rights violations and re-establishing the necessary foundation for a society to move forward. For that reason, international human rights law imposes an affirmative obligation on States to provide effective accountability measures to

redress deliberate, systematic, or widespread human rights violations. This obligation is now considered established in customary international law and is, therefore, binding on South Sudan.<sup>28</sup>

294. The minimum requirements for accountability are: 1) the obligation to investigate allegations of human rights violations and to prosecute and punish those found to be responsible. Competent, timely, effective, independent, and impartial investigations are required under international law and are critical to reducing impunity; 2) the corresponding right of victims and of society at large to the truth about the circumstances of the human rights violations, including the identity of perpetrators and instigators. Accountability processes must therefore be transparent and the outcome should be published in order to fulfil this requirement; and 3) the right of victims of human rights violations to access effective remedies, including reparation.<sup>29</sup> Reparation goes beyond monetary compensation. If soldiers and other state security officials are involved, there is also generally believed to be an obligation to immediately suspend those under investigation from their duties and to permanently remove those found to have participated in serious violations from the security forces or, in the case of armed groups, bar them from entering such forces. Accountability may also include institutional reforms and memorialization. Full accountability is typically considered as an official and social repudiation of what happened.

295. In line with its obligations under international humanitarian law, the law of state responsibility, and the responsibility to protect, the international community must support domestic accountability efforts or complement them with other measures in situations where the state concerned is not willing or able to fulfil its international obligation in this regard.

### *Government accountability measures*

296. Shortly after the beginning of the conflict in South Sudan, the Government publicly acknowledged that there were violations, including extra judicial killings in Juba, and announced that it was establishing several committees to investigate. On 2 January, it was announced that the SPLA was creating two investigation committees: one to inquire into the killing of innocent civilians and the other to examine the causes of the divisions and fighting within the Presidential Guard that sparked the conflict. Subsequently, UNMISS was informed that the SPLA Chief of General Staff had in January established a five member investigation committee, under the leadership of a Brigadier General, to examine and report on abuses committed by state security personnel in Juba since 15 December.

297. On 11 January, the Minister of Foreign Affairs announced that the Government had formed an eight-person Human Rights Abuses Investigation Committee led by Justice John Wol Mackec, a former Chief Justice of the Supreme Court of South Sudan, with the mandate to investigate human rights abuses allegedly committed in South Sudan from 15 December through the period of the conflict in Juba, Jonglei, Unity, and Upper Nile States. To UNMISS' knowledge, no other public information or documents have been released about this committee, and UNMISS has not been able to gather any information about the membership of the Committee, the scope of its mandate, or how it intends to execute its mandate, etc.

298. A month and a half later, on 24 February, in reaction to the issuance of the UNMISS Interim Report on Human Rights, the Minister of Foreign Affairs announced that a Government investigation

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<sup>28</sup> See Rule 158, International Committee of the Red Cross, Customary International Humanitarian Law, vol. 1: Rules (2009).

<sup>29</sup> See Article 8, Universal Declaration of Human Rights.

committee was expected to present its findings to the President within 45 days. The report in question has not yet been publicly released and there is no further official information on when it will be issued.

299. On 27 January, local media reported that the Inspector-General of the SSNPS had established a five-member committee to investigate killings of civilians in Juba. According to a senior SSNPS official whom UNMISS met in connection with this report, this committee is investigating the role of the police in the events in December and was mandated to examine all allegations against the police and report to the Inspector-General. The SSNPS committee was apparently initially given 30 days to complete its work but this was extended for a further 30 days, which has now expired. UNMISS was informed that the Committee has completed its work and was finalizing its report.

300. In February, the Ministry of Justice informed UNMISS that it had commenced an *ex-officio* investigation into atrocities committed in Juba, including human rights violations committed against IDPs in UNMISS PoC sites. There is no further information about this investigation.

301. Additionally, at the end of February, the Government reported the arrest of approximately 100 individuals in connection with the targeted killings that occurred in Juba in the early days of the conflict. Little information has been provided about the identities of the detainees, the nature of the investigations, or the charges that are being brought against them. At the same time, however, media reports conveyed information reportedly from the Government that many detainees held in relation to the crisis escaped on 5 March during the intra-SPLA clashes over salary payments. UNMISS was unable to obtain clarification on this issue. Finally, UNMISS has learned of a few cases of violations committed during the crisis that are being adjudicated through the criminal and military justice systems.

302. At the regional level, the Peace and Security Council of the African Union called for the creation of a commission of inquiry to “the investigate the human rights violations and other abuses committee during the armed conflict in South Sudan and make recommendations on the best ways and means to ensure accountability, reconciliation and healing among all South Sudanese communities” on 30 December. On 7 March, the African Union announced the formation of a five-member commission of inquiry headed by former Nigerian President Olusegun Obasanjo.

303. As described above, there is limited public information about the various investigation tracks and if there are any linkages among them. Moreover, there is a great deal of confusion about the status of those who may have been apprehended or are under investigation in connection with human rights violations. It is therefore difficult to assess the seriousness and effectiveness of accountability measures announced by the Government.

304. In an effort to seek information, the HRD met with an SPLA committee on 22 February and was informed that the committee is a fact finding investigation team drawn from different segments of the security forces, notably the SPLA, NSS, SSNPS, military intelligence, and military justice, and is tasked to investigate allegations of abuses perpetrated by personnel of all the security forces. It does not have the power to prosecute. No information was provided concerning the types of incidents or the number and identity of the persons under investigation. Apparently the committee finalized a report in mid-February after interviewing 50 witnesses and presented its report the SPLA Chief of General Staff. The report has neither been provided to UNMISS nor made public.

305. On 26 February, the HRD wrote to the SPLA Chief of General Staff requesting the SPLA's position on specific incidents alleged in the UNMISS Interim Report on Human Rights. No response has been received as of the time of writing. Subsequently, in April, UNMISS met with an SPLA official who confirmed that the SPLA had established two committees: one to investigate the root causes of the conflict and the other to investigate human rights violations. Both committees had finalized and submitted their reports to the Chief of General Staff. The SPLA official declined to elaborate on the findings of either report and said he would consult with military leadership whether to share the report. UNMISS had not received any feedback at the time of this report.

306. The SPLA official also advised that the Chief of General Staff had issued an order convening a General Court Martial, presumably to try those implicated in the report of the investigations committee. UNMISS has received a copy of a Convening Order, dated 23 January 2014, from the office of the Chief of General Staff forming a "General Court Marshall [sic] of Panel of seven (1) Officers for the trial of all SPLA soldiers and officers who are currently under detention and who may be arrested." The convening order refers to "the rampant looting and theft by SPLA soldiers in Juba and other areas of South Sudan following the incident of the 15<sup>th</sup> and 16<sup>th</sup> December 2013 in Juba". It does not mention other violations such as killings.

307. UNMISS was informed that 17 SPLA soldiers are in detention in connection with the investigations, the highest-ranked being a Colonel. UNMISS requested a list of the detainees and authorization to meet them but has not yet had a response from the SPLA. Another 18 SPLA soldiers are reportedly in detention for looting. There is some confusion about the numbers, as it is not clear if these soldiers are distinct from the other group of 100 reportedly under arrest. UNMISS has also not obtained any information about the charges against the detained soldiers and was informed that the investigations are on-going.

308. At a meeting with SPLA Military Justice, UNMISS was informed that the General Court Martial convoked by the Chief of General Staff has not yet convened. The delay is reportedly the result of damage to the building where the General Court Martial sits during fighting at the Giada barracks on 5 March; some of the case files were also reportedly destroyed. Members of the General Court Martial were also reportedly engaged in an operation to collect weapons in Juba and were therefore not available for the Court Martial. It is therefore not evident when or if the trials will commence.

309. While public announcements about the establishment of these measures represent some acknowledgement by the Government and the various security services that grave violations of human rights were perpetrated during the conflict which demand accountability, the very proliferation of mechanisms, the confusion concerning their respective mandates, the lack of clarity concerning their jurisdiction and procedure, and the apparent reticence to disclose any details about their workings indicate a lack of seriousness on the part of the Government to tackle impunity. The result is that it is very difficult to have confidence that any of these national measures will meet international standards of due process, independence, and transparency.

310. Most critically, there is no information that any of the accountability measures announced by the Government have accomplished their mandated tasks. At the time of writing, the only serious trial that had been undertaken in relation to the conflict is the trial of the four individuals for treason and related offences in relation to the alleged coup attempt. This trial demonstrates that the Government has the

ability to pursue accountability when it chooses to do so and also raises the issue of the political will to hold perpetrators of serious violations of international human rights and humanitarian law to account.

311. The national measures announced by the Government do not meet the minimum requirements of accountability demanded by international human rights law. The result is that serious questions are raised concerning whether these various processes will be sufficient to provide real accountability in South Sudan. In addition, it is questionable whether the South Sudanese judiciary has the capacity to address serious crimes committed on a large scale.

312. UNMISS would therefore recommend that the national process be complemented by international assistance through a special or hybrid court. Consideration may also be given to international assistance to pursue serious and independent investigations. Such participation would also help to ensure that all parties to the conflict are held accountable. By working side by side with South Sudanese institutions and experts, the confidence and the capacity of national institutions would be enhanced and real accountability could be achieved.

## VIII. Recommendations

313. South Sudan has never undertaken a comprehensive, independent, and effective accountability process since it attained independence. Longstanding impunity and the failure to treat killings, sexual and gender-based violence, and other gross human rights and humanitarian law violations as crimes reinforces the cycle of conflict.

**Recommendation one:** The parties must immediately comply with the Cessation of Hostilities Agreement, immediately end attacks on civilians, and immediately suspend from command positions and discipline all senior and lower-level combatants responsible for violations. In light of the parties' failure to abide by the Cessation of Hostilities Agreement to date, the IGAD Monitoring and Verification Mechanism must be immediately deployed and strengthened to ensure its presence across all conflict-affected areas.

**Recommendation two:** The parties must be strongly urged to abandon their current determination to pursue the military option and to engage in the peace process in good faith. The IGAD peace process must ensure that appropriate respect for human rights principles, including non-discrimination and the rights of victims to justice and reparations, are reflected in the outcome of the talks.

**Recommendation three:** Efforts to protect civilians must be enhanced. UNMISS' capacity should be strengthened, notably the additional troops authorized by the Security Council must be urgently deployed.

**Recommendation four:** Further comprehensive and credible investigations must be undertaken to establish the scope of violations in South Sudan and the responsibility of perpetrators. A credible accountability mechanism, consistent with international standards, must be put in place to hold the perpetrators of violations individually accountable. The Government must ensure that its investigation committees are independent, transparent, credible, and meet international standards. In addition, the judiciary should establish serious investigations into allegations of violations of international human rights and humanitarian law.

**Recommendation five:** A credible legal framework must be established in South Sudan. The capacity of judicial institutions and of law enforcement should be enhanced and their independence respected. Should the Government prove unwilling or unable to pursue genuine accountability, a special or hybrid tribunal with international involvement should be considered.

**Recommendation six:** South Sudan's security apparatus, including the SSNPS and SPLA, must be reformed and restructured to ensure that they operate under Constitutional order and in accordance with international best practice. Such reform efforts should include a vetting process that ensures these institutions are led and staffed by suitably qualified personnel, and exclude alleged perpetrators of serious human rights and humanitarian law violations. Such reform and restructuring should include the establishment of special police units to investigate sexual violence, in accordance with international standards. The authorities must protect human rights defenders and the media as guaranteed under the Constitution and international law.

**Recommendation seven:** The African Union Commission of Inquiry should compile information to assist in identifying perpetrators of human rights and humanitarian law violations, and make recommendations on credible mechanisms to promote accountability, reconciliation, and healing. Such mechanisms should include South Sudanese civil society and faith-based organisations, whose full engagement in the process will encourage its long-term acceptance, efficacy, and durability. South Sudan should undertake a process of national reconciliation to reduce inter-communal tension and create a climate conducive to the return of those displaced. Customary processes may complement these efforts.