

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	161
Land:	Sydsudan
Kilde:	Amnesty International
Titel:	"Do Not Remain Silent". Survivors of Sexual Violence in South Sudan Call for Justice and Reparations
Udgivet:	24. juli 2017
Optaget på baggrundsmaterialet:	12. september 2017



"DO NOT REMAIN SILENT"

SURVIVORS OF SEXUAL VIOLENCE IN SOUTH
SUDAN CALL FOR JUSTICE AND REPARATIONS

AMNESTY
INTERNATIONAL



Amnesty International is a global movement of more than 7 million people who campaign for a world where human rights are enjoyed by all.

Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards.

We are independent of any government, political ideology, economic interest or religion and are funded mainly by our membership and public donations.

Ten South Sudanese human rights defenders helped research and write this report. They and their organizations have asked not to be named because they are afraid that they will face reprisals from the government.

In South Sudan, human rights defenders, journalists, and members of political opposition groups who publish views critical of the government are regularly subjected to surveillance, harassment, threats, and arbitrary detention.

Speaking out about human rights violations should not come with these risks.

© Amnesty International 2017

Except where otherwise noted, content in this document is licensed under a Creative Commons (attribution, non-commercial, no derivatives, international 4.0) licence.

<https://creativecommons.org/licenses/by-nc-nd/4.0/legalcode>

For more information please visit the permissions page on our website: www.amnesty.org

Where material is attributed to a copyright owner other than Amnesty International this material is not subject to the Creative Commons licence.

First published in July 2017 by Amnesty International Ltd
Peter Benenson House, 1 Easton Street, London WC1X 0DW, UK

Index: AFR 65/6469/2017

Original language: English

amnesty.org



Cover photo:

A woman whose husband was killed by an unknown armed group the previous night. Gumbo, Central Equatoria state, 2006 © Tim McKulka

AMNESTY
INTERNATIONAL



CONTENTS

1. EXECUTIVE SUMMARY	9
2. METHODOLOGY	12
3. BACKGROUND	14
BACKGROUND TO THE CONFLICT	14
SEXUAL VIOLENCE IN SOUTH SUDAN'S LONG HISTORY OF CONFLICT	16
GENDER DYNAMICS IN SOUTH SUDANESE SOCIETY	18
THE SURGE IN SEXUAL VIOLENCE	20
4. CASES OF SEXUAL VIOLENCE	21
INTRODUCTION	21
FROM THE BEGINNING: DECEMBER 2013-JANUARY 2014	23
JUBA	23
BOR	25
MALAKAL	26
ATTACKS IN UNITY STATE	27
RUBKONA COUNTY	28
KOCH COUNTY	29
LEER COUNTY	30
MAYANDIT COUNTY	30
RISKING LIFE IN SEARCH OF PROTECTION: THE JOURNEY TO THE BENTIU POC	31
SEXUAL VIOLENCE OUTSIDE BENTIU POC SITE	32
JUBA: JULY 2016 AND THE AFTERMATH	34
SEXUAL VIOLENCE IN CENTRAL EQUATORIA	38
SEXUAL VIOLENCE AGAINST MEN AND BOYS	41
5. CALLS FOR JUSTICE	45
SEXUAL VIOLENCE IN DOMESTIC AND INTERNATIONAL LAW	45
CHRONIC IMPUNITY	47
OBSTACLES TO REPORTING	50

CALLS FOR JUSTICE	51
6. CALLS FOR REPARATIONS	53
THE RIGHT TO REPARATION	53
THE NEED FOR PHYSICAL REHABILITATION	55
THE PSYCHOLOGICAL IMPACTS OF SEXUAL VIOLENCE	57
SHAME, STIGMA AND REJECTION	59
GUARANTEEING NON-REPETITION	63
PREVENTATIVE MEASURES	63
ADDRESSING SOCIETAL FRACTURES	63
7. RECOMMENDATIONS	65
TO THE GOVERNMENT OF SOUTH SUDAN	65
TO THE SPLM/A-IO AND ALL OTHER ARMED GROUPS	66
TO THE UN MISSION IN SOUTH SUDAN	66
TO THE AFRICAN UNION	66
TO THE INTERNATIONAL COMMUNITY	67
TO NATIONAL AND INTERNATIONAL HUMANITARIAN ORGANIZATIONS	68

ACRONYMS

ARCSS	Agreement on the Resolution of Conflict in the Republic of South Sudan
AU	African Union
AUCISS	African Union Commission of Inquiry on South Sudan
CPA	Comprehensive Peace Agreement
IDP	Internally displaced person
IGAD	Intergovernmental Authority on Development
MI	Military Intelligence
MSF	Médecins sans Frontières (Doctors without Borders)
NSS	National Security Service
OHCHR	Office of the High Commissioner for Human Rights
PoC	Protection of Civilians
PTSD	Post-traumatic stress disorder
SPLM/A	Sudan People's Liberation Movement/Army
SPLM/A-IO	Sudan People's Liberation Movement/Army-In Opposition
UNMISS	UN Mission in South Sudan
WFP	World Food Programme
WHO	World Health Organization

GLOSSARY

WORD	DEFINITION
CONFLICT-RELATED SEXUAL VIOLENCE	Incidents or patterns of sexual violence against women, men, girls or boys occurring in a conflict or post-conflict setting that have direct or indirect links with the conflict itself.
FORCED MARRIAGE	The Office of the High Commissioner for Human Rights (OHCHR) defines a ‘forced marriage’ as: “[A]ny marriage which occurs without the full and free consent of one or both of the parties and/or where one or both of the parties is/are unable to end or leave the marriage, including as a result of duress or intense social or family pressure.” ¹ The Special Court for Sierra Leone has defined forced marriage as follows: “[I]n the context of the Sierra Leone conflict, forced marriage describes a situation in which the perpetrator, through his words or conduct, or those of someone for whose actions he is responsible, compels a person by force, threat of force, or coercion to serve as a conjugal partner resulting in severe suffering, or physical, mental or psychological injury to the victim.”
GOVERNMENT FORCES	Use of this term includes armed government actors associated with the South Sudan military, called the Sudan People’s Liberation Army (SPLA), as well as forces affiliated with other security organs, such as the National Security Service. This term also includes militia and youth groups who are allied to and fight on behalf of the national government.
GOVERNMENT SOLDIERS	Use of this term indicates members of the South Sudan military, called the Sudan People’s Liberation Army (SPLA).
MENTAL OR PSYCHOLOGICAL DISTRESS	A term used to describe a range of psychiatric symptoms, such as sadness, anxiety, rage and depression, that are troubling, confusing or disrupt activities of daily living. Mental or psychological distress is broader in scope than mental health disorders or conditions, in that a person may exhibit symptoms of psychological distress without reaching the threshold of suffering from any medically defined disorder or condition.
OPPOSITION FORCES	Use of this term indicates all forces fighting in opposition to the government. It includes the SPLA-IO as well as other opposition groups.
POST-TRAUMATIC STRESS DISORDER	A clinical mental disorder that arises after experiencing or witnessing a very stressful, frightening, or distressing event. An individual suffering from PTSD exhibits: 1) intrusive symptoms such as nightmares and flashbacks, 2) avoidance of reminders – such as thoughts, feelings, people, and places – associated with the trauma, 3) negative changes to thoughts – such as negative beliefs about oneself or others, self-blame, anger, shame, guilt or fear, and 4) changes in physiology and reactivity – such as irritability, aggression, reckless behaviour,

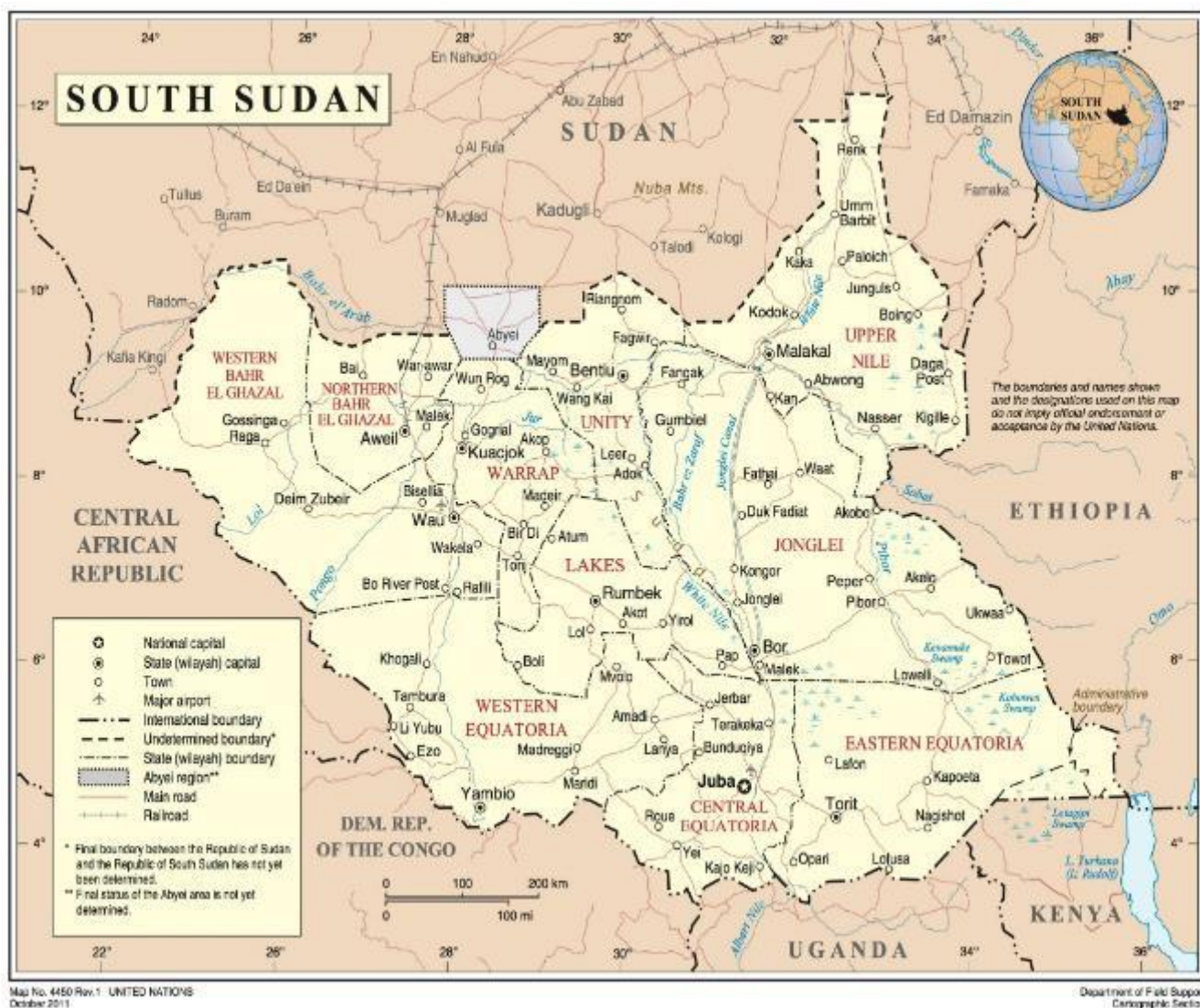
¹ OHCHR, Report on preventing and eliminating child, early and forced marriage, 2 April 2014, UN Doc. A/HRC/26/22.

WORD	DEFINITION
	poor concentration and sleep issues. Symptoms must be present for more than one month and create significant distress/impairment to daily functioning.
PROTECTION OF CIVILIANS (POC) SITE	Camp-like settlement for internally displaced people established within existing United Nations Mission in South Sudan (UNMISS) compounds and guarded by UN peacekeepers.
RAPE	When 1) A perpetrator invades the body of a person by conduct resulting in penetration, however slight, of any part of the body of the victim or of the perpetrator with a sexual organ, or of the anal or genital opening of the victim with any object or any other part of the body, and 2) The invasion is committed by force, or by threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, against such person or another person, or by taking advantage of a coercive environment, or the invasion was committed against a person incapable of giving genuine consent. ²
SEXUAL SLAVERY	When 1) A perpetrator exercises any or all of the powers attaching to the right of ownership over one or more persons, such as by purchasing, selling, lending or bartering such a person or persons, or by imposing on them a similar deprivation of liberty, and 2) The perpetrator caused such person or persons to engage in one or more acts of a sexual nature. ³
SEXUAL VIOLENCE	Any sexual act, attempt to obtain a sexual act, unwanted sexual comments or advances, or acts to traffic, or otherwise directed against a person's sexuality using coercion, by any person regardless of their relationship to the victim, in any setting. Sexual violence takes multiple forms and includes rape, sexual abuse, forced pregnancy, forced sterilization, forced abortion, forced prostitution, trafficking, sexual enslavement, forced circumcision, castration, and forced nudity. ⁴
SPLM/A-IO	Use of this term refers to the political and military branches of the Sudan People's Liberation Movement/Army-In Opposition, led by Riek Machar.
WHITE ARMY	Nuer ethnic militia allied with the SPLM/A-IO.

² Definition drawn from the International Criminal Court, *Elements of Crimes*, 2011, available at www.icc-cpi.int/NR/rdonlyres/336923D8-A6AD-40EC-AD7B-45BF9DE73D56/0/ElementsOfCrimesEng.pdf

³ International Criminal Court, *Elements of Crimes*, 2011, available at www.icc-cpi.int/NR/rdonlyres/336923D8-A6AD-40EC-AD7B-45BF9DE73D56/0/ElementsOfCrimesEng.pdf

⁴ World Health Organization, *World Report on Violence and Health*, 2002, p. 149, available at http://apps.who.int/iris/bitstream/10665/42495/1/9241545615_eng.pdf



"DO NOT REMAIN SILENT"
SURVIVORS OF SEXUAL VIOLENCE IN SOUTH SUDAN CALL FOR JUSTICE AND REPARATIONS
Amnesty International

1. EXECUTIVE SUMMARY

“I encourage victims of sexual violence: Please, if something happened to you, do not remain silent. Tell your stories and don’t hide anything.”

Mercy, resident of Bentiu PoC site, South Sudan, November 2016

Since the outbreak of South Sudan’s internal armed conflict in Juba in December 2013, thousands of South Sudanese have been subjected to sexual violence including rape, gang rape, sexual slavery, sexual mutilation, torture, castration, or forced nudity. As the conflict continues, the number of women, men, and children affected by sexual violence will likely rise. The sexual violence that has occurred is shocking in its scale and level of brutality, and will leave physical, psychological, and social impacts for decades to come.

In this report, survivors of sexual violence recount their experiences, often with disturbing detail. They call for the perpetrators to be held accountable, for reparations, and for measures to address the social fractures that cause and result from sexual violence. The report is based on 182 interviews with survivors and witnesses of sexual violence, conducted between October 2016 and March 2017 by 10 South Sudanese human rights defenders in collaboration with Amnesty International. It documents incidents of sexual violence carried out by both government forces and armed opposition groups since December 2013. The aforementioned human rights defenders are not named in this report due to fears of reprisals from the Government of South Sudan and opposition forces.

While the exact number of people who have been subjected to sexual violence will never be known, the few available statistics are alarming. The United Nations Children’s Fund (UNICEF) reported that between December 2013 and December 2016, 1,130 children were sexually assaulted. During and after the July 2016 fighting in Juba, the United Nations Mission in South Sudan (UNMISS) documented cases of rape and gang rape involving 217 victims. A survey conducted in 2015 by the United Nations Population Fund (UNFPA) found that 72% of women living in four UNMISS Protection of Civilians (PoC) sites in Juba reported having been raped since the conflict broke out, mostly by police and soldiers.

Available statistics also indicate that the frequency of sexual violence may be increasing as the conflict persists. According to the South Sudan Protection Cluster, reports of sexual and gender-based violence increased by 61% between 2015 and 2016. In 2016, UNMISS documented 577 incidents of conflict-related sexual violence, including rape, gang rape and sexual slavery. According to the April 2017 report of the UN Secretary-General on Conflict-Related Sexual Violence, 2016 saw “a 32% increase in the number of cases of gender-based violence perpetrated by men in uniform, as compared with 2015”, while “cases of abduction for the purpose of sexual slavery more than doubled”.

Survivors interviewed for this report described a situation in which sexual violence is rampant, taking place any time civilians come into close proximity with armed actors. This includes during military attacks on villages, during searches of residential areas by armed actors, along roads and at checkpoints, and following abduction or detention. Most incidents happened alongside other forms of violence, including killing, looting and destruction of homes.

Most cases documented for this report involved rape or gang rape of women and girls. Some rapists aggravated their crimes by mutilating victims with knives or raping them with objects such as sticks. Some killed their victims outright while others left them bleeding or unconscious. Elderly women, young girls and pregnant women were not spared.

Sixteen male survivors of sexual violence described rape, castration, or other forms of torture, including having their testicles pierced with needles. Most abuses perpetrated against men and boys interviewed for this report occurred prior to an arrest by government security or military agents or during periods of detention.

The survivors' accounts indicate that such extreme acts of sexual violence were part of a strategy to terrorize, degrade, shame and humiliate both the victims and their ethnic or political group. Both government and opposition forces have frequently targeted individuals based on their ethnicity or their perceived political allegiance and affiliation.

South Sudan's legislative framework fails to define or criminalize torture, crimes against humanity and genocide, and therefore sexual violence cannot be prosecuted within South Sudan as any of these crimes. The acts of sexual violence described in this report, however, do constitute crimes under South Sudan's Penal Code.

But South Sudanese authorities have repeatedly failed to conduct thorough and impartial investigations into crimes of sexual violence or to hold those responsible to account in fair trials. This failure results from the capacity and resource gaps within the criminal justice system, and from a clear absence of political commitment to criminal accountability. Survivors interviewed for this report said they felt unsafe reporting their experiences of sexual violence, particularly if they were accusing a government official, and a total sense of futility in doing so.

Though they had little hope of seeing justice done, this did not dampen the calls of survivors for perpetrators to be identified, held responsible, and punished. Some felt that this was the only way to break the cycle of violence, allow different groups to live together, and secure a peaceful future for South Sudan. Some expressed intense anger and a desire for revenge, underlining the importance of accountability as a means of preventing individuals and communities from taking justice into their own hands.

In addition to accountability, survivors of sexual violence desperately need greater support to restore their physical and psychological well-being. Those interviewed showed researchers cuts and scars, described broken bones, and complained of lingering pains, problems urinating or passing stool, and stomach cramps. Others described difficulties with sexual relationships and intimacy. Some who were penetrated with objects, mutilated with knives or otherwise tortured, have suffered serious internal wounds and damage to reproductive organs. Some lived with the constant stress of not knowing whether they may have contracted a sexually transmitted disease, including HIV/AIDS.

Survivors face enormous challenges to receiving appropriate medical treatment. The humanitarian facilities that provide treatment are generally equipped to provide emergency contraception, HIV counselling, testing and post-exposure prophylaxis, and testing and treatment for other STIs, but even these facilities are often inaccessible to those who need them. Many survivors, particularly in rural areas, have nowhere to go for medical services, especially given the collapse of the healthcare systems in many communities as a result of the conflict. The nearest functional health facility may be too far away, or the roads to reach it too insecure. Moreover, the shame and stigma surrounding sexual violence often dissuades survivors from seeking out the medical assistance they need or fully disclosing to medical staff the nature of the abuse they have suffered and the scope of their health concerns.

In addition to the long-term physical effects of sexual violence, the psychological burden borne by survivors is enormous, and can persist for years. Survivors interviewed for this report described having nightmares, loss of memory, lack of concentration, and thoughts of revenge, or of suicide – common symptoms of psychological distress associated with post-traumatic stress disorder. Some expressed feelings of loneliness and despair. For many, their emotional distress was debilitating, and impacted their ability to carry out their day-to-day activities. Unfortunately, specialized mental health services are almost entirely absent in South Sudan. While some organizations do provide basic psychosocial support services for sexual violence survivors, access to these services is severely limited.

Survivors' feelings of shame, experiences of stigma, and rejection by spouses and family members added to their distress. Some interviewed for this report described being blamed for what happened to them, sometimes more than the perpetrators themselves. In some cases, their husbands beat or abandoned them after they disclosed their experiences. The shame, stigma and rejection contribute to long-term societal oppression of survivors of sexual violence, including by creating an obstacle for them to report crimes and

seek medical and psychological support. South Sudan must work to address the stigma associated with sexual violence and its impacts including through public awareness-raising campaigns, official condemnation of all forms of sexual violence, and a commitment to justice and compensation. Doing so is critical to ensuring that survivors can live with dignity.

Beyond the traumatic effect on individual survivors, acts of sexual violence have terrorized broader populations and created fractures within and between communities, contributed to inter-ethnic animosity, and fuelled continued cycles of abuse. As part of South Sudan's obligations to prevent the continued recurrence of sexual violence, the government must undertake efforts to address and heal these social fractures. Publicly acknowledging sexual violence and fulfilling victims' rights to justice and reparation are practical steps that could contribute to stemming the cycle of revenge and counter-revenge.

Most fundamentally, the abuses must stop. The government and all opposition forces must ensure that their members cease acts of sexual violence by issuing clear orders prohibiting sexual violence, providing forces with appropriate training, and putting in place mechanisms to adequately monitor the conduct of forces. There must also be repercussions for forces who engage in sexual violence – those responsible for abuses must be brought to justice. In addition, South Sudan should institute a proactive vetting process of security forces to ensure that individuals, against whom there is credible evidence that they have committed sexual violence, are excluded from service until allegations concerning them can be independently and impartially verified.

2. METHODOLOGY

The purpose of the research carried out for this report is to assess the scale and impact of the sexual violence that has characterised South Sudan's conflict and to amplify survivors' calls for accountability and reparations. It is based primarily on field research and interviews carried out by 10 South Sudanese human rights defenders – five women and five men – between October and December 2016, and on research conducted by Amnesty International between September 2016 and March 2017.

This report is the outcome of a joint project between Amnesty International including Amnesty International Netherlands Human Rights Capacity Building Programme (HURICAP), and South Sudanese human rights defenders, aimed at increasing documentation and public reporting of human rights abuses in South Sudan. Due to fear of reprisals and the continued crackdown on government critics – real or perceived – the 10 human rights defenders who contributed to this report, and their organisations, have not been named.

The human rights defenders and Amnesty International researchers interviewed 168 survivors of and 14 witnesses to incidents of sexual violence that have occurred since the start of South Sudan's internal armed conflict in December 2013. Interviews in South Sudan were conducted in the UNMISS Protection of Civilians (PoC) sites in Juba and Bentiu, and among IDPs in Ganyiel (Payinjiar county, Unity state).⁵ These locations were selected because they host large numbers of individuals affected by the internal armed conflict, who have also survived or witnessed sexual violence perpetrated by all parties to the conflict. Additional interviews were conducted in the following Ugandan refugee settlements, where there are also large populations of South Sudanese, largely from Equatoria, affected by the conflict: Kiryandongo refugee settlement in Kiryandongo District; Pagrinya I and II refugee settlements in Adjumani District; Bidibidi refugee settlement in Yumbe District; and Imvepi refugee settlement in Arua District.

The report focuses on conflict-related sexual violence, meaning incidents or patterns of sexual violence against women, men, girls or boys occurring in a conflict or post-conflict setting that have direct or indirect links with the conflict itself.⁶ Interviewees described incidents of sexual violence in numerous areas of South Sudan, including in Central Equatoria state (Juba, Yei, Kajo Keji), Jonglei state (Bor), Upper Nile state (Malakal), and Unity state (Bentiu, Rubkona, Guit, Leer). Of the 168 survivors interviewed, 124 were raped or gang raped. Researchers also documented cases of sexual mutilation including castration, as well as cases of miscarriages because of rape (forced abortions), sexual mutilation including castration, and pregnancy as a result of rape (forced pregnancy).

Sexual violence occurs in South Sudan in many other circumstances. Rape and other acts of sexual violence are carried out by criminals who take advantage of the lawlessness, climate of impunity and culture of violence against women and girls. Domestic and intimate partner violence also persists during the conflict.⁷

⁵ On 2 October 2015, President Kiir announced the establishment of 18 additional states. On 14 January 2017, he announced the establishment of another four, bringing the current total to 32. The establishment of new states by presidential decree is controversial due to perceptions that the boundaries are designed to favor the Dinka ethnic group and that the establishment of new states violates the Agreement on the Resolution of the Conflict in South Sudan (ARCSS) and the Transitional Constitution of South Sudan. The precise state boundary lines have not been mapped or made publicly available. This report therefore follows the practice of UNMISS and other UN agencies to continue using the old administrative boundaries. For an analysis of the establishment of new states, see Stimson Center, *The 28 States System in South Sudan*, 9 August 2016, available at www.stimson.org/sites/default/files/file-attachments/Stimson_StatesBriefingNote_9Aug16.pdf

⁶ UN, *Guidance Note of the Secretary-General, Reparations for Conflict-Related Sexual Violence*, June 2014, p. 2, available at www.unwomen.org/-/media/headquarters/attachments/sections/news/stories/final%20guidance%20note%20reparations%20for%20crsv%203-june-2014%20pdf.pdf

⁷ For further discussion see, Alicia Elaine Luedke, *Violence Begets Violence: Justice and Accountability for Sexual and Gender-Based Offenses in South Sudan*, May 2016, p. 21-19, available at <http://justiceafrica.org/wp-content/uploads/2016/08/Violence-Begets-Violence-SGBV-South-Sudan-Draft1.pdf>

These forms of sexual violence are not the focus of the report, which is restricted to incidents with a direct or indirect link with the conflict itself.

Researchers conducted semi-structured interviews in English, Dinka, Juba Arabic, Nuer, Shilluk, Kuku, Kakwa, Pojulu and Bari languages. An interpreter was used in a small number of cases. The names of the people interviewed and information that could lead to their identification have been withheld to protect their privacy and safety. Pseudonyms are used in all cases.

Researchers ensured that interviewees understood the purpose of the interview, the topics that it would cover, and how the information would be used. All interviewees provided their informed consent to participate in the research and for the information they provided to be used in public reporting. Interviews were conducted in private or semi-private settings, such as homes, NGO offices, or community meeting spaces. Researchers referred survivors to medical, psychological, and livelihood support services, as appropriate and where those services were available.

Researchers asked survivors to describe incidents of sexual violence, the identity of the perpetrator(s), the physical and psychological consequences, whether they had sought medical or other support and if so, what treatment and support they received. Researchers also asked about the social consequences of sexual violence on families and communities, and about hopes and expectations for justice and reparations. As sexual violence often occurred alongside other violations and abuses, survivors also described killings, looting, and destruction of civilian property that they witnessed.

The definition of rape under international law includes any act in which the “perpetrator invaded the body of a person by conduct resulting in [non-consensual] penetration, however slight, of any part of the body of the victim or of the perpetrator with a sexual organ, or of the anal or genital opening of the victim with any object or any other part of the body.”⁸ Most cases of rape documented in the report involved forced vaginal intercourse, and are described by the unqualified use of the term rape. Some survivors reported other forms of rape, such as forced anal intercourse, which is referred to as anal rape in this report. Where survivors were raped with objects, this is referred to in the report as forced anal or vaginal penetration.

Those interviewed were generally referred to researchers by community members, witnesses, other survivors, or by service providers; to the extent possible, researchers tried to ensure accurate geographic and ethnic balance. Researchers sought to identify and interview both male and female survivors of sexual violence, and 16 out of the 168 survivors interviewed were male.⁹ Under-reporting, particularly by men, makes it difficult to gauge comparative rates of sexual violence, although the vast majority of cases documented by humanitarian actors involve female victims.

The human rights defenders and Amnesty International researchers jointly agreed on research focus, followed agreed protocols for safe storage and security of information, used interview strategies aimed at avoiding re-traumatization, and received advice and support in managing any vicarious trauma that they may have experienced as a result of the research. The research methodology, including guidelines for interviewing victims and witnesses of sexual violence, was developed collaboratively, and the human rights defenders and Amnesty International staff worked together to draft this report.

Human rights defenders in South Sudan – particularly those involved in documentation of human rights violations and abuses and in advocating for accountability – have faced regular threats, harassment and violence, especially since the start of the conflict in December 2013. Two of the human rights defenders who contributed to this report were themselves forced to flee South Sudan, following threats of violence and detention from state security agents.

The South Sudanese human rights defenders who worked on this report and Amnesty International thank the survivors and witnesses who courageously recounted their often brutal and traumatic experiences, described their lingering pain, and shared their hopes for the future. This report would not have been possible without their bravery and willingness to speak out.

⁸ International Criminal Court, *Elements of Crimes*, 2011, available at www.icc-cpi.int/NR/rdonlyres/336923D8-A6AD-40EC-AD7B-45BF9DE73D56/0/ElementsOfCrimesEng.pdf

⁹ While it is impossible to know the comparative rates of sexual violence against women and that against men due to under-reporting, 98% of incidents in 2016 documented by humanitarian actors involved female victims – a strong indication that sexual violence against women and girls happens with a greater frequency. *GBV Sub-Cluster Strategy, South Sudan*, 2017, p. 2, available at http://reliefweb.int/sites/reliefweb.int/files/resources/gbv_sub-cluster_strategy_final_1.pdf

3. BACKGROUND

BACKGROUND TO THE CONFLICT

South Sudan seceded from Sudan and became an independent state in July 2011. Two years later in December 2013, an internal armed conflict erupted, plunging the new state into a path of conflict. Violence erupted as a result of simmering political tensions between President Salva Kiir and Riek Machar, Vice President from 2005 until his dismissal by Kiir in July 2013.¹⁰ Fighting started in Juba where government forces engaged in targeted killings of Nuer people, based on ethnicity and perceived political allegiance, and quickly spread to Jonglei, Upper Nile and Unity states. Security forces across the country split – with some maintaining allegiance to the government and others defecting to support the armed opposition under Riek Machar, which came to be known as the Sudan People's Liberation Movement/Army-In Opposition (SPLM/A-IO).

In August 2015, following almost two years of on-and-off peace negotiations mediated by the Intergovernmental Authority on Development (IGAD), parties to the conflict and other stakeholders signed the Agreement on the Resolution of the Conflict in the Republic of South Sudan (ARCSS).¹¹ The agreement provided for the formation of a Transitional Government of National Unity (TGoNU) and for national elections after two and a half years. It also envisaged broad security sector reform, transitional justice, and a constitutional development process.¹²

Implementation of the ARCSS encountered numerous hurdles, was generally slow, and failed to effectively bring an end to fighting within the country.¹³ It was not until April 2016, eight months after the signing of ARCSS, that opposition leader Riek Machar returned to Juba to be sworn in as First Vice President and the Transitional Government of National Unity (TGoNU) was formed. Outstanding disagreements between the government and the SPLM-IO continuously delayed timely implementation of other elements of the ARCSS.¹⁴

¹⁰ President Kiir removed Riek Machar as Vice President in July 2013. In February 2016, Kiir issued a presidential decree appointing Machar as First Vice President, in accordance with the August 2015 Agreement on the Resolution of the Crisis in South Sudan (ARCSS). On 26 July, after Riek Machar fled Juba following fighting between opposition and government forces, President Kiir appointed Taban Deng Gai as First Vice President.

¹¹ Signatories to the ARCSS include: 1) The Parties (the Government of South Sudan, the SPLM/A-IO, the former detainees and the political parties), 2) Stakeholders (civil society, faith based leaders, women's bloc and eminent personalities), 3) Adherents, 4) The Guarantors (IGAD Heads of State and Government, the African Union, the IGAD-led Mediation, and international partners).

¹² Agreement on the Resolution of the Conflict in the Republic of South Sudan (ARCSS), available at <http://southsudan.igad.int/index.php/91-demo-contents/news/299-agreement-on-the-resolution-of-the-conflict-in-the-republic-of-south-sudan>. Riek Machar, leader of the SPLM/A-IO, signed the agreement on 17 August while President Salva Kiir signed the agreement on 26 August.

¹³ For accounts of fighting following the signing of the peace agreement, see UNMISS, *The State of Human Rights in the Protracted Conflict in South Sudan*, December 2015; Final Report of the Panel of Experts on South Sudan established pursuant to Security Council resolution 2206 (2015), January 2016, UN Document: S/2016/70, available at www.un.org/ga/search/view_doc.asp?symbol=S/2016/70. For accounts of fighting and attacks against civilians in different areas of South Sudan during this period see Amnesty International, *"We Are Still Running": War Crimes in Leer, South Sudan*, July 2016 (Index: AFR 65/4486/2016); Center for Civilians in Conflict, *A Refuge in Flames: The February 17-18 Violence in Malakal PoC*, 2016, available at http://civiliansinconflict.org/uploads/files/publications/CIVIC_-_Malakal_Report_-_April_2016.pdf; Human Rights Watch, *"South Sudan: Army Abuses Spread West"*, 6 March 2016, available at www.hrw.org/news/2016/03/06/south-sudan-army-abuses-spread-west; UNOCHA, *South Sudan Humanitarian Bulletin*, 28 March 2016, available at https://gallery.mailchimp.com/f2c222dd83de60ecbebe45951/files/20160328_OCHA_SouthSudan_humanitarian_bulletin.pdf; Human Rights Watch, *"South Sudan: Civilians Killed, Tortured in Western Region: Provide Justice for Army Abuses in Western Regions"*, 24 May 2016, available at www.hrw.org/news/2016/05/24/south-sudan-civilians-killed-tortured-western-region; Security Council Press Statement on Fighting in Wau, South Sudan, 1 July 2016, available at www.un.org/press/en/2016/sc12431.doc.htm

¹⁴ These include the formation of a transitional legislative assembly, the cantonment of opposition forces, and the establishment of Joint Integrated Police Units. For an account of failures to implement the peace agreement between August 2015 and January 2016, see

In early July 2016, a series of clashes between government and opposition forces in Juba heightened tensions and led to a deadly shootout on 8 July between bodyguards of President Salva Kiir and First Vice President Riek Machar outside the Presidential Palace, where the two were meeting.¹⁵ On 10 and 11 July, Juba was rocked by fighting during which armed forces, particularly government soldiers, committed serious violations and abuses of international human rights and humanitarian law including targeted killings of civilians, indiscriminate attacks, sexual violence, and looting of civilian property and humanitarian assets.¹⁶

The fighting in Juba forced Riek Machar and many of the remaining SPLA-IO forces to flee southwards, where they evaded government forces over the next month, eventually entering the Democratic Republic of Congo. Meanwhile Kiir dismissed Machar as First Vice-President and replaced him on 25 July with another opposition politician, Taban Deng Gai.¹⁷ The move was rejected and denounced by Machar, and ultimately resulted in a split in the SPLM/A-IO. While relative calm returned to Juba by end of July, the fighting there triggered a surge of fighting in the southern Equatoria region of the country.

In the first half of 2017, there was heavy fighting between the government and opposition forces in many areas of the country, particularly the Equatoria, Western Bahr el Ghazal, Jonglei, and Upper Nile areas.¹⁸ On 12 June, the IGAD Heads of State and Government called for “a High-Level Revitalization Forum of the parties to the ARCSS including estranged groups to discuss concrete measures, to restore permanent ceasefire, to realize full implementation of the Peace Agreement and to develop a revised and realistic timeline and implementation schedule towards a democratic election at the end of the transition period in collaboration with relevant stakeholders.”¹⁹ In July, the IGAD Council of Ministers tasked with facilitating this process approved an implementation matrix and guideline for the process.²⁰ As of the time of writing, this revitalization forum had not kicked off and conflict continued.

In the context of the ongoing non-international armed conflict, government and opposition forces and their associated armed militia have committed war crimes and other serious human rights violations and abuses. Sexual violence, including rape and gang rape, sexual slavery, sexual mutilation including castration, forced pregnancy, and forced abortion has been a consistent feature of the conflict. Sexual violence often takes place during attacks by armed actors, and alongside other violations such as the deliberate killing of civilians, often based on ethnicity; destruction and looting of hospitals, schools, civilian homes and means of livelihood; attacks on humanitarian personnel and assets; recruitment of child soldiers; arbitrary detention; and the killing of captured soldiers and other fighters placed *hors de combat*. Sexual violence and other acts committed as part of a widespread or systematic attack against a civilian population also constitute crimes against humanity.²¹

Report of the Chairperson of the Joint Monitoring and Evaluation Commission (JMEC) for the Agreement on the Resolution of the Conflict in the Republic of South Sudan to the AU PSC, 29 January 2016, available at <http://jmecsouthsudan.org/uploads/AUPSCreport.pdf>

¹⁵ For more details on the initial clashes see OHCHR and UNMISS, *Violations and abuses of international human rights law and violations of international humanitarian law in the context of the fighting in Juba*, South Sudan, in July 2016, January 2017, p. 12, available at www.ohchr.org/Documents/Countries/SS/ReportJuba16Jan2017.pdf

¹⁶ Amnesty International, “*We did not believe we would survive*”: Killings, Rape and Looting in Juba, October 2016 (Index: AFR 65/5028/2016)

¹⁷ Small Arms Survey, *Spreading Fallout*, 28 May 2017, available at www.smallarmssurveysudan.org/fileadmin/docs/issue-briefs/HSBA-IB28-Spreading-Fallout.pdf

¹⁸ Letter dated 13 April 2017 from the Panel of Experts on South Sudan established pursuant to Security Council resolution 2206 (2015) addressed to the President of the Security Council, UN Doc. S/2017/326, 13 April 2017, p. 25-29, 37-38, available at www.un.org/en/ga/search/view_doc.asp?symbol=S/2017/326

¹⁹ See Communiqué of the 31st Extra-Ordinary session of IGAD Heads of State and Government on South Sudan, available at <https://igad.int/communique/1575-communique-of-the-31st-extra-ordinary-summit-of-igad-assembly-of-heads-of-state-and-government-on-south-sudan>

²⁰ See Communiqué of the 57th Extra-Ordinary Session of the IGAD Council of Ministers on South Sudan, available at <https://igad.int/communique/1586-communique-of-the-57th-extra-ordinary-session-of-the-igad-council-of-ministers>

²¹ Amnesty International has found that some attacks have in fact been widespread or systematic. For documentation of abuses during the South Sudan conflict, see Amnesty International, *Nowhere Safe: Civilians under Attack in South Sudan*, May 2014 (Index: AFR 65/003/2014); Amnesty International, “*We Are Still Running*”: War Crimes in Leer, South Sudan, July 2016 (Index: AFR 65/4486/2016); Amnesty International, “*We did not believe we would survive*”: Killings, Rape and Looting in Juba, October 2016 (Index: AFR 65/5028/2016).



Palorinya refugee settlement in Moyo district, Uganda, 2017. © Natalia Jidovanu

The conflict has taken an enormous toll on civilians, costing the lives of an unknown number of people.²² Approximately 1.9 million South Sudanese are internally displaced, with over 200,000 living in camps – called Protection of Civilians (PoC) sites – protected by UN peacekeepers and on UNMISS bases.²³ Another 1.6 million people have fled their homes and sought safety in neighbouring countries as refugees.²⁴ An estimated 4.9 million people – more than 40% of the total population – are food insecure, and in February 2017, famine was declared in Leer and Mayandit counties.²⁵ Civilian access to humanitarian assistance is constrained by the ongoing fighting and by intentional obstruction of humanitarian access by parties to the conflict, particularly the government.²⁶

SEXUAL VIOLENCE IN SOUTH SUDAN'S LONG HISTORY OF CONFLICT

The armed conflict that erupted in December 2013 is only the most recent episode of violence in South Sudan's history. During the first (1956 to 1972) and second (1983 to 2005) Sudanese civil wars, the Government of Sudan and pro-government militias fought against armed groups who sought autonomy for the southern regions of Sudan. Both periods of civil war were characterised by extreme violence against civilians, gross human rights abuses, and massive forced displacement.²⁷

²² There are no recent or reliable statistics on the number of conflict-related deaths.

²³ United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA), *Humanitarian Bulletin: South Sudan*, 10 March 2017, available at https://docs.unocha.org/sites/dms/SouthSudan/2017_SouthSudan/170310_OCHA_SouthSudan_Humanitarian_Bulletin_4.pdf; UNMISS, PoC Update No. 154, 22 February 2017, available at https://unmiss.unmissions.org/sites/default/files/172702_update_-154.pdf.

²⁴ UNOCHA, *Humanitarian Bulletin: South Sudan*, 10 March 2017.

²⁵ UNOCHA, *Humanitarian Bulletin: South Sudan*, 10 March 2017; Integrated Food Security Phase Classification, *Republic of South Sudan, Key IPC Findings: January-July 2017*, available at www.ipcinfo.org/fileadmin/user_upload/ipcinfo/docs/IPC_South_Sudan_Key%20Messages_Feb2017.pdf.

²⁶ Letter dated 13 April 2017 from the Panel of Experts on South Sudan established pursuant to Security Council resolution 2206 (2015) addressed to the President of the Security Council, UN Doc. S/2017/326, 13 April 2017, p. 25-29, 37-38, available at www.un.org/en/ga/search/view_doc.asp?symbol=S/2017/326.

²⁷ During the second civil war, an estimated four million people were internally displaced and 500,000 fled Sudan as refugees. United States (US) Committee for Refugees, "Sudan: Nearly 2 million dead as a result of the world's longest running civil war", 2001, available at <http://web.archive.org/web/20041210024759/http://www.refugees.org/news/crisis/sudan.htm>.

While there is little documentation of incidents of sexual violence during the first civil war, available literature indicates that abduction, rape, sexual slavery, and other forms of sexual violence became increasingly common during the second civil war. Southern Sudanese women were victims of sexual violence, committed by all parties to the fighting including the Sudan Armed Forces, the SPLA and other armed groups.²⁸ Sudanese militia allied to the Sudan Armed Forces, for example, abducted thousands of Dinka women and children, particularly from the Northern Bahr el Ghazal region. Following their abduction, many of these women and children were subjected to sexual violence.²⁹ The 1991 split in the SPLA resulted in heavy fighting between Southern Sudanese, including an increase in the targeting of women and girls through rape and abduction. For example, during the 1991 attack on Bor by the SPLA-Nasir faction, women were raped and mutilated.³⁰ A 2004 survey of male and female South Sudanese refugees in Uganda found that approximately 10% had been raped, 8% had experienced forced prostitution or sexual slavery, and 33% had witnessed the rape of a woman.³¹

There is also some anecdotal information that Southern Sudanese men and boys were subjected to sexual violence during the war. According to a former administrator of Bentiu, during the 1980s, members of the Sudan Armed Forces brought Southern Sudanese displaced boys to their barracks in Bentiu and sexually assaulted them, in exchange for food and clothing.³² Boys who were abducted and taken to northern Sudan were also, in some cases, subjected to sexual violence.³³

During the second civil war, there was also an increase in sexual and gender-based violence within Southern Sudanese communities and homes, including rape, early and forced marriage, and domestic violence.³⁴ According to Jok Madut Jok, a South Sudanese anthropologist, war introduced the tenet that it is the duty of men to defend the homeland while women should ensure 'cultural survival' in the face of high mortality rates due to war and famine by reproducing at an accelerated rate.³⁵ As a result, soldiers returning from the front lines felt a sense of urgency – and entitlement – for sex, both within and outside of marriage, and used violence if women did not yield to their demands. When transfer to another location or to the frontlines was imminent, soldiers had an additional incentive to commit rape, as they knew they would likely escape punishment. The increase in domestic violence has also been attributed to men's suspicions that their wives had committed adultery while they were away fighting, and to alcohol consumption.³⁶

During the second civil war, family and societal structures and norms, which may have helped to curb sexual and gender-based violence, were weakened, and this also contributed to the increase in sexual violence that took place. Contextual factors that disrupted these structures include the separation and displacement of families and communities, the weakened authority and influence of elders and chiefs, the general militarization of society, the increased availability of weapons, the difficulty in securing redress for violent crimes, and the resulting culture of lawlessness.³⁷

The signing in 2005 of the Comprehensive Peace Agreement (CPA) between the Sudanese government and the rebel Sudan People's Liberation Movement/Army (SPLM/A) did not bring an end to violence within South Sudan, or to sexual violence specifically. From 2005 to 2013, fighting occurred between government forces and armed insurgent militias and in the context of intercommunal violence often linked to land and cattle; sexual violence was perpetrated during these incidents. For example, abduction of women and children –

²⁸ Commission on Human Rights, Report of the Special Rapporteur on the Situation of Human Rights in the Sudan, 1 February 1994, UN Doc. E/CN.4/1994/48, para. 121, available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G94/105/01/PDF/G9410501.pdf?OpenElement>

²⁹ On abductions of Southern Sudanese women by government allied militia, see Amnesty International, *Who Will Answer for the Crimes*, January 2005 (Index: AFR 54/006/2005), p. 11; Human Rights Watch, *Children in Sudan: Slaves, Street Children and Child Soldiers*, 1995, available at www.hrw.org/reports/1995/Sudan.htm

³⁰ Small Arms Survey, *Women and Armed Violence in South Sudan*, p. 2, available at www.smallarmssurveysudan.org/fileadmin/docs/facts-figures/south-sudan/womens-security/HSBA-women-and-armed-conflict.pdf; Commission on Human Rights, Report of the Special Rapporteur on the Situation of Human Rights in the Sudan, 1 February 1994, para. 115.

³¹ It is not clear how many of these rapes could be qualified as conflict-related. The purpose of the research was to assess experiences of traumatic events and symptoms of post-traumatic stress disorder. Unni Krishnan Karunakara et al., "Traumatic events and symptoms of post-traumatic stress disorder amongst Sudanese nationals, refugees and Ugandans in the West Nile", *African Health Sciences*, 2004, Table 2, available at www.ncbi.nlm.nih.gov/pmc/articles/PMC2141616/

³² Interview with Bentiu Township Administrator in Juba PoC site, 13 September 2016.

³³ HRW recounts the story of "Mabior" who was abducted by a SAF soldier during a military raid on his village near Bor in 1998. He was taken to the home of the soldier in Wad Medani, forced to work for no pay, and sexually abused. Human Rights Watch, *Children in Sudan: Slaves, Street Children and Child Soldiers*.

³⁴ See Sibua ana, sibua ana' ('Leave Me, Leave Me'): Survivors of Sexual Violence in South Sudan" in Friederike Bubenzer and Orly Stern, eds., *Hope, Pain and Patience: The Lives of Women in South Sudan*, p. 59-62.

³⁵ Mary Ann Fitzgerald, *Throwing the Stick Forward: The Impact of War on Southern Sudanese Women*; UNIFEM and UNICEF, 2002, p. 89-90, referring to Jok Madut Jok; *Militarization and Gender Violence in South Sudan*, Marymount University Dept. of History.

³⁶ Mary Ann Fitzgerald, *Throwing the Stick Forward: The Impact of War on Southern Sudanese Women*. Anyieth D'Awol, "Sibua ana, sibua ana' ('Leave Me, Leave Me'): Survivors of Sexual Violence in South Sudan" in Friederike Bubenzer and Orly Stern, eds., *Hope, Pain and Patience: The Lives of Women in South Sudan*, p. 56.

³⁷ Anyieth D'Awol, "Sibua ana, sibua ana' ('Leave Me, Leave Me'): Survivors of Sexual Violence in South Sudan" in Friederike Bubenzer and Orly Stern, eds., *Hope, Pain and Patience: The Lives of Women in South Sudan*, p. 58.

often aimed at or resulting in forced marriage and rape – was a feature of back and forth attacks between Lou Nuer and Murle communities in Jonglei state in 2011 and 2012.³⁸ Security forces also committed acts of sexual violence during government-led civilian disarmament campaigns, particularly in Jonglei state.³⁹ Even outside theatres of conflict, there were numerous cases of rape and sexual assault committed by government officers during this period.⁴⁰

GENDER DYNAMICS IN SOUTH SUDANESE SOCIETY

Both the incidents that occurred during the second civil war and the endemic levels of sexual violence during the current conflict can only be fully understood when placed in the longer-term context of gender dynamics within South Sudanese society. Sexual violence is facilitated by the overall status of women and girls in South Sudanese society as subordinate to men, and the resulting discrimination that they experience in their everyday lives. It is also motivated by patriarchal structures and gendered concepts of power which position men as “protectors” of women.



A group of women stand in the rain waiting to be registered and receive their refugee status at Kuluba collection point, Arua district, northern Uganda. © Natalia Jidovanu

South Sudanese social and cultural practices often discriminate against women and girls, depriving them of access to resources and opportunities on an equal footing with men and boys and denying them equal rights.⁴¹ In access to education and literacy, for example, there are significant gender disparities.⁴² In 2015, only 40.3% of primary school pupils, 32.5% of secondary school pupils, and 22.2% of university students

³⁸ UNMISS, *Incidents of Inter-Communal Violence in Jonglei State*, June 2012, p. 31, available at https://unmiss.unmissions.org/sites/default/files/june_2012_jonglei_report.pdf

³⁹ UN Security Council, “Report of the Secretary-General on South Sudan”, 26 June 2012, para 62, available at www.un.org/en/ga/search/view_doc.asp?symbol=S/2012/486&Lang=E; UN Security Council, “Report of the Secretary-General on South Sudan”, 8 November 2015, para. 53, available at www.un.org/en/ga/search/view_doc.asp?symbol=S/2012/820&Lang=E

⁴⁰ Human Rights Council, *Report of the Special Rapporteur on the situation of human rights in the Sudan, Sima Samar*, 3 March 2008, UN Doc. A/HRC/7/22, para. 68, available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G08/114/97/PDF/G0811497.pdf?OpenElement>

⁴¹ For a general discussion of women’s status in South Sudanese society, see Anyieth D’Awol, “‘Sibu ana, sibu ana’ (‘Leave Me, Leave Me’): Survivors of Sexual Violence in South Sudan” in Friederike Bubenzer and Orly Stern, eds., *Hope, Pain and Patience: The Lives of Women in South Sudan*, p. 59-62.

⁴² While there are no recent literacy statistics, according to South Sudan’s 2009 National Baseline Household Survey the literacy rate for males 15 years and above was 40% compared to 16% for females. National Bureau of Statistics, *National Baseline Household Survey 2009*, p. 25, available at <http://reliefweb.int/sites/reliefweb.int/files/resources/NBHS%20Final%20Website.pdf>

were female, indicating the societal prioritization of boys' education over that of girls.⁴³ Women are also underrepresented in political and leadership positions; for example, only one out of the 34 state governors is female and only five out of 44 ministers are female. This is despite a progressive provision in South Sudan's constitution requiring that women be represented in all legislative and executive organs of government by at least 25% "to redress imbalances created by history, customs, and traditions".⁴⁴

Gender inequality is particularly apparent within marriage and family life. Though the Transitional Constitution and the Child Act include provisions prohibiting forced and child marriage, both remain common.⁴⁵ One key driver is the practice of bride price, in which a girl's family receives money, cattle or other livestock from the family of the groom – creating a financial incentive to early marriage.⁴⁶ In the absence of any statutory family legislation, marriages and marital disputes are governed by the various customary laws of South Sudan's ethnic groups, which generally curtail women's rights to divorce, to remarry, to maintain custody of children, and to own and inherit property.⁴⁷ Other discriminatory customary practices include widow-inheritance (where a widow is "inherited" by a brother or other male relative of her deceased husband) and girl-child compensation (where the family of an individual who has committed murder compensates the victim's family with a female child).⁴⁸

In the context of gender inequality, gender-based and sexual violence is often tolerated, or even tacitly condoned. Domestic and intimate-partner violence is considered largely a private matter, and rarely results in police intervention and criminal justice in South Sudan.⁴⁹ Marital rape is not criminalized under South Sudan's Penal Code or under many customary laws.⁵⁰ Early and forced marriages often involve violence – either to compel women and girls to marry or as a result of the inherently unequal power dynamics within such marriages. A study on gender norms and gender-based violence conducted between 2009 and 2011 found that 82% of women and 81% of men agreed that "women should tolerate violence in order to keep their family together." The majority of respondents (68% of women and 63% of men) also agreed that "there are times when a woman deserves to be beaten."⁵¹ A 2011 study by South Sudan's Ministry of Gender, Child and Social Welfare found that over 60% of men surveyed "strongly agreed" with the statements, "women are subordinate and need to be directed and disciplined," and "it is a man's traditional right to punish and discipline women for wrong-doing."⁵² Wife beating is also permitted by the customary laws of many communities.⁵³

Even outside of marriage, sexual violence thrives on the silence that often surrounds it. Violent crimes against women and girls are often settled outside the courts. This results from the general reluctance of women and their families to speak publicly about rape, due to high levels of associated shame and stigma. Legal means for victims to seek justice are also barely available, and legal prosecutions against perpetrators

⁴³ Government of the Republic of South Sudan, *Education Statistics for the Republic of South Sudan*, 2015, p. 22, 26, 38, available at www.altiaconsulting.com/wp-content/uploads/2016/03/SSEMIS_2015_National.pdf

⁴⁴ Transitional Constitution of the Republic of South Sudan, 2011, art. 16(4). The ARCSS also provided that, "In accordance with the TCRSS provisions providing for the participation of women in the Executive (25%), the GRSS shall nominate no fewer than four (4) women to the Council of Ministers, and the South Sudan Armed Opposition shall nominate no fewer than three (3) women to the Council of Ministers." ARCSS, Chapter I, art. 2.1.5.

⁴⁵ The Transitional Constitution provides that "no marriage shall be entered into without the free and full consent of the man and woman intending to marry." TCSS, art. 15. The Child Act states that "every child has the right to be protected from early marriage." Child Act, 2008, art. 23(1). The Penal Code also criminalizes "kidnapping or abducting a woman to compel her into marriage". Penal Code, art. 273.

⁴⁶ Human Rights Watch, *"This Old Man Can Feed Us, You Will Marry Him": Child and Forced Marriage in South Sudan*, 2013, available at www.hrw.org/sites/default/files/reports/southSudan0313_forinsertWebVersion_0.pdf. See also Orly Stern, "This Is How Marriage Happens Sometimes: Women and Marriage in South Sudan" in Friederike Bubenzer and Orly Stern, eds., *Hope, Pain and Patience: The Lives of Women in South Sudan*, p. 13-14.

⁴⁷ For specific examples of how customary law regulate divorce, child custody, and inheritance, see UNDP, *In Search of a Working System of Justice for a New Nation: The Ascertainment of Customary Laws*, Volumes 1-3, available at www.ss.undp.org/content/south_sudan/en/home/library/democratic_governance/reports-ascertainment-of-customary-laws-in-south-sudan.html. See also David K. Deng, *Challenges of Accountability: An Assessment of Dispute Resolution Processes in Rural South Sudan*, March 2013, p. 51-55, available at www.pactworld.org/challenges%20of%20accountability

⁴⁸ Regarding widow-inheritance, see Orly Stern, "This Is How Marriage Happens Sometimes: Women and Marriage in South Sudan" in Friederike Bubenzer and Orly Stern, eds., *Hope, Pain and Patience: The Lives of Women in South Sudan*, p. 21. For examples of how girl-child compensation is included in customary laws, see UNDP, *In Search of a Working System of Justice for a New Nation: The Ascertainment of Customary Laws*, Volumes 1-3.

⁴⁹ According to one survey, only 8% of women who had suffered domestic violence reported it to the police. South Sudan Ministry of Gender, Child and Social Welfare et al., *Gender-based Violence and Protection Concerns in South Sudan*, p. 34.

⁵⁰ "Sexual intercourse by a married couple is not rape." South Sudan Penal Code, 2008, art. 247(3).

⁵¹ Jennifer Scott et al., "An Assessment of Gender Inequitable Norms and Gender-Based Violence in South Sudan: A Community-Based Participatory Research Approach", *Conflict and Health*, 2013, available at <https://conflictandhealth.biomedcentral.com/articles/10.1186/1752-1505-7-4>

⁵² South Sudan Ministry of Gender, Child and Social Welfare et al., *Gender-based Violence and Protection Concerns in South Sudan*, p. 11.

⁵³ According to the UNDP Ascertainment of Lotuko laws, for example, "Wife beating is allowed where a woman disobeys the lawful orders of her husband. No compensation is payable for injuries sustained by a wife in the process." UNDP, *In Search of a Working System of Justice for a New Nation*, p. 60.

are rare. Rape cases are sometimes “resolved” in customary courts through payments from the perpetrator or his family or arrangements to have the perpetrator marry the victim.⁵⁴

Sexual violence against both men and women is also linked to gendered perceptions of power and dominance. In South Sudan, as in many other societies, men are considered to represent strength and virility, and see it as their role to “protect” women, including by controlling their sexual activity. Sexual violence against women is therefore a way of communicating to the target population their impotence to protect their wives, sisters and daughters, while sexual violence against men suggests emasculation and disempowerment of the individual victim, the family and the community.⁵⁵ In addition, most South Sudanese communities are patrilineal and social organization is based on male lineage. The ability of men to procreate, therefore, carries great significance, and is seen as critical for continuing family lines. This cultural norm has served as motivation for violence against men targeted at hindering future procreation.⁵⁶

THE SURGE IN SEXUAL VIOLENCE

As outlined above, the heightened rates of sexual violence experienced during the second civil war left a legacy that has influenced the high rates of sexual violence seen during the current conflict. Societal gender dynamics including the culture of turning a blind eye to sexual violence both within and beyond the family and beliefs that the role of men is to control and protect women have also helped create conditions for sexual violence to thrive.

In addition, during conflict, law and order and social norms break down while family and community mechanisms that inhibit extreme and exaggerated forms of sexual violence crumble. The shifts in male and female gender roles, where women are forced to become bread winners and men often fail to meet their traditional social obligations to protect and fend for their families, create tensions within families that can trigger violence.⁵⁷ At the same time, the conflict has given general legitimacy to the use of all forms of violence, and new conflict-related motives for sexual violence have emerged.

It is the mixture of historical precedent, the general acceptance of sexual violence, increased opportunism, impunity, and conflict dynamics, particularly inter-ethnic violence, that form the context for the surge in sexual violence that has occurred in South Sudan since December 2013.

⁵⁴ David K. Deng, *Challenges of Accountability: An Assessment of Dispute Resolution Processes in Rural South Sudan*, March 2013, p. 55. See also Haki, *Combatting gender-based violence in the customary courts of South Sudan*, December 2013, available at https://static1.squarespace.com/static/53f7ba98e4b01f78d142c414/t/53ffdb13e4b0bf4098a1194d/1409276691505/Combating+GBV+in+South+Sudan_Haki.pdf, p 18, 24, 46

⁵⁵ Anyieth D'Awol, “‘Sibu ana, sibu ana’ (‘Leave Me, Leave Me’): Survivors of Sexual Violence in South Sudan” in Friederike Bubenzer and Orly Stern, eds., *Hope, Pain and Patience: The Lives of Women in South Sudan*, p. 56; Sandesh Sivakumaran, “Sexual Violence Against Men in Armed Conflict,” *The European Journal of International Law*, Vol. 18 no. 2, 2007, p. 268, available at <http://ejil.org/pdfs/18/2/224.pdf>

⁵⁶ Alicia Elaine Luedke, *Violence Begets Violence: Justice and Accountability for Sexual and Gender-Based Offences in South Sudan*, p. 16.

⁵⁷ Mary Ann Fitzgerald, *Throwing the Stick Forward: The Impact of War on Southern Sudanese Women*. South Sudan Protection Cluster, *Protection Trends: South Sudan, January-April 2017*, May 2017, p. 13.

4. CASES OF SEXUAL VIOLENCE

INTRODUCTION

Since the outbreak of the current conflict in December 2013, South Sudanese women, men, girls and boys have been subjected to sexual violence on a massive scale, perpetrated by government and opposition forces and various other armed groups. The exact number of people who have been individually raped, gang raped, abducted or held in sexual slavery, sexually mutilated, castrated, or subjected to forced nudity is not known. The few available statistics, however, are alarming. UNICEF reported that between December 2013 and December 2016, 1,130 children were sexually assaulted.⁵⁸ During and after the July 2016 fighting in Juba, UNMISS documented cases of rape and gang rape involving 217 victims.⁵⁹ A survey conducted in 2015 by UNFPA found that 72% of women living in the Juba PoC sites reported having been raped since the conflict broke out, mostly by police and soldiers.⁶⁰

Available statistics also indicate that the frequency of sexual violence is getting worse as the conflict persists. According to the South Sudan Protection Cluster, reports of sexual and gender-based violence increased by 61% between 2015 and 2016.⁶¹ In 2016, UNMISS documented 577 incidents of conflict-related sexual violence, including rape, gang rape and sexual slavery. Survivors included 57 girls, several of whom were below the age of 10.⁶² According to the April 2017 report of the UN Secretary-General on Conflict-Related Sexual Violence, 2016 saw a 32% increase over 2015 in the number of cases of gender-based violence perpetrated by men in uniform, while cases of abduction for the purpose of sexual slavery more than doubled.⁶³

The African Union Commission of Inquiry on South Sudan (AUCISS), UNMISS and OHCHR have also all described sexual violence during South Sudan's conflict as being committed in a widespread as well as systematic way, concluding that it may in some cases amount to crimes against humanity.⁶⁴

Survivors interviewed for this report described sexual violence taking place essentially anytime civilians come into close proximity with armed actors. This includes during military attacks on villages, during searches of residential areas by armed actors, along roads and at checkpoints, and following abduction or detention.

⁵⁸ UNICEF, "Rise in child recruitment as conflict in South Sudan enters fourth year", 15 December 2016, available at www.unicef.org/media/media_94185.html

⁵⁹ These cases occurred between 8 and 25 July. OHCHR and UNMISS, *Violations and abuses of international human rights law and violations of international humanitarian rights law in the context of the fighting in Juba, South Sudan, in July 2016*, January 2017, p. 18, available at www.ohchr.org/Documents/Countries/SS/ReportJuba16Jan2017.pdf

⁶⁰ Human Rights Council, *Report of the Commission on Human Rights in South Sudan*, 6 March 2017, UN Doc. A/HRC/34/63, para. 43.

⁶¹ South Sudan Protection Cluster, *Protection Trends South Sudan, October-December 2016*, p. 14, available at www.humanitarianresponse.info/system/files/documents/files/south_sudan_protection_trends_paper_october_-_december_2016_09022017.pdf

⁶² *Report of the Secretary-General on Conflict-Related Sexual Violence*, 15 April 2017, UN Doc. S/2017/249, para. 60.

⁶³ *Report of the Secretary-General on Conflict-Related Sexual Violence*, 15 April 2017, UN Doc. S/2017/249, para. 60. The actual number of abductions recorded was not included in the report.

⁶⁴ AUCISS Report, para 809. UNMISS, "Conflict in South Sudan: A Human Rights Report", 8 May 2014, para. 8; OHCHR, Assessment mission by the OHCHR to improve human rights, accountability, reconciliation and capacity in South Sudan: detailed findings, 10 March 2016, para. 161, available at www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session31/Documents/A-HRC-31-CRP-6_en.doc

Survivors described sexual violence often occurring alongside other forms of violence, including killing, looting and destruction of homes.

Most of the cases investigated for this report involved rape or gang rape of women and girls, which often lasted for hours and left victims with serious injuries – both physical and psychological. Some rapists aggravated their crimes by other acts of cruelty, such as mutilating victims with knives or raping them with objects such as sticks. Some killed their victims outright while others left them bleeding, seemingly indifferent to whether they lived or died. Elderly women, young girls, and pregnant women have not been spared.



A woman carrying luggage on her head walks through the Protection of Civilians site in Juba, South Sudan. © Natalia Jidovanu

Researchers for this report also documented cases of abduction for the purpose of rape. While some women interviewed were held for only a few days, others were deprived of their liberty for weeks or months.

Witnesses to abduction also indicated that in some cases, women and girls may still be held by their abductors as their whereabouts remain unknown. In some cases, the conduct may also amount to forced marriage.⁶⁵

While figures on sexual violence against women in South Sudan only represent a fraction of the abuse that takes place, estimates of sexual violence against men are almost impossible to come by.⁶⁶ Researchers documented 16 cases of sexual violence against men, including rape, castration, and forms of sexual torture. Most of these cases occurred following arrest by government security or military agents and during periods of detention.

Survivors' accounts indicate that sexual violence has occurred as part of a strategy to terrorize, degrade, shame or humiliate victims and the larger groups of which they are a part.⁶⁷ A recurring feature of the cases

⁶⁵ The Office of the High Commissioner for Human Rights (OHCHR) defines a 'forced marriage' as: "[A]ny marriage which occurs without the full and free consent of one or both of the parties and/or where one or both of the parties is/are unable to end or leave the marriage, including as a result of duress or intense social or family pressure." OHCHR, *Report on preventing and eliminating child, early and forced marriage*, 2 April 2014, UN Doc. A/HRC/26/22. The Special Court for Sierra Leone has defined forced marriage as follows: "[I]n the context of the Sierra Leone conflict, forced marriage describes a situation in which the perpetrator, through his words or conduct, or those of someone for whose actions he is responsible, compels a person by force, threat of force, or coercion to serve as a conjugal partner resulting in severe suffering, or physical, mental or psychological injury to the victim."

⁶⁶ For the past two years, reports of the UN Secretary-General on Sexual Violence in Armed Conflict have not included any statistics concerning conflict-related sexual violence against men in South Sudan. *Report of the Secretary-General on Conflict-Related Sexual Violence*, 15 April 2017, UN Doc. S/2017/249; *Report of the Secretary-General on South Sudan*, 29 April 2015, UN Doc. S/2015/296.

⁶⁷ This is also the assessment made by the Office of the United Nations High Commissioner for Human Rights, Assessment mission by the OHCHR to improve human rights, accountability, reconciliation and capacity in South Sudan: detailed findings, 10 March 2016, para. 161, available at www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session31/Documents/A-HRC-31-CRP-6_en.doc

documented is that victims of sexual violence have been routinely targeted on the basis of their ethnicity. Most cases researchers documented involved Nuer victims and government perpetrators, usually Dinka.⁶⁸ Ethnicity was also a factor in cases involving Dinka or Shilluk victims and Nuer perpetrators, or victims belonging to various ethnicities from the Equatoria region and Dinka perpetrators. Some survivors recounted the words used by perpetrators, which clearly indicated ethnic targeting.⁶⁹

Though it is clear that ethnic targeting has occurred with frequency, interviews conducted for this report indicate multiple possible drivers for this. Interviews clearly indicate that ethnicity has been used as a proxy for identifying a victim's political allegiance and affiliation. For example, Nuer civilians have been targeted because of their assumed affiliation with the SPLM/A-IO, and perpetrators' desire to punish and defeat the SPLM/A-IO and its supporters.⁷⁰ Another element overlaying ethnicity is that of revenge. Because of the history of inter-ethnic violence in South Sudan both during the current conflict and the second civil war (such as the Bor massacre of 1991), individuals have also been targeted in order to punish a group perceived as "enemy".⁷¹ For example, one interviewee recounted that the men who beat and gang raped her in Mapel, Warrap state in April 2014 said to her, *"We don't want Nuer here...this land belongs to Dinka...go to Malakal, that is where you belong. Your husbands killed our brothers long ago and they even killed children. So here we are going to kill you..."*⁷²

Another overarching feature of sexual violence is the insufficient orders or sanctions from military commanders, and the general context of lawlessness and impunity that has allowed soldiers to do as they please. Most of the survivors interviewed did not see an obvious commander present, or at least one that seemed to exert significant control over subordinates. In a few cases however, survivors clearly recalled seeing someone who appeared to be in charge and gave explicit orders condoning sexual violence⁷³, or who also participated in committing sexual violence⁷⁴, or who stood by and failed to intervene.⁷⁵ OHCHR found that armed militia carried out attacks in Unity state under an agreement of "do what you can and take what you can" in which they were allowed to carry out rape and abduction, and to steal cattle and other personal property in lieu of taking a salary.⁷⁶

FROM THE BEGINNING: DECEMBER 2013-JANUARY 2014

From the first days and months of the conflict, armed actors committed acts of sexual violence, targeting their victims based on gender, ethnicity, and perceived political allegiance. In Juba, then in Bor and Malakal, both government and SPLA-IO forces committed acts of sexual violence.

JUBA

South Sudan's internal armed conflict erupted in Juba in December 2013, with days of fighting marked by the ethnically targeted killings of Nuer soldiers and civilians and the looting and destruction of civilian property by government forces. Over 30,000 people, predominantly Nuer civilians, fled their homes to seek protection within the UNMISS bases in Thongpiny and in Jebel neighbourhoods, fearing attacks and reprisals by government forces.⁷⁷ During these days of heavy violence, government forces also raped and gang raped Nuer women. The survivors told researchers that the perpetrators were SPLA soldiers they believed to be of Dinka ethnicity.

Nyachah, 36, sought shelter in the UNMISS Thongpiny base on 16 December after fighting broke out in Juba. A week later, she returned to her home in Khor William about 90 minutes away by foot to collect food

⁶⁸ This is with the exception of cases from Central and Southern Unity state where men from the Bul section of the Nuer community, aligned with government forces, attacked civilians from other sections of the Nuer community perceived to be supporting the SPLM/IO during a government offensive that started in April to December 2015. For more on this see Amnesty International, "We're still running": War Crimes in Leer, South Sudan (Index: AFR 65/4486/2016); Small Arms Survey, The Conflict in Unity State, available at www.smallarmssurveysudan.org/facts-figures/south-sudan/conflict-of-2013-14/the-conflict-in-unity.html

⁶⁹ Interview with Nyachah (pseudonym) in Juba PoC site, South Sudan, 7 November 2016; Interview with Achuel (pseudonym) in Pagrinya I refugee settlement, Uganda, 5 December 2016.

⁷⁰ Interview with Nyabang (pseudonym) in Bentiu PoC site, South Sudan, 18 November 2016.

⁷¹ Interview with Nyachual (pseudonym) in Juba PoC site, South Sudan, 16 November 2016; Interview with Nyalam (pseudonym) in Juba PoC site, South Sudan, 8 November 2016.

⁷² Interview with Nyalam (pseudonym) in Juba PoC site, South Sudan, 8 November 2016.

⁷³ Interview with Nyaguene (pseudonym) in Juba PoC site, South Sudan, 10 November 2016.

⁷⁴ Interview with Rachel (pseudonym) in Juba PoC site, South Sudan, 16 November 2016.

⁷⁵ Interview with Nyabang (pseudonym) in Bentiu PoC site, South Sudan, 18 November 2016

⁷⁷ UNMISS, *Update, UNMISS "Protection of Civilians" (PoC) Sites*, 27 January 2014, available at <https://unmiss.unmissions.org/sites/default/files/unmiss-update/14%20-%2001%20-%2027%20update%2005.pdf>

and clothes for her children, but found all her belongings and food had been stolen. As she was walking back to the UNMISS base, she encountered seven armed government soldiers near the Giyada military barracks, all wearing the uniform of the Presidential Guard, commonly referred to as the Tiger Battalion (identifiable by its Tiger-like print).

*"They [the soldiers] spoke to me in Dinka and I replied in Arabic. They said, 'She must be a Nuer woman.' Some were saying, 'Let us kill her, let us kill her' while others were saying 'We can rape her.' One of them was saying, 'She is just a woman and we are not looking for women.' Finally they decided to rape me. All of them raped me...After the rape, they left me unconscious."*⁷⁸

Nyachah believes that she was raped because she is Nuer.

*"They [the soldiers] were telling me that I should blame God for creating me a Nuer....I feel hurt, humiliated and my level of dignity has decreased....when I am asleep, I can still hear the voice of one of them telling me, 'Are you enjoying me, I am enjoying you.'"*⁷⁹

Veronica, 30, and her sister, were also gang raped by government soldiers in early December 2013. The women left the UNMISS Thongpiny base in December to get food for their children. Between Mia Saba and Mangaten, at around 11am, they met soldiers wearing the Tiger Battalion uniform:

*"They [the soldiers] called us...they said, 'If you don't come, we are going to shoot you.' They were carrying guns. When we reached them, they started beating us with a belt and then they raped us...three men raped me and two men raped my sister."*⁸⁰

On the morning of 16 December 2013, government soldiers came to **Nyaluit's** home in the New Site neighbourhood and shot her brother. He died immediately. Two hours later, a soldier came and took her and her sister to a building occupied by soldiers in the Mia Saba neighbourhood.

*"The soldiers started beating us with electrical wires, and they separated us. [My sister] was taken to one room and I was taken to another room...In the room where I was, there were five soldiers, and all of them raped me ...I remember that when the second person was raping me, I started bleeding immediately...They raped me because I am a Nuer woman."*⁸¹

Nyaluit's sister died and Nyaluit herself lost consciousness. When she regained consciousness, she was in a hospital at the UNMISS base in Thongpiny.

Nyabuok was running from her home in New Site to the UNMISS base in Thongpiny on the morning of 16 December. She met a group of government soldiers, all of whom were Dinka. They forced her inside a house near Bilpam road.

*"When I resisted, they beat me with a belt and hit me with the butts of their guns till I became weak and I couldn't resist further. They [seven soldiers] raped me. They penetrated my vagina and also penetrated my anus with their penises. Not only that but they were also using their fingers to penetrate my vagina and anus, until I lost consciousness and they left me there. At around 11am, I woke up and found myself alone...I started my journey to the UNMISS base and reached there at 12 noon."*⁸²

Nyachual recounted that she and her 16-year-old younger sister were raped by government soldiers, whom she described as Dinka and wearing uniform of the Tiger Battalion, on the evening of 16 December 2013. The two sisters were at their home in the Eden neighbourhood.

"At around 7pm, six soldiers came into our house and spoke to us in Dinka. I responded in Arabic, but they knew that we were Nuer. One of the soldiers told us, 'If you allow us to have sex with you, we will take you to your people in UNMISS camp', but I refused. They decided to take us inside the rooms by force. They tried to rape us, but I refused. They started beating us with electrical wire and also hitting us with the butts of their guns. They hit my eye and now I can't see with it. We became weak...They put their fingers in my vagina and also put their fingers into my mouth. They raped my sister...and she was bleeding seriously because she was so young. At around 10pm, they left us and went back to their camp."

The next day, a neighbour found Nyachual and her sister and drove them to the UNMISS base in Thongpiny. Nyachual believes that the government soldiers who raped her were motivated by revenge for

⁷⁸ Interview with Nyachah (pseudonym) in Juba PoC site, South Sudan, 7 November 2016.

⁷⁹ Interview with Nyachah (pseudonym) in Juba PoC site, South Sudan, 7 November 2016.

⁸⁰ Interview with Veronica (pseudonym) in Juba PoC site, South Sudan, 13 October 2016.

⁸¹ Interview with Nyaluit (pseudonym) in Juba PoC site, South Sudan, 9 November 2016.

⁸² Interview with Nyabuok (pseudonym) in Juba PoC site, South Sudan, 14 November 2016.

inter-ethnic violence that took place during South Sudan's civil war. *"They were talking about what happened in 1991 in Bor – that Dinka women and girls were raped and killed by Riek Machar's ethnic group, the Nuer."*⁸³

Though the fighting in Juba had subsided by 18 December with the withdrawal of forces allied to Riek Machar, insecurity in Juba persisted, with ongoing reports of sexual violence, harassment, abductions and disappearances particularly targeting Nuer people based on ethnicity and perceived allegiance to the SPLM/A-IO. Women and girls have been particularly at risk of sexual violence when they attempt to leave the PoC site to go to the market, or to visit their homes within Juba, and on their way back to the PoC site.

In June 2014, **Nyaguar**, 35 years old, left UNMISS Thongpiny base to go to her home in Mangaten and collect money that she had buried there. On her way back, she encountered three soldiers wearing government uniforms along Bilpam road.

*"They started beating me...they also took my money...They were quarrelling among themselves about whether to rape me or not. Two soldiers were saying, 'Let's kill her and rape her.' But their captain said I should not be raped and that they should allow me to go since they had taken my money already. Finally, the two soldiers decided to rape me, and they raped me in the presence of the captain, on Bilpam road, on the left side near the CAT Company compound...Afterwards they left me on the ground unconscious."*⁸⁴

When Nyaguar regained consciousness, she found herself in a hospital in the UNMISS Thongpiny base.

BOR

Between 16 and 18 December 2013 there was also heavy fighting within the military bases south of Bor, the capital of Jonglei. On 18 December, predominantly Nuer soldiers under the leadership of General Peter Gatdet, who defected from the government military, took control of Bor town.⁸⁵ The government managed to retake control of Bor town for a week, from 24 December until 31 December when SPLA-IO forces, including members of the Nuer ethnic militia known as the White Army, entered Bor and took control of the town. While in control, the opposition forces destroyed the entire Bor Market and killed Dinka civilians, including those seeking refuge in a local church and hospital.⁸⁶ On 18 January 2014, Bor changed hands again when government forces, supported by the Uganda Peoples' Defence Force (UPDF), regained control.⁸⁷

Researchers documented two cases of sexual violence committed against Dinka women by Nuer SPLA-IO forces when they were present in Bor town in January 2014.⁸⁸ One morning in January, nine Nuer opposition soldiers came to **James's** house in Bor, near Marol market, where he lived with his wife **Acham**. They forced him to watch as they gang raped and then killed her. In tears, he recounted:

"Nine soldiers in military uniform kicked my gate and then entered into my house. I realized that they were Nuer because of the marks on their faces. I asked them what was going on...One of them replied...'We want to sleep with your wife'...I asked them why, and the same person replied, 'Don't you know that Dinka and Nuer are fighting and even that many Nuer were killed by Dinka in Juba?'...They slapped me and pulled my wife...I tried to fight them, but they were many...Six came to me and beat me with the butts of their guns until I fell down. They tied me on a chair...and they undressed my wife in front of me. I was trying to help her, but I failed....They said, 'We are not going to kill you, but we will enjoy your wife in front of you.' I begged to pay money instead, or even that they should kill me, but they refused... they were just laughing at me and my wife.

They put her down and two of them were holding her hands, and others were holding her legs, because she was fighting them. They raped her one by one. All nine of them raped her, twice per person, until my wife became unconscious and was bleeding...

⁸³ Interview with Nyachual (pseudonym) in Juba PoC site, South Sudan, 16 November 2016.

⁸⁴ Interview with Nyaguar (pseudonym) in Juba PoC site, South Sudan, 10 September 2016.

⁸⁵ Sudan Tribune, "South Sudan army says General Peter Gatdet defected from ranks", 18 December 2013, available at www.sudantribune.com/spip.php?article49234. Interview with Philip Aguer, SPLA Spokesperson, 26 March 2014.

⁸⁶ Amnesty International, *Nowhere Safe: Civilians under Attack in South Sudan*, p. 20.

⁸⁷ UNMISS, Interim Report, p. 13; See Al Jazeera, "Uganda Admits Combat Role in South Sudan", 16 January 2014, available at www.aljazeera.com/news/africa/2014/01/ugandan-troops-battling-south-sudan-rebels-201411683225414894.html, and BBC, "Key South Sudan Town of Bor Recaptured from Rebels", 18 January 2014, available at www.bbc.com/news/world-africa-25794699

⁸⁸ UNMISS also reported allegations of sexual violence at Bor State Hospital and in St. Andrew's Church. UNMISS, *Conflict in South Sudan: A Human Rights Report*, p. 29-30.

When they took their guns preparing to go, one of them said, 'Why don't we finish this woman'...they came and collected a big stick and went and inserted it in my wife's private part until she died, then they left...I buried her in my house."⁸⁹

When the SPLA-IO, including the White Army, attacked Bor town in January 2014, **Achuel** and her husband, like other civilians, fled their home to seek protection at the Bor UNMISS base. They encountered members of the White Army blocking the road leading to the UNMISS base. Achuel recounted that they were killing men from the Dinka ethnic group. Her husband was among those killed. She said:

"They [White Army forces]...shot my husband in the head and he died. [My children and I] started crying but they said to me, 'If you cry, we will kill all of your [four] children.' They told me to go and I went, but on my way I met another group...One of them told me that I was beautiful, and he came to me and said, 'Can we have sex?' I did not reply. He forced me to go with him inside a house near the road and raped me. After he finished raping me, he decided to accompany me and my children until we reached the UNMISS gate, and then he went back."

Achuel believes that she was targeted because of her ethnicity. She said, *"I was raped because I am Dinka and they are from Nuer. They want to kill Dinka men and rape their wives, mothers and daughters like in 1991..."*⁹⁰

MALAKAL

Fighting first erupted in Malakal on 24 December 2013. Following heavy clashes, SPLA-IO forces, including members of the White Army, took control by the next day. Malakal town subsequently changed hands another five times, before falling under government control on 19 March. As elsewhere, the early fighting in Malakal was brutal, and involved killings of civilians, extensive looting and destruction of civilian property, as well as sexual violence, particularly gang rape.⁹¹ The examples of sexual violence below all took place before the end of December 2013.



Burned down houses behind Malakal Teaching Hospital, South Sudan, 2014. © Andrei Pungovschi/AFP/Getty Images

Joy, 39 years old, had tried to flee to the Malakal UNMISS base after the fighting erupted, but the gunfire was too heavy, so she stayed at home with her six children and her elderly father. One afternoon, around

⁸⁹ Interview with James (pseudonym) in Pagrinya II refugee settlement, Uganda, 5 December 2016.

⁹⁰ Interview with Achuel (pseudonym) in Pagrinya I refugee settlement, Uganda, 5 December 2016.

⁹¹ Amnesty International, *Nowhere Safe: Civilians under Attack in South Sudan*, p. 23-27, 29, 33-34.

4pm, seven uniformed men affiliated with the SPLA-IO came to her house. They killed Joy's father and abducted her 16-year-old daughter.

"They asked me, 'Don't you have a man in this house?' I replied that we did, but that he was sleeping – my father was sleeping inside... They told me that I should call him. I sent my elder daughter to go and bring him... After my father came... they told him... 'Your son Johnson Olony⁹² is killing us outside, but we are going to make you sleep forever', and they shot him two times in the heart and he died immediately..."

Then they looked at my elder daughter and they said, 'This girl is going with us'... One of them told me, 'I have been looking for a beautiful Shilluk girl but now I got her, and you are going to be my mother-in-law.' They started laughing at us because we were all crying... They started pulling my daughter because she was refusing to go with them, and I was trying to pull her back, but they warned me that I would die like my father and then they slapped me and I fell down... My daughter cried and told me, 'Mama, let me go with them because if they kill you like my grandfather, my brothers will remain alone in this life. Don't worry, they are taking me as a wife. They will not kill me and if I get a chance where they are taking me, I will come back to you.'"⁹³

The soldiers left with Joy's daughter, and she has not seen her since. "I don't know whether she is alive or dead", she said.

On 24 December 2013, many Malakal residents were fleeing to the UNMISS base to seek safety. Fifty-six-year-old **Nyaguande** and seven other women of about the same age hid inside a house near the airport in the Malakia neighbourhood, as they could not run fast enough. Armed uniformed government soldiers entered the house and raped Nyaguande and the other women.

"When they tried to rape me, I resisted. They beat me, broke my finger and injured my face, and they raped me. They divided us amongst themselves and took us inside different rooms. There were six soldiers in the room with me and all of them raped me... They raped me because I am Nuer... I am of the same age as their mothers but they still raped me.""⁹⁴

Adot sought shelter at the PoC site in Malakal UNMISS base on 24 December 2013. One morning a few days later, she left the base to collect firewood. When she was on her way back, and only a short distance from the base, four Nuer SPLA-IO soldiers attacked her.

"I saw four soldiers coming towards me. I tried to run but they told me they would shoot me if I ran... They asked me if my husband was alive. I did not reply. Then they told me to undress myself and to lay down. I refused and they started beating me with sticks. I realised that they were going to kill me if I continued resisting, so I undressed and laid down. Two of them held my legs and they told one of the others to put a stick into my vagina. So the soldier penetrated my vagina with a stick and I started bleeding immediately. I was brought back to the PoC by women who also came to collect firewood. I was admitted in the hospital and stayed there for seven days.""⁹⁵

ATTACKS IN UNITY STATE

Central and southern areas of Unity state have experienced some of the most intensive violence in South Sudan's conflict. This region has been the scene of almost continuous fighting between government and SPLA-IO forces, including their allied militia groups for most of the past three and a half years of the conflict. Though residents of Unity state are predominantly of the same ethnicity – Nuer – there is a sharp political divide between those who support the government and those allied with the SPLA-IO, often linked to clan and county differences.⁹⁶ This has created the context for regular confrontations between opposing forces, and attacks on civilians perceived as being affiliated with one side or the other.

The accounts of sexual violence documented in Unity state occurred largely in the context of attacks by government forces, including allied Jagei and Bul Nuer militia groups from Koch and Mayom counties respectively, on SPLA-IO held territory. During government attacks, forces have killed civilians, burned homes, stolen cattle, destroyed food stores, and looted humanitarian supplies. Government forces have

⁹² A Shilluk militia leader. When the conflict started, he fought on behalf of the government against SPLA-IO forces. In 2015, he defected from the government, to be loosely allied with the SPLA-IO.

⁹³ Interview with Joy (pseudonym) in Pagrinya II refugee settlement, Uganda, 6 December 2016.

⁹⁴ Interview with Nyaguande (pseudonym) in Juba PoC site, South Sudan, 8 November 2016.

⁹⁵ Interview with Adot (pseudonym) in Pagrinya I refugee settlement, Uganda, 7 December 2016.

⁹⁶ There has generally been significant support for the government in the northern counties of Mayom, Pariang, Abienhom, Guit and Koch, while the southern counties of Leer, Payinjar and Mayandit have generally supported the SPLA-IO.

committed numerous acts of sexual violence, particularly gang rapes and abductions of women and girls in the villages they attacked, or who were attempting to flee or hide in swamps and bushes.⁹⁷ Many survivors interviewed for this report believed they were targeted because they were staying in SPLA-IO areas – to punish them for their assumed support for the SPLA-IO and to force them to leave the area.

Civilians have also been attacked, and subjected to sexual violence, while fleeing their homes to seek protection at the UNMISS PoC site in Bentiu – the largest PoC site in the country.⁹⁸ In these situations, survivors and witnesses interviewed for this report were sometimes unable to identify perpetrators as belonging to either party to the conflict, describing them simply as armed men. In some cases, they may have been criminals taking advantage of the insecurity.

Because of the continuous fighting, the humanitarian situation in Unity state is particularly dire. The Office of the Deputy Humanitarian Coordinator for South Sudan estimated that between November 2014 and November 2015 there were 7,165 deaths due to violence in 24 communities in Unity state alone.⁹⁹ Between May and December 2015, one of the periods of heaviest fighting in Unity state, humanitarian organizations estimated that 1,200 civilians were killed, 1,430 raped, and 1,630 abducted in Unity's Leer, Koch and Mayandit counties.¹⁰⁰ In February 2017, famine was declared in Leer and Mayandit counties.¹⁰¹

RUBKONA COUNTY

When fighting erupted in Bentiu town on 25 December 2013, **Nyamai** tried to run to the UNMISS base with her friend, but government soldiers caught them. She said that 20 soldiers divided themselves between the two women and gang raped them in public view, from 11am to 2pm.

“Ten soldiers came to me and the other 10 went to the other lady. They pulled me down, beat me, and then started raping me... all this was happening on the roadside when people were passing...they did not do anything...they were just laughing at me...”¹⁰²

Three days after the death of her husband (an SPLA-IO soldier) in February 2014, five uniformed government soldiers arrived at **Nyajal's** home, in Nhialdiu, Rubkona county. They took her family's three cows and set her house on fire, along with most of the nearby houses. Then they took her to a forest near Bentiu and raped her.

“They beat me with a bamboo stick and two of them forced me to come with them. We walked for two hours before reaching the forest... they did not say anything. When we reached there, they put their guns down and removed my clothes by force. One held me when the other man was raping me. They both raped me two times ...I became unconscious and woke up in the evening and found myself alone... I saw people walking and decided to join them. There was too much blood coming from my vagina, but I just continued walking until we reached the UN compound.”¹⁰³

24-year-old **Nyapar** was living in Rodkur, Rubkona county. Her village was attacked by government forces during early 2014, one day around 4pm. They came looking for SPLA-IO soldiers, but turned on Nyapar and other women when they did not find any men.

“They said, ‘These women are rebel wives’. So, they gathered us in one place and raped us. I was pregnant and was raped by four men. Then they left me... I was tired and bleeding. Among us were three women who were breastfeeding their children and there were also other pregnant women... They just beat and raped women until they died.”¹⁰⁴

⁹⁷ For a description of conflict related abuses in Unity state, see Amnesty International, “We are still running”: War Crimes in Leer, South Sudan, 2016 (Index: AFR 65/4486/2016); Human Rights Watch, “They Burned it All”: Destruction of Villages, Killings, and Sexual Violence in Unity State, South Sudan, July 2015, available at www.hrw.org/report/2015/07/22/they-burned-it-all/destruction-villages-killings-and-sexual-violence-unity-state; UNMISS, *Flash Human Rights Report on the Escalation of Fighting in Greater Upper Nile, April/May 2015*, July 2015, available at

https://unmiss.unmissions.org/sites/default/files/final_version_flash_human_rights_report_on_the_escalation_of_fighting_in_greater_upper_nile.pdf

⁹⁸ UNMISS, UNMISS PoC Update, 12 June 2017, available at https://unmiss.unmissions.org/sites/default/files/170612_poc_update_-_168.pdf

⁹⁹ The Office of the Deputy Humanitarian Coordinator in South Sudan, *Crisis Impacts on Households in Unity State*, South Sudan, 2014-2015, p. 6, available at

http://reliefweb.int/sites/reliefweb.int/files/resources/160202_Crisis%20Impacts%20on%20Households%20in%20Unity%20State_SS.pdf

¹⁰⁰ South Sudan Protection Cluster, *Protection Situation Update: Leer County, Southern Unity (October-December 2015)*, available at:

<http://reliefweb.int/report/south-sudan/protection-situation-update-leer-county-southern-unity-october-december-2015>

¹⁰¹ Integrated Food Security Phase Classification, *Republic of South Sudan, Key IPC Findings: January-July 2017*.

¹⁰² Interview with Nyamai (pseudonym) in Payinjar, South Sudan, 10 December 2016.

¹⁰³ Interview with Nyajal (pseudonym) in Kiryandongo refugee settlement, Uganda, 25 November 2016.

¹⁰⁴ Interview with Nyapar (pseudonym) in Bentiu PoC site, South Sudan, 1 December 2016.

Nyapar survived and made her way to Bentiu PoC the next day.

Nyalaw, 29 years old, sought shelter in the Bentiu PoC at the start of the conflict in 2013, but returned to Tongudol village, with her family in January 2015. In May 2015, government soldiers attacked the area and Nyalaw fled from her home. After three days, Nyalaw and three other women decided to venture back to their homes to collect food for their children. The soldiers, however, had not left the area.

"As I was packing food, three soldiers entered the room. They told us to undress but we refused. They beat us until we agreed to undress, and they raped me...All of them raped me ... The other women were raped with me. Only Nyamum's¹⁰⁵ case was different as she was raped from behind [anal rape]...They raped me because they said we were loyal to SPLM/A-IO as we were staying in the SPLM/A-IO controlled area."¹⁰⁶

Forty-year-old **Nyachuong** narrated how she survived being gang raped, together with her niece, on 21 February 2016 by four government soldiers in a village called Borbor in Rubkona county. The rape was so brutal that the tissue between their vagina and anus tore (rectovaginal fistula). Both Nyachuong and her niece were still receiving treatment at a PoC medical facility at the time of the interview.

"We met four armed men...and they told us to carry their luggage...they took us to the forest...one of those men who raped me and my sister's daughter, who was about 20 years of age...I can remember them because they did not cover our faces, they just tied us up and took turns. After they were exhausted from raping us then, they left us bleeding...We were taken to the MSF clinic where they stitched the wounds and gave us treatment."¹⁰⁷

Nyabor, 33, was at home in Boitong village in Rubkona county, still mourning the deaths of her husband and his younger brother, when government forces from Mayom county attacked in May 2016. They beat Nyabor and other women, took them to a nearby village called Rianydar, and raped them.

"We were four women. They asked us where the rebels were...but we failed to answer them. Eight armed men took us and divided us among themselves. One woman was raped by two men the whole night. In the morning at around 9am, they released us."¹⁰⁸

Afterwards, Nyabor fled to the Bentiu PoC site.

KOCH COUNTY

Nyanhial was living with her parents in Bang village in Koch county. On 3 March 2015, government soldiers attacked the village. The soldiers asked why they were at home while other people had run away. When Nyanhial and her parents replied that they were not part of the conflict between the government and SPLA-IO, the soldiers beat them.

"They were beating me and telling me, 'If you don't want to be raped, we will beat you until you die'. Then I surrendered myself to them and they raped me...I was raped in front of my mother and father in our compound. Two were holding my hands and two were holding my legs. Five of them raped me...They raped me from 5pm in the evening up to 7am in the morning. I fainted. My body was covered with blood. I couldn't manage to move and go home because they left me between life and death."¹⁰⁹

Nyawaah, 21, was with her mother-in-law at home in Bargok village in Koch county when government soldiers attacked in May 2015. Ten soldiers came to their home and took their mobile phones, clothes and money. The soldiers divided themselves into two groups and then gang raped her and her mother-in-law.

"They beat me with a stick and took me to a forest near the house. There were five of them. When we reached inside the forest, two Dinka soldiers caught my legs, and the three others started to rape me one by one until they finished. One soldier who was Bul Nuer raped me twice... They raped me for one hour...My mother-in-law was taken by the other five soldiers, and she was raped too."¹¹⁰

¹⁰⁵ Pseudonym.

¹⁰⁶ Interview with Nyalaw (pseudonym) in Juba PoC site, South Sudan, 17 November 2016.

¹⁰⁷ Interview with Nyachuong (pseudonym) in Bentiu PoC site, South Sudan, 22 November 2016.

¹⁰⁸ Interview with Nyabor (pseudonym) in Bentiu PoC site, South Sudan, 30 November 2016.

¹⁰⁹ Interview with Nyanhial (pseudonym) in Bentiu PoC site, South Sudan, 17 November 2016.

¹¹⁰ Interview with Nyawaah (pseudonym) in Bentiu PoC site, South Sudan, 18 November 2016.

LEER COUNTY

In January 2014, **Catherine** and her five sons were travelling to Bwou village, Leer county to escape fighting that had erupted in Jou village. Along the way, they were attacked by a group of young men, who beat them using sticks, killing her eldest son. Afterwards she continued towards Bwou with her remaining children, but encountered another group of five men armed with machetes and sticks.

“They held my kids and told me that if I refused to be raped, they would kill my children. I told them I had just lost my son, but they didn’t want to listen to me. They wrestled me to the ground and started to penetrate me. Some held my hands and legs and others touched my breasts. After all five of them had their way, they left me on the ground and left.”¹¹¹

Nyatak and six other women were fetching water when fighting started in Leer town in January 2015. Government soldiers who she said were speaking in Dinka and had Dinka facial markings attacked the women.

“Seven men beat me and were touching me all over. They raped me in the open field repeatedly, each man coming back for more, one after the other. I was raped for the whole afternoon, until around 6pm, and then I was let go.”

Later, Nyatak managed to flee in a canoe to Payinjiar county, where she was taken in by her mother-in-law and brother-in-law.¹¹²

Nyalok said she was gang raped in July 2015 by bodyguards of the Leer county commissioner. They caught her in the forest, as she was going to hide.

“The first thing they asked when they caught us was, ‘Where are the rebels and your husbands and sons? Take us to their hiding places’. We responded that we didn’t know where they were... The bodyguards of the commissioner slapped and beat us with sticks, and then they divided us among themselves... and they raped us... During the rape, my eyes were tied with cloth. I was raped by two soldiers, for about 20-30 minutes. When they finished, my body was painning all over... When they finished raping us, they ordered us to carry the things they had looted from us.”¹¹³

In September 2016, **Nyasunday**, a mother of one, was going to collect sorghum distributed by the UN, along with a group of other women. They met a group of over 30 government soldiers in Koat forest, in Mayandit county. The women tried to run, but the soldiers caught some of them, beat them, and took them to Leer town.

“After catching us, they loaded us into their military pickup car, and they took us to their headquarters in Leer town. When we reached the headquarters, some people said, ‘Shoot them because they are rebels’. One captain said, ‘Rape them to death, don’t leave them’. Then we were divided among them. I was taken by two men to their residence. I spent two days with them. One of them raped me once. The other raped me repeatedly. We [Nyasunday and four other women] were released on the third day at 5pm in the evening.”¹¹⁴

MAYANDIT COUNTY

In May 2015, **Nyajuma** left her house in Mayandit county, to fetch water at a nearby borehole, along with four other women. She had delivered a child just 10 days earlier. At the borehole, they encountered a group of 30 armed government soldiers, some in uniform and others not. They started beating the women. They abducted Nyajuma and some other women and took them to their base in Rubkuai.

“I was given to one person to be raped, and he raped me three times. I told him I was a breastfeeding mother and had just delivered 10 days ago, but he could not consider what I was telling him... They released us later at 7pm.”¹¹⁵

One morning in August 2015, **Nyayiena** was at home in Rubkuai payam, Mayandit county burying her brother, a civilian who had been killed by government soldiers. She had a three-month-old son, whom she was breastfeeding. Most of her neighbours had already fled the area. Government soldiers arrived in the

¹¹¹ Interview with Catherine (pseudonym) in Payinjiar, South Sudan, 14 December 2016.

¹¹² Interview with Nyatak (pseudonym) in Payinjiar, South Sudan, 27 December 2016.

¹¹³ Interview with Nyalok (pseudonym) in Bentiu PoC, South Sudan, 19 December 2016.

¹¹⁴ Interview with Nyasunday (pseudonym) in Bentiu PoC, South Sudan, 10 December 2016.

¹¹⁵ Interview with Nyajuma (pseudonym) in Bentiu PoC site, South Sudan, 2 December 2016.

village, and seven entered her compound and started beating her, saying she was a wife of those who were opposing the government. They took her money and clothes, and argued about what her fate should be.

“They said... ‘If she is a clean and attractive woman, bring her and we will do what we do to women’...Some of them said... ‘We should kill her because the boy she is feeding is the very child who will fight us back in the future’...Seven soldiers raped me...for one hour. They were standing in line waiting for each other until they got finished.”¹¹⁶

RISKING LIFE IN SEARCH OF PROTECTION: THE JOURNEY TO THE BENTIU POC

Since the start of the conflict in December 2013, thousands of civilians have sought protection from the fighting in the Bentiu PoC site – home to almost 118,000 IDPs as of June 2017.¹¹⁷ But the journey to the PoC site is treacherous; many displaced people have been attacked and ambushed along the way by government and opposition forces and unidentified armed men.¹¹⁸ Researchers for this report interviewed women and girls who were raped, often on multiple occasions and by multiple perpetrators, on their way to the PoC site. During these incidents, many other violations were committed against these women and girls and the people they travelled with, including killings, abductions, beatings and theft.

Chol left for Bentiu PoC with her family of eight and two elderly women in January 2014. On the road, near Bentiu, they met five government soldiers she believed were Dinka who asked them for money.

“Three of them took my husband to a nearby tree and shot him twice. I shouted and ran towards my husband and threw myself on top of him, crying. The soldiers ordered me to stop crying but I continued, so they decided to rape me. They pulled me off my husband’s body...I was very strong and was fighting them. When two were finished raping me, they realized that they would not manage to rape me quietly...so they hit my head...I lost consciousness. My two sons, 12 and 13 years old, later told me that a third soldier raped me while I was unconscious and that they raped the elderly women too.”¹¹⁹

In early October 2014, 30-year-old **Nyamay** left her home in Leer county with a group of 10 relatives and neighbours to seek refuge in the Bentiu PoC. She was carrying her four-month-old baby boy. One night during their journey, they were stopped in an area called Tocboh by a group of men she described as “road bandits...wearing military uniforms...from Koch county.” They robbed them of their money and clothes and raped Nyamay and two other women.

“They asked for money and took 1000 SSP (USD 8) from me, and my clothes, leaving me naked. I was given a piece of cloth by another woman who was with me... Then they took me and two other women to the forest to interrogate us about whether we had more money. The three of us were beaten with tree branches before they used us...As they were raping us, we were very close to each other...and we were seeing ourselves. My baby was four months old. I left him with my grandmother during the rape. It lasted for one hour.”¹²⁰

Sharon, 40 years old, fled to Bentiu PoC in July 2016 with a group of around 25 other women and their children. They thought the SPLA-IO controlled areas that they were moving through would be safe for them as their husbands were members of the SPLA-IO. When going through the forest in Koch county, they ran into a group of armed SPLA-IO soldiers, some in uniform, but the majority in plain clothes.

“All of us were raped there in the forest except for one woman who was killed because she refused to be raped. They killed her using a knife; they slaughtered her like a cow. Four soldiers raped me. The other women were also raped...in an open place where the children were looking at us being raped. After they were finished, they took two young girls between 16 and 17 years of age and then released us. The soldiers were from the Gojam Unit, which means armed youth.”¹²¹

¹¹⁶ Interview with Nyayiena (pseudonym) in Bentiu PoC site, South Sudan, 11 December 2016.

¹¹⁷ UNMISS, UNMISS PoC Update, 12 June 2017 available at https://unmiss.unmissions.org/sites/default/files/170612_poc_update_-_168.pdf

¹¹⁸ See also OHCHR, Assessment mission by the OHCHR to improve human rights, accountability, reconciliation and capacity in South Sudan: detailed findings, 10 March 2016, para. 210.

¹¹⁹ Interview with Chol (pseudonym) in Kiyandongo refugee settlement, Uganda, 25 November 2016.

¹²⁰ Interview with Nyamay (pseudonym) in Bentiu PoC site, South Sudan, 1 December 2016.

¹²¹ Interview with Sharon (pseudonym) in Pagrinya I refugee settlement, Uganda, 6 December 2016.

Fifteen-year-old **Nyamal** and her husband left Leer county to go to Bentiu PoC in August 2016. They travelled with a small group of men and two other girls. Two days into their journey, they met a group of armed Nuer men in a place called Kuer Tuoch.

“The soldiers stopped us and asked for some money. We knew they were soldiers as they were carrying guns but did not wear military uniforms. They did not find any money and then took our bags. Then soldiers told the men to leave their wives...using force and gun threats. From there all men left, including my husband. We were three girls. Six soldiers came to us...I was taken by soldiers using force and they beat me. When we reached a tree, the two pushed me down, but I was strong and resisted them. One held me by the shoulders and raped me. Then the same happened but with the second one. After finishing they left me on the ground.”¹²²

In August 2016, **Nyakueth** was walking from Thornyor payam in Leer county to the Bentiu PoC, along with a group of other women. Between Mirmir and Rier payams in Koch county, they met a group of seven Nuer men, who were armed but were not wearing uniforms.

“The first thing they did was to greet us in a good manner, so we never expected them to do something bad to us. After they greeted us, they asked us to sit down, and they asked us to give them money...I gave them 1,500 SSP (USD 12). I thought they wouldn't rape me because I was three months pregnant, but they still asked me to go with them to the forest, where I was raped...Seven women were dragged into the forest...I was raped by one man, he raped me for five minutes. Then he released me and we [Nyakueth and the other women] came to Bentiu PoC site.”¹²³

SEXUAL VIOLENCE OUTSIDE BENTIU POC SITE

Within the predominantly female-inhabited Bentiu UNMISS PoC site, the burden of ensuring family survival falls heavily on women. Many fathers, brothers, and husbands have been killed or are missing, or have taken up arms, leaving many women as sole providers for their families. As a result, even after reaching and settling in the Bentiu site, many female IDPs feel they have to repeatedly place their lives and physical integrity at risk by leaving the PoC site to meet basic needs, such as grass to use for thatched roofing or firewood.¹²⁴ IDPs use firewood as a primary source of cooking fuel and also sell it to earn cash, allowing them to supplement humanitarian support and purchase other food, personal, and household items.

Soldiers and other armed men prey on women who leave the Bentiu PoC site. Since the start of the conflict, there have been persistent accounts of women and girls experiencing sexual violence, particularly rape and gang rape, in the immediate vicinity of Bentiu PoC site. According to UNMISS, in January and February 2015 alone, at least 35 women were raped by government soldiers near the Bentiu PoC site.¹²⁵ The same trend has been present in other PoC sites, including Juba, Malakal, Wau, and Bor.¹²⁶ Although UNMISS and humanitarian actors are aware of the problem – and have made some efforts to address the issue such as increasing the availability of escorts by UNMISS peacekeepers – women and girls continue to be at high risk.¹²⁷

Researchers for this report spoke with 16 women who were raped, often repeatedly and by multiple men in the surroundings of the PoC site.¹²⁸ Some survivors could identify their attackers as either government forces or SPLA-IO. Others could not and described them as groups of armed men, often of mixed ethnicities, some in uniform and others not.

Government forces beat **Nyaluok**, 33, when she left the PoC site to collect firewood. A male relative was beaten and shot, but survived. She described how, despite being well aware of the dangers outside, women have no other option but to leave the PoC site.

¹²² Interview with Nyamal (pseudonym) in Bentiu PoC site, South Sudan, 10 October 2016.

¹²³ Interview with Nyakueth (pseudonym) in Bentiu PoC site, South Sudan, 19 November 2016.

¹²⁴ CARE, *Inequality and Injustice: South Sudan Progressive Gender Analysis*, December 2016, p. 10, available at http://reliefweb.int/sites/reliefweb.int/files/resources/CARE_Inequality-and-injustice_South-Sudan-progressive-gender-analysis_Dec-2016.pdf

¹²⁵ UNMISS, *State of Human Rights in the Protracted Conflict in South Sudan*, December 2015, paras 46, 53.

¹²⁶ The sexual violence occurring outside the PoC sites has been documented repeatedly. See, for example: AU COI report, para 663, p. 195; South Sudan Protection Cluster: Protection Trends South Sudan, No. 6, November 2015, p. 8; UNMISS/OHCHR Joint Report – The State of Human Rights in the Protracted Conflict of South Sudan – December 2015, para 41; UNMISS, *Conflict in South Sudan: A Human Rights Report*, 8 May 2014, paras 261-264.

¹²⁷ UNMISS, *State of Human Rights in the Protracted Conflict in South Sudan*, December 2015, para. 53.

¹²⁸ See also interview with a survivor of sexual violence outside Bentiu PoC site in Amnesty International, *“Our Hearts Have Gone Dark”: The Mental Health Impact of South Sudan's Conflict*, 2016, p. 29-31.

*"We...don't have enough food to feed our children in the PoC, because the UN gives us only a small amount of food, without firewood to cook it. We don't have stew or milk like we did before the crisis. We know very well that people are being killed in the bush, but better to die on our way looking for food to feed our children. God knows, if you are lucky you won't meet them and if you do, that is fine, because we have no other choice."*¹²⁹

In September 2015, **Nyakor**, 51, ventured out of the PoC with five other women to collect firewood and one man, who went to make charcoal. On their way back in the evening, they met a group of six armed men in military uniforms.

*"They just fired their guns at us and killed the man and one woman who tried to run... I was raped by three of them and others went to rape the other women ... Many people have been killed. We are all finished. What happened is not just my problem but it is a problem for everyone in the camp. Even on my way back... I found a body of a woman. I don't know who killed her; I just found her body lying on the road."*¹³⁰

Nyakong, 27, was raped on 26 July 2015 by armed men she identified as government soldiers. She had gone to collect firewood with three other women and met the men at around 10am. One of them beat her, tied her hands behind her back, and put her next to another woman.

"They asked her [the other woman] whether they should kill her. The woman told them that it was better to be killed than to be raped...so they killed her before me and took her body to a hole."

Then the men came back and asked Nyakong if she accepted to be raped.

"I told them to rape me ... a short man who masked his face came to me first, and started having sex with me, then the two other men followed, they all had masked faces ... I fell unconscious and they left me... I do not know whether other men came or not."

After Nyakong regained consciousness, she returned to Bentiu PoC site.¹³¹

Nyabuor, 31, was raped in July 2016 when she left the PoC site with a group of women to collect firewood and encountered four government soldiers. She said, *"They just took me and started beating me. One of them raped and detained me for the whole day... They kept us for four hours and released us at 7pm."* Nyabuor blames UNMISS for not protecting women who leave Bentiu PoC site to collect firewood. She said, *"Rape cases are happening almost every day and UNMISS is aware of that. Sometimes they escort us to the forest, wait for us there and then come with us back. But sometimes they don't reach the forest."*¹³²

Nyadial's elder brother used to provide financial support for her and her children. When he left the PoC site to seek medical treatment, she started collecting firewood in the Borbor forest so she could support the family and meet their basic needs. She described firewood collection as *"the only option for me and my children to survive"*. In November 2016, she encountered five men as she was walking back to the PoC site at the end of the day. She said:

*"Two men were in front of me on the road. They each had a sack of charcoal on their heads and started pretending to be urinating, but the fact is that they were waiting for me. Three others were hiding in the thick grass. They had pangas, knives and big sticks. They gang raped me."*¹³³

Grace, 36, recounted that when she was returning from collecting firewood for her family on the evening of 26 November 2016, three government soldiers raped her.

"They took me to the bushes...they all agreed to rape me...they all raped me and left me bleeding ... two of them said, 'Let's kill her because she is now sick'. Then the Dinka one disagreed saying, 'We can't kill her because we had sex with her'."

She did not report the case to doctors in the PoC site because she felt there was no privacy at the PoC site hospital. Since the incident, Grace said she had not left the PoC site due to fear of being raped again.¹³⁴

¹²⁹ Interview with Nyaluok (pseudonym) in Bentiu PoC site, South Sudan, 27 November 2016.

¹³⁰ Interview with Nyakor (pseudonym) in Bentiu PoC site, South Sudan, 4 December 2016.

¹³¹ Interview with Nyakong (pseudonym) in Bentiu PoC site, South Sudan, 11 December 2016.

¹³² Interview with Nyabuor (pseudonym) in Bentiu PoC site, South Sudan, 9 October 2016.

¹³³ Interview with Nyadial (pseudonym) in Bentiu PoC site, South Sudan, 14 December 2016.

¹³⁴ Interview with Grace (pseudonym) in Bentiu PoC site, South Sudan, 28 November 2016.

JUBA: JULY 2016 AND THE AFTERMATH

The fighting that occurred between government and SPLA-IO forces in Juba between 8 and 11 July was marked by serious violations and abuses of international human rights law and international humanitarian law. Government soldiers deliberately killed civilians, fired indiscriminately in civilian neighbourhoods and around UN bases and PoC sites, and engaged in a massive campaign of looting civilian and humanitarian property. During the July 2016 violence in Juba, the government and SPLA-IO forces committed acts of sexual violence against women and girls. Most cases of sexual violence were committed by government soldiers, police officers and members of the National Security Services (NSS), particularly at checkpoints and during house-to-house searches.¹³⁵ In one highly publicized case, government soldiers raped and gang raped at least seven women, including foreign humanitarian workers, during an 11 July attack on the Terrain hotel in the Jebel neighbourhood.¹³⁶



People walk through the Protection of Civilians site 3 in Juba, South Sudan. © Natalia Jidovanu

Government forces continued to commit acts of sexual violence even in the weeks after the fighting in Juba ended. Due to the delays in food distributions following the fighting and because Nuer men who left the PoC were at grave risk of being killed, women living in the PoC sites in Jebel had little choice but to venture out to purchase food and other necessities in town markets. When doing so, they had to run through a gauntlet of government soldiers stationed at the Yei Road checkpoint. Soldiers systematically beat, raped and gang raped Nuer women who passed by.¹³⁷ Some were abducted and held as sex slaves for days or weeks. Between 8 and 25 July, UNMISS documented cases of rape and gang rape involving 217 victims.¹³⁸

¹³⁵ OHCHR and UNMISS, *Violations and abuses of international human rights law and violations of international humanitarian law in the context of the fighting in Juba, South Sudan, in July 2016*, January 2017, para. 49, available at www.ohchr.org/Documents/Countries/SS/ReportJuba16Jan2017.pdf

¹³⁶ Amnesty International, “We did not believe we would survive”: *Killings, Rape and Looting in Juba*, October 2016; Note verbale dated 4 November 2016 from the Permanent Mission of South Sudan to the United Nations addressed to the President of the Security Council, 7 December 2016, UN Doc. S/2016/933; OHCHR and UNMISS, *Violations and abuses of international human rights law and violations of international humanitarian law in the context of the fighting in Juba, South Sudan, in July 2016*, January 2017, para 51.

¹³⁷ Amnesty International, “We did not believe we would survive”: *Killings, Rape and Looting in Juba*, October 2016; OHCHR and UNMISS, *Violations and abuses of international human rights law and violations of international humanitarian law in the context of the fighting in Juba, South Sudan, in July 2016*, January 2017, paras 32, 54-56.

¹³⁸ OHCHR and UNMISS, *Violations and abuses of international human rights law and violations of international humanitarian law in the context of the fighting in Juba, South Sudan, in July 2016*, January 2017, para. 49.

When fighting broke out in Juba on 8 July 2016, **Jacob** was in his home, in the Jebel neighbourhood near where the SPLM/A-IO had established their base. That night, a group of 10 SPLA-IO soldiers he identified as Nuer came to his house, complaining that he and his wife, Aluel, should have already vacated their home.

*"They told me that I was not listening to their orders because they are not Salva Kiir soldiers...they ordered me and my wife to sit on the floor. My wife resisted and they started beating her...and she sat down. The soldiers took my wife behind to another room. I could hear her screaming. I took courage to go and see why she was screaming...I found the soldiers having sex with her. I couldn't do anything because they were armed and I am a civilian. They raped my wife in front of my eyes."*¹³⁹

Nyantot was at her home in Munuki on 18 July around 11am, when four government soldiers entered her compound and gang raped her in front of her three children.

*"They removed my skirt and my underpants in front of my children. They raped me in turns ...One man raped me twice. I was raped a total of five times. One of them also wanted to defile my 11-year-old daughter... He removed her clothes and skirt and wanted to rape her despite her age... He was advised [by the other soldiers] that he would not get anything from that small child. So, he left her..."*¹⁴⁰

Rachel left the Juba PoC around 13 July to buy cooking oil, meat, vegetables and sugar at the Customs Market. On her way back, she was gang raped by four government police near the Eye Radio offices. She screamed and their sergeant in charge came and intervened.

*"He ordered them [the four police officers] to put me in his car. It was a police car, black in colour...He took me to the hospital and I got medicine and recovered...After that he told me, 'You are now ok, but I want you to be my wife. You will remain here forever'. I stayed there for 13 days with that sergeant in his house, and he used to have sex with me, until one day...I decided to escape."*¹⁴¹

Eighteen-year-old **Nyakache** was returning to the UN House PoC site from Juba's Custom Market on 17 July 2016, together with four other women. They were attacked and gang raped by a group of seven Dinka government soldiers in the Jebel neighbourhood, near the Eye Radio offices. Nyakache said:

*"We were five women when we left to the market... we bought what we had planned to buy.... On our way back, we met soldiers and they asked, 'Where is Riek Machar?' We replied, 'We don't know'. They ordered us to move ahead to the bushes. When we reached there, they tied us with rope, and started picking us one after another. They raped me. They also penetrated my mouth with their penises while other soldiers penetrated my anus. It was very painful."*¹⁴²

Nyafene, 29 years old, was among the same group. She recounted how the soldiers raped each of the women.

"They tied the five of us to one tree...they untied the first lady from the tree, put her down and raped her...After that, they untied the second lady and also raped her...then the third and the fourth. I was the third one to be raped. They pulled off my clothes and raped me."

Nyafene explained that the fifth woman tried to refuse, but the soldiers overpowered her and then mutilated her as a punishment for trying to resist.

*"She told them, 'I will not allow you to do [to me] what you have done to those women...I will never allow you to rape me'. She fought them and she was strong, but in the end they defeated her. Seven of them [the government soldiers], tied her down and raped her. After they finished raping her, they removed a knife from their pocket, cut the flesh around her vagina, and showed it to her and told her, 'You refused to give us your vagina peacefully, now we have enjoyed it and we have it. Now what are you going to do?'"*¹⁴³

Kangach, also among the group of five women, gave a similar description of what happened during the incident.

"We met a group of seven soldiers, all of them from the Dinka tribe. They stopped us and took us to the bushes and tied us on trees. They picked us one by one and they raped us all. They would

¹³⁹ Interview with Jacob (pseudonym) in Kiryandongo refugee settlement, Uganda, 28 November 2016.

¹⁴⁰ Interview with Nyantot (pseudonym) in Juba PoC site, South Sudan, 9 January 2017.

¹⁴¹ Interview with Rachel (pseudonym) in Juba PoC site, South Sudan, 16 November 2016.

¹⁴² Interview with Nyakache (pseudonym) in Juba PoC site, South Sudan, 17 November 2016.

¹⁴³ Interview with Nyafene (pseudonym) in Juba PoC site, South Sudan, 15 November 2016.

rape you while others were watching. One of the women refused to be raped and the soldiers beat her, raped her and after they finished raping her, they cut the flesh from her private part with a knife.”¹⁴⁴

The victim whose vagina was mutilated remained in the bush while the other four women returned to the PoC site at around 9pm. Upon arriving, they informed the UN peacekeepers that they had left another woman who was too weak to walk back. **Nyafene** explained:

“We went together with the peacekeepers in a UN vehicle to pick her up. She died after four days as a result of her injuries while undergoing treatment in the IMC hospital.”¹⁴⁵



Women on arrival at the Protection of Civilians site 3 in Juba, South Sudan. © Natalia Jidovanu

Nyaguene was also raped on 17 July 2017. She was returning to the PoC site with a group of over 50 women when they encountered many government soldiers at the Yei Road checkpoint. She recalled that there was a captain among them who gave explicit orders that the women should be raped.

“The captain ordered the soldiers to choose any woman they felt like they wanted among us. Ten soldiers chose me... They took me inside a small room where then they decided to rape me. They pulled off my clothes and the 10 of them raped me, twice each... Some of them wanted to rape me using objects but others advised them ‘We shouldn’t do that, let us just use our penises’. They used both sides [vaginal and anal rape].”¹⁴⁶

Seven government soldiers gang raped **Nyabang** on 20 July 2017 when she left the Juba PoC site, intending to collect food from the World Food Programme warehouse on Yei Road, which she heard had been looted. She recounted the words of her attackers:

“They spoke to me in Dinka, saying that I must be a Nuer woman. They told me, ‘You woman from Dr. Riek supporters...we are going to show you today. We are going to rape you and you will produce our kids through your vagina, your anus and your mouth’... all of them raped me... they penetrated my vagina, anus and even they inserted their penises inside my mouth... They raped me simply because I am a Nuer... They told me I should blame Dr. Riek Machar for what happened to me.”¹⁴⁷

¹⁴⁴ Interview with Kangach (pseudonym) in Juba PoC site, South Sudan, 15 November 2016.

¹⁴⁵ Interview with Nyafene (pseudonym) in Juba PoC site, South Sudan, 15 November 2016.

¹⁴⁶ Interview with Nyaguene (pseudonym) in Juba PoC site, South Sudan, 10 November 2016.

¹⁴⁷ Interview with Nyabang (pseudonym) in Bentiu PoC site, South Sudan, 18 November 2016.

Nyabang told researchers that a military sergeant participated in gang raping her, along with six other soldiers, until she fell unconscious. His only instruction was that his subordinates should only rape her vaginally. She recounted, *“He [the sergeant] ordered them saying, ‘Stop raping her through her anus, please use her vagina’. After that they decided to use my vagina.”*¹⁴⁸

Some of the Nuer women attacked along Yei Road were abducted by government soldiers. On 27 July, **Nyamachar** made the difficult decision to leave the PoC and go to the market.

“We [myself and other women] knew that it was very dangerous for Nuer women and men to move outside the PoCs for fear of being raped and killed. But for us women, we just closed our eyes to save our children from starvation. Our children were really dying of hunger in the PoCs because we spent many days without food. Since the war broke out in July, the UN had never distributed food.”

On her way back from the market, Nyamachar encountered a large group of armed soldiers at the Yei Road checkpoint. One soldier forced her to enter his car and took her to a government military camp outside of Juba.

*“He pushed me into the car and I was driven off ... When we reached [the military camp], this soldier took me inside his room and raped me many times. He raped me immediately when we arrived, again after one hour, and again in the middle of the night. The following day, I discovered that there were some other Nuer women that they kept...as sex slaves...I stayed with this soldier for three days...[then] he called another soldier to come and rape me. This soldier raped me five times before they released me.”*¹⁴⁹

Nyamachar said she spent approximately one week held in the military camp.

Nyawicyian spent two months detained within the same military camp. She was abducted on 17 July 2016 when four government soldiers came to her home in Munuki, and took her to a house nearby, where she was raped by two soldiers.

“They threatened me that they would kill me if I cried or struggled to deny them sex. When the first man finished with me, the second man came with a kettle of hot water. He told me to cleanse my vagina with that hot water. I was trying to refuse. He slapped me and I fell down and he spread my legs to cleanse my vagina himself. He burned me...After finishing all the hot water, he entered me despite all the pains in my vagina.”

Later in the evening, one of her rapists returned. He took her to the military camp, kept her in his home, and raped her repeatedly until he released her in mid-September. Nyawicyian explained that Nuer women were easy targets for sexual violence.

*“The soldiers raped Nuer women because they know that we are not protected by the government. Raping or killing a Nuer by a Dinka is not a crime in South Sudan. The government knows well that [it is] so and have raped Nuer women and have killed Nuer soldiers or civilians and they are still at large. ... abductions of Nuer women have been happening since 2014, but up to now no abductors have been arraigned or punished for doing unlawful things.”*¹⁵⁰

The same pattern of sexual violence along Yei Road continued into August. **Nyamuch** left the Juba PoC site on 10 August 2016 with three other women to collect vegetables from the gardens of people who had fled. On their way, they encountered a group of 10 men. Nyamuch and the other women ran when they realised they were government soldiers, and Dinka. But Nyamuch was caught by seven of them near the Yei Road checkpoint.

*“They took me under a big tree... they pulled off my clothes and tore my underwear and they raped me. Seven of them, one by one, while others were holding my hands and my legs. I tried to defend myself but they were stronger. I cried but no one answered... they raped me in both sides [vaginal and anal rape].”*¹⁵¹

In September 2016, 30 women were sexually assaulted in Juba near the PoC sites, according to the Special Representative of the Secretary-General on Sexual Violence in Conflict.¹⁵² Towards the end of the year, however, incidents began to reduce. The UN has attributed this reduction to UNMISS’s establishment of a weapons free zone within a 200-meter radius around Juba PoC sites and UN House. During the month prior

¹⁴⁸ Interview with Nyabang (pseudonym) in Bentiu PoC site, South Sudan, 18 November 2016.

¹⁴⁹ Interview with Nyamachar (pseudonym) in Juba PoC site, South Sudan, 11 October 2016.

¹⁵⁰ Interview with Nyawicyian (pseudonym) in Juba PoC site, South Sudan, 12 December 2016.

¹⁵¹ Interview with Nyamuch (pseudonym) in Juba PoC site, South Sudan, 18 November 2016.

¹⁵² Report of the Secretary-General on Conflict-Related Sexual Violence, 15 April 2017, UN Doc. S/2017/249, para. 61.

to the establishment of the weapons-free zone, UNMISS recorded 48 serious incidents in the immediate vicinity of UN House, including murder, armed robbery, violent assault, kidnapping and rape, while in the six months since its establishment, a total of 12 serious incidents were reported in the weapons-free zone.¹⁵³ The publicity around sexual violence by government forces, especially the attack on the Terrain hotel, and a command issued in December 2016 by the then Chief of General Staff Paul Malong instructing all soldiers to stop and prevent sexual violence may also have contributed to a change in behaviour on the part of government soldiers deployed in areas around the UNMISS PoC site in Jebel neighbourhood.

SEXUAL VIOLENCE IN CENTRAL EQUATORIA

The southern Equatoria region of South Sudan remained largely unaffected by violence until after the signing of the ARCISS in 2015. The ARCISS provided for the 'separation, assembly and cantonment' of government and opposition forces previously in combat.¹⁵⁴ The government disputed that the SPLM/A-IO had troops in the Equatoria region as this would denote their widespread support beyond the Upper Nile region, and objected to the establishment of cantonment sites in the region.¹⁵⁵ It thereafter heavily deployed troops, mainly from the Dinka ethnic group, to the region to stop any recruitment from the population by SPLM/A-IO.¹⁵⁶ Government operations especially in civilian areas, including arbitrary arrests, disappearances of Equatorian men, and tensions between Dinka cattle keepers and Equatorian farmers exacerbated tensions.¹⁵⁷ The arrest of the then Governor of Western Equatoria state, Joseph Bangasi Bakasoro, in December 2015 over suspicions that he had fomented rebellion further catalysed the insecurity.¹⁵⁸

The fighting between government forces and SPLA-IO in Juba in July 2016 triggered a surge in violence in the Equatoria region as government forces carried out an intense military campaign in pursuit of Riek Machar and SPLA-IO members who accompanied him as he evaded the government pursuit and eventually entered the Democratic Republic of the Congo. At the same time, there was an increase in hate speech between the Dinka and Equatorian communities.¹⁵⁹ Civilians of Dinka ethnicity were ambushed and killed along the Juba-Nimule Road.¹⁶⁰ During their operations, government forces committed targeted killings of civilians, burned and looted civilian property, restricted freedom of movement, abducted women and children, arbitrarily arrested and detained men, and also committed acts of rape and other forms of sexual violence. Armed opposition forces also committed violations of humanitarian law and human rights abuses.¹⁶¹

¹⁵³ Letter dated 17 April 2017 from the Secretary-General addressed to the President of the Security Council, 17 April 2017, UN Doc. S/2017/328, p. 2-3.

¹⁵⁴ See ARCISS Cap II Permanent Ceasefire and Transitional Security Arrangement, Section 2.

¹⁵⁵ See The International Crisis Group, *Conflict in the Equatorias*, 25 May 2016, available at www.crisisgroup.org/africa/horn-africa/south-sudan/south-sudan-s-south-conflict-equatorias

¹⁵⁶ See: Jason Patinkin and Simona Foltyn, 'The War in Equatoria: A rare look inside South Sudan's Spreading conflict', available at www.irinnews.org/special-report/2017/07/12/war-equatoria

¹⁵⁷ Amnesty International interviewed people from the following areas in the Equatorias: Yei, Lainya, Kajo Keji and Morobo. Interviews were carried out in settlements in Uganda between 5 and 15 March 2017. These interviews built a comprehensive picture of the drivers/catalysts of violence in the Equatoria region. Some of these interviews were published in Amnesty International, "Help has not reached me here": Donors must step up support for South Sudanese refugees in Uganda (Index: AFR 59/6422/2017).

¹⁵⁸ See International Crisis Group, *Conflict in the Equatorias*, 25 May 2016, available at www.crisisgroup.org/africa/horn-africa/south-sudan/south-sudan-s-south-conflict-equatorias

¹⁵⁹ See paras 13-25, Interim Report of the Panel of Experts on South Sudan established pursuant to Security Council resolution 2206(2015), November 2016, available at www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2016_963.pdf

¹⁶⁰ Sudan Tribune, 'Fresh ambush on Juba-Nimule road claims lives', 21 December 2016, available at www.sudantribune.com/spip.php?article61179; Radio Tamazuj, "Dinka Council of Elders condemns Juba-Yei ambush attack", 10 October 2016, available at <https://radiotamazuj.org/en/article/dinka-council-elders-condemns-juba-yei-ambush-attack>

¹⁶¹ UN Panel of Experts on South Sudan, Letter to the UN Security Council, 12 April 2017, para 13-14, available at www.undocs.org/S/2017/326



A woman rests next to her luggage before crossing Kaya stream near Afoji town, Moyo district, northern Uganda. © Natalia Jidovanu

Attacks between government and opposition forces have resulted in the mass displacement of civilians and emptied entire towns and villages in Yei, Lainya, Kajo Keji, Morobo and other towns close to the Uganda and Democratic Republic of Congo border.¹⁶² In December 2016, the Commission for Human Rights in South Sudan said that there was already a steady process of ethnic cleansing under way¹⁶³ and that the Equatoria region had become the epicentre of conflict.¹⁶⁴ Uganda is hosting over 900,000 South Sudanese refugees, out of the 1.5 million being hosted within the region. Thousands of refugees continue to cross the border into Uganda each day – in March 2017, the average number of new arrivals was 2,800 per day.¹⁶⁵ Refugees in northern Uganda who had fled Central Equatoria described to researchers for this report acts of sexual violence perpetrated both by government forces as well as by the opposition.

Lico, a 52-year-old woman from Katigiri, Juba county, in Central Equatoria told researchers that after the July fighting in Juba “things got worse.” She explained that government soldiers based at the military barracks in Katigiri would come to the villages in the surrounding areas looking for opposition members. She said that they killed her son and abducted her daughter.

“In early August, they [government soldiers] came to collect young men and boys from 10 years going upwards and they would go and kill them. My son-in-law who was in his 20s was killed this way. He was slaughtered with a knife in front of my eyes. When they came for the men, they would tell the women to cry and weep for their husbands. The government soldiers also took young women and girls. As long as a girl had breasts and showed signs of maturity, they would take her. None of the girls returned. They also took my daughter with them to the bush.”

Lico stayed in the mountain areas until the end of August, and then decided to flee. She now lives in Bidibidi refugee settlement.¹⁶⁶

Lepu, a 48-year-old mother of three, witnessed government soldiers kill her neighbour and gang rape the neighbour’s wife in August 2016, in Yei.

¹⁶² Amnesty International, “Help has not reached me here”: Donors must step up support for South Sudanese refugees in Uganda, and UN Panel of Experts on South Sudan, Letter to the UN Security Council, 12 April 2017, paras. 13-14.

¹⁶³ Statement by Yasmin Sooka, Chair of the Commission on Human Rights in South Sudan at the 26th Special Session of the UN Human Rights Council, 14 December 2016, available at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21028&LangID=E>

¹⁶⁴ Statement by Yasmin Sooka, Chair of the Commission on Human Rights in South Sudan at the 26th Special Session of the UN Human Rights Council, 14 December 2016.

¹⁶⁵ UNHCR, ‘Breaking Point’ imminent: Government of Uganda, UNHCR say help for South Sudan refugee inflow urgently needed, Joint statement on behalf of the Government of Uganda and UNHCR, 23 March 2017, available at www.unhcr.org/uk/news/press/2017/3/58d3abab4/breaking-point-imminent-government-uganda-unhcr-say-help-south-sudan-refugee.html

¹⁶⁶ Interview with Lico (pseudonym) in Bidibidi refugee settlement, Uganda, 14 March 2017.

“The soldiers came around 11am. You could see smoke from other homes and you could hear shooting. We were planning to leave [for Uganda] in a group of families. I saw three government soldiers coming to my neighbour’s house and they shot [my neighbour]. [His wife] was gathering their belongings, but was grabbed by three soldiers. She fought, but they were tall and strong.”

After fleeing Yei, Lepu and the six other families she was travelling with met a group of opposition forces in an area called Ombasi, Yei county. The soldiers threatened them with rape.

“They were about 13 soldiers, all wearing khaki uniforms. We were all women and children. The oldest boy with us was 19 years old. You could tell that they were opposition by their questions. They were asking which areas the government was attacking, and whether there were any Dinka among us. They said they would rape us if we did not tell them the truth. We begged and cried. The soldiers asked for cigarettes, water, and money. We barely had anything and the soldiers were angry. They told us all to stand in prayer position, and pray loudly for our salvation. It was raining heavily that day. They made us stand there in prayer position for a while. It was around 4pm. They checked our goods and took what they wanted. My 7-year-old son had a machete with him and they wanted to kill him. We all begged them saying that he was only a child. They then locked us in a hut nearby. At around 6pm, they came and opened the hut and let us go. It is only through God’s power that we survived.”

Lepu travelled for seven days, mostly moving during the dark, before reaching Uganda.¹⁶⁷

One morning in December 2016, 19-year-old **Jokudu** was on her way to Ginjani market to buy food with two other women. They encountered a group of between 10 and 15 government soldiers in Mugo payam, Yei county, outside of Yei town.

“They [the government soldiers] asked us where we were going and we told them. They said, ‘Come with us’. We were afraid, so we followed them into the bush. I was raped by maybe five men, in the vagina and anus. Even the two other girls, Christine¹⁶⁸ who was 23 years old and Julia¹⁶⁹ who was 18 years old, were raped. After they raped us, the soldiers gave us some money, 50 SSP each (USD 0.5), and they said, ‘Now go and check if you have HIV/AIDS.’”

When researchers for this report met Jokudu in Imvepi refugee settlement in Uganda, she said that Christine had tested positive for HIV in March 2017. Jokudu had not herself been tested.¹⁷⁰

At around 11am one morning in late January 2017, government soldiers attacked **Kaku’s** home in Loka, Lainya county. They killed her mother and father who were in their 50s, and raped her.

“I was in the bathroom outside taking a bath, my parents were outside the house and my three children were playing nearby. The soldiers came and surrounded our home. I heard gunshots, I ran out towards where the children were and I saw my father and mother had been shot and were dead. The children were running. I panicked, I tried to run after them but one soldier caught me and pinned me down. I only had my lawa [piece of cloth] across my body and I was naked underneath. He was hitting my face and telling me to not move. He raped me.”¹⁷¹

Poni, 45, was with her husband and the pastor of a local Pentecostal church in Bereka, Lainya county in July 2016, when three government soldiers attacked them. They shot and killed the pastor and Poni’s husband, and then two of them raped her.

“We were going to church to collect some plastic chairs and other items. When we neared the church compound, three Dinka soldiers...shot the pastor on the leg. He tried to run until he fell down crying in pain. One soldier came and shot at the pastor’s back, with many bullets. He was wearing his pastoral robes and a collar...The other two were beating me and my husband. They then took hold of my husband and tied him against a tree. After that they took off his shirt and tied his eyes. They shot at his chest and heart, and he died. They left him against the tree and came to me. They were asking me questions and kicking me. One was saying, ‘Let us kill her’, and I said, ‘I have five children, if you kill me who will take care of them now that my husband is gone?’ The other said, ‘I will show her something’. He grabbed me by the arms and dragged me around the church (it was a mud house with iron roof sheeting). He forced himself on me, he spread my legs and raped me. He said, ‘I will make it worse if you struggle’. I was crying and begging, but he did

¹⁶⁷ Interview with Lepu (pseudonym) in Bidibidi refugee settlement, Uganda, 14 March 2017.

¹⁶⁸ Pseudonym.

¹⁶⁹ Pseudonym.

¹⁷⁰ Interview with Jokudu (pseudonym) in Imvepi refugee settlement, Uganda, 15 March 2017. Researchers advised Jokudu of resources for medical and psychosocial support in Imvepi.

¹⁷¹ Interview with Kaku (pseudonym) in Imvepi refugee settlement, Uganda, 13 March 2017.

not stop. When he was done, the other soldier came and found me lying there. I begged him and he just kicked my private parts. He told me to turn around, saying that he did not want my diseases. He raped me in my anus. After he was finished, the two soldiers told me to go. And so, I walked and it was painful and I was bleeding. They told me 'run or we will catch you again'."¹⁷²

Sukeji said that soldiers attacked her village of Kala, Liwolo payam in Kajo Keji county in August 2016. They burnt homes, killed, and beat civilians. Three of them gang raped her in front of her children, who were four and six years old. She could not identify them as government or opposition, but described them as having facial scars and speaking in Dinka.

*"Many soldiers attacked our village. It was in the afternoon around 12pm. They burnt houses, killed men and women, and they beat and raped women. My neighbours were killed... When they came to my house, they killed one of my brothers-in-law, and they shot the second brother-in-law when he was running into the bush. I grabbed my two children and I was trying to run, but one soldier caught up with me... Three of them raped me. One after another. They were speaking Dinka language. My two children saw what happened."*¹⁷³

Many South Sudanese refugees in Uganda encountered dangers during their journey out of South Sudan. **Juan** left Yei for Uganda in September 2016. She told researchers that women were raped by government soldiers at a checkpoint a few miles outside of town.

*"We decided to leave Yei because of the insecurity. We and other family groups set off with our goods on foot. After three miles, we met a group of soldiers. They spoke Dinka language and so they might have been government soldiers. They asked us to give them money. Women who did not pay money were taken to the bush. You could hear them screaming and crying. Those who had money were allowed to go on."*¹⁷⁴

Igale was fleeing towards Uganda in August 2016 with her aunt, two teenage boys aged 17 and 18, and an 18-month-old infant. They encountered a checkpoint manned by SPLA-IO soldiers in Lomuk, near the Ugandan border. Two of them threatened to rape her.

*"We met a group of IO soldiers who had set up a checkpoint. They had knives, sticks, spears, machetes and guns. They asked us what tribe we were from, and the tribe of our husbands. They even asked us to recount our lineage. They then took our phones and inspected the goods in the car. They were many, about 20 soldiers. Some of them tried to take [recruit] my two brothers by force, but my auntie and I pleaded with them. Two of them then took me by the hand, speaking to me in Arabic trying to push me to the bush at the side of the road. I begged them, saying that I was on my period. One of them said 'you have to show us'... My auntie begged them saying, 'You cannot take a woman when she has her blood, please let her go'. One told me, 'Jump up and down until we see'. I had my baby strapped on my back, but I jumped up and down. They were laughing. After a while, one of the men said they should let us go on our way. They then left us and we went on our way safely until we reached Apoji border point."*¹⁷⁵

SEXUAL VIOLENCE AGAINST MEN AND BOYS

Sexual violence against men and boys in South Sudan's conflict remains largely invisible, despite indications that it occurs with some frequency.¹⁷⁶ This is due to common assumptions – and misperceptions – that sexual violence only involves male perpetrators and female victims. In addition to this, in South Sudanese culture and society – where homosexuality is derided and sex between men is a criminal offence – sexual violence against men carries an even deeper stigma for the victim than sexual violence against women.¹⁷⁷ As a result, it is likely that incidents of sexual violence against men and boys in South Sudan are severely underreported.

Sexual violence against men and boys has occurred in the context of attacks against civilian homes and villages, alongside other acts of violence. Men and boys are particularly at risk of sexual violence while in

¹⁷² Interview with Poni (pseudonym) in Bidibidi refugee settlement, Uganda, 14 March 2017. This interview has also been published in Amnesty International, *"Help has not reached me here": Donors must step up support for South Sudanese refugees in Uganda*.

¹⁷³ Interview with Sukeji (pseudonym) in Imvepi refugee settlement, Uganda, 13 March 2017.

¹⁷⁴ Interview with Juan (pseudonym) in Bidibidi refugee settlement, Uganda, 14 March 2017.

¹⁷⁵ Interview with Igale (pseudonym) in Bidibidi refugee settlement, Uganda, 14 March 2017.

¹⁷⁶ See also "Unspeakable violence against children in South Sudan – UNICEF chief", 17 June 2015, available at www.unicef.org/media/media_82319.html, stating that "Survivors [of violence in Unity state] reported that boys have been castrated and left to bleed to death."

¹⁷⁷ South Sudan Penal Code Act, 2008, art. 148.

custody; most of the cases included in this report occurred during arrests or while in government detention. The acts perpetrated include rape with objects, forced sterilization through castration, and other torture focused on sexual organs. The motives of sexual violence against men – as women – have been to embarrass, humiliate and assert power over the victim. There is often an ethnic dimension to the incidents and, in some cases, such as castration, the motives may have included preventing the victim from procreating.¹⁷⁸

Researchers for this report documented cases of sexual violence involving 16 male victims. Some of these acts were committed during fighting or attacks by government forces while others occurred while the survivor was detained by government security agents.

Twenty-one-year-old **Moses** and his family stayed inside their home in Malakal town when heavy fighting broke out between government forces and the SPLA-IO on 24 December 2013. That same day a group of men, some in military uniforms but the majority in plain clothes, entered his home. They started searching the house and found a police uniform and identity card belonging to Moses's father. Almost immediately, his father was shot and killed.

*"After they had shot my father, three soldiers took my mother and raped her, in front of me, my brothers and sisters. After they were done, they killed her too. We were crying, but then they shot at us and killed all of them [my siblings]. They did not shoot me. Three of them grabbed me and held me on the floor, two of them were holding my legs and one castrated me with a knife. I could not move anymore and they left me on the floor for dead until UNMISS soldiers came and took me to a hospital where I stayed for one month."*¹⁷⁹

Gatluok was in Leer town in Unity state when government soldiers attacked in May 2015. People ran to the bushes and many managed to escape. But Gatluok couldn't run because he is blind. He recounted:

*"Because of my blindness I couldn't run with the young men, and so I was caught. They told me to choose if I wanted to be raped or be killed, I said I didn't want to be killed and so they decided to rape me."*¹⁸⁰

Sarah, a 32-year-old woman from Wau, said she was attacked and raped, together with her two brothers. At around 11pm one night in September 2015, a group of government soldiers arrived in two Land Cruisers and started banging at the gate of their home in Thongpiny, Juba. The soldiers entered the house and started beating and kicking Sarah and her brothers.

*"When they were done beating us, they told me to remove my clothes. After I refused, one of them came and forcefully undressed me and punched me till I fell. Some were holding my feet, others my arms. They were five people and they raped me one by one. Others were trying to rape the boys. My younger brother who was 18 years ... fought them when they tried to rape him, so the soldiers shot him twice on the head and he fell... They shot at my neighbour who came out to see what was happening. My...two brothers were raped in their anus twice each...and for me, I was raped in both sides [vaginal and anal rape] until I started bleeding...my sister was raped by two soldiers."*¹⁸¹

Kakule witnessed government soldiers kill two young men in September 2016 in Morobo county. They sexually assaulted one of them.

*"I was leaving Morobo to come to the [Bidibidi] settlement...At a place called '36 miles', I saw four government soldiers attack two boys. They seemed in their 20s. They pulled two of them into the bushes. They shot one boy on the spot. The other boy was stripped naked. The soldiers inserted dry grass in his anus and set it on fire with a lighter. They watched the boy burn until he died."*¹⁸²

Machar, 54 years old, described how government soldiers attacked him in Tochluak village, Rubkona county, in October 2016. During the attack, the soldiers abducted and raped multiple women. He was also a victim of sexual violence. Machar explained:

*"They shot my penis and removed my testicles. Then I ran away to hide, because I knew that if they found me, they would have killed me, like the rest of my friends..."*¹⁸³

¹⁷⁸ Alicia Elaine Luedke, *Violence Begets Violence: Justice and Accountability for Sexual and Gender-Based Offenses in South Sudan*, p. 16.

¹⁷⁹ Interview with Moses (pseudonym) in Kiryandongo refugee settlement, Uganda, 30 November 2016.

¹⁸⁰ Interview with Gatluok (pseudonym) in Payinjar, South Sudan, 10 October 2016.

¹⁸¹ Interview with Sarah (pseudonym) in Kiryandongo refugee settlement, Uganda, 29 November 2016.

¹⁸² Interview with Kakule (pseudonym) in Bidibidi refugee settlement, Uganda, 14 March 2017. This interview has also been published in Amnesty International, "Help has not reached me here": Donors must step up support for South Sudanese refugees in Uganda.

¹⁸³ Interview with Machar (pseudonym) in Benti PoC site, 30 November 2016.

In several cases, men were subjected to various methods of sexual assault either at the time of an arrest or while detained in Juba by the NSS or by the Military Intelligence Directorate. **Duany** was at his home in Munuki on 18 July 2016, when four government military intelligence officers came to his home. They raped his aunt and stole money, a radio, two phones, and cooking utensils. They accused Duany of coordinating with the SPLM/A-IO and tied his arms and legs.

*"They removed my short and underpants and inserted a stick into my anus. It was very painful. I cried and groaned with pain, but they just laughed among themselves as though it was not a human being who they were treating like that. While I told them that they hurt me, they even told me, 'Shut up or we will fuck your anus'. They dragged me away naked...threw me into the vehicle and drove me away with them."*¹⁸⁴

The soldiers took Duany to the Giyada military barracks, where he spent over five months in detention.

Tombe was subjected to forced nudity in July 2016 when 10 government soldiers came to his home in Rock City and accused him and his uncle of being SPLA-IO soldiers.

*"They started beating us and they stripped us naked. They forced us to dance while naked and they were laughing at us as we danced....They watched us from behind as we danced and they could also ask us to turn around as we danced, just to see our penises and testicles jumping. They were laughing and laughing... They raised our penises and testicles with sticks they had. You couldn't refuse them from doing that even if it hurt, otherwise they would kill you... One of them attempted to pierce [my uncle's] buttocks with the stick. But his colleagues shouted at him... We really felt humiliated but we did not have a choice to refuse... We just danced so we would be left to live."*¹⁸⁵

Afterwards the soldiers took Tombe to the Bilpam military headquarters, where he spent two months in arbitrary detention.

Ajak was subjected to sexual violence while detained without charge in Giyada military barracks between April and December 2015. He explained:

*"When I was in prison, I almost lost my testicles. The soldiers would come at night to torture us. They would beat our testicles with sticks. Even now, I am not erecting. I can't sleep with a woman."*¹⁸⁶

Michin was arrested by government soldiers in February 2014 and detained without charge in Bilpam military barracks for over two years. One day, about a month after his arrest, some soldiers came to fetch him from the prison and took him to another area within the barracks. They beat and tortured him.

*"They were asking me to accept that I was a soldier and a bodyguard of Riek Machar. They said if I accepted, I would be released unconditionally. I kept telling them that I was just a trader... They could not listen. They tortured me. They squeezed my testicles and sprayed my eyes with pepper... they twisted my middle finger and they inserted a burning matchstick into my anus."*¹⁸⁷

Government soldiers arrested **Wiyual** one evening in February 2014 along Bilpam road and detained him at an NSS detention facility in Juba town, on the bank of the Nile River. A week after he arrived, soldiers pierced his testicles with needles.

*"They used sewing needles... We were being interrogated while they were doing it. They would ask us, 'Where is Riek Machar?'...There is still pain up to now in my testicles... I can't have sex."*¹⁸⁸

Wiyual was arbitrarily detained by the NSS for almost two years.

Chaplain experienced the same kind of torture while detained at the NSS riverside detention facility in 2014.

*"Inmates were beaten and tortured terribly... Every part of my body was beaten. They used different methods to torture me including piercing my testicles with needles.... They also removed my fingernails, by burning my fingernails with a cigarette lighter... When they [NSS personnel] were torturing, they would ask me to tell them anything I know about Riek Machar. They didn't ask me specific questions, just for anything I knew about Riek Machar..."*¹⁸⁹

¹⁸⁴ Interview with Duany (pseudonym) in Juba PoC, South Sudan, 17 January 2017.

¹⁸⁵ Interview with Tombe (pseudonym) in Juba, South Sudan, 5 September 2016.

¹⁸⁶ Interview with Ajak (pseudonym) in Juba, South Sudan, 14 October 2016.

¹⁸⁷ Interview with Michin (pseudonym) in Juba PoC, South Sudan, 9 November 2016.

¹⁸⁸ Interview with Wiyual (pseudonym) in Nairobi, Kenya, 17 November 2016.

¹⁸⁹ Interview with Chaplain (pseudonym) in Juba PoC site, South Sudan, 20 December 2016.

William, a former detainee at the NSS headquarters compound in Jebel, described officers watching and beating him with a whip while he showered. They also raped him twice with a stick.

“They put a stick into my back [anal penetration]... It was at night. Afterwards they just told me to take my uniform and go shower...I was bleeding afterwards. The first time, I refused to take my uniform off, but they removed it. It happened to me twice... I think they do this commonly.”¹⁹⁰

¹⁹⁰ Interview with William (pseudonym) in Nairobi, Kenya, 14 September 2016.

5. CALLS FOR JUSTICE

SEXUAL VIOLENCE IN DOMESTIC AND INTERNATIONAL LAW

Though there are numerous gaps in South Sudan's legislation relating to sexual violence, it nonetheless establishes a framework that criminalizes the acts of sexual violence described in this report. South Sudan's Penal Code includes provisions prohibiting bodily injury; kidnapping, abduction, and other violations of personal liberty; rape, defined as forced vaginal or anal intercourse; and other sexual offences including detaining a person for the purpose of engaging in unlawful sexual conduct, female genital mutilation, and deliberate transmission of sexually transmitted diseases and of HIV/AIDS.¹⁹¹ South Sudan's Child Act guarantees the rights of children to be protected from physical and psychological violence, injury, abuse or exploitation; from abduction and trafficking; from sexual abuse, exploitation and harassment; and from early and forced marriage. It criminalizes any act infringing on these rights.¹⁹²

¹⁹¹ See South Sudan Penal Code, 2008, Chapter XVIII "Rape, Other Sexual Offences and Offences Against Morality."

¹⁹² South Sudan Child Act, 2008, arts. 23, 22, 26, 30.

GAPS IN SOUTH SUDAN'S LEGISLATION RELATING TO SEXUAL VIOLENCE

South Sudan's legal framework does not criminalize rape and other forms of sexual violence as crimes under international law or define them in accordance with the highest international standards. The following gaps in domestic legislation should be remedied through amendments to existing legislation or through the enactment of new legislation.

- The definition of rape in the Penal Code does not conform with the highest international standards because it excludes marital rape from the definition of rape and it limits the definition of rape to vaginal and anal intercourse, therefore excluding other forms of penetration, such as oral penetration and penetration with objects.
- The crimes under international law of torture, crimes against humanity and genocide are not defined or criminalized as such in domestic law, and therefore sexual violence cannot be prosecuted within South Sudan as any of these crimes. This raises the concern that the crimes cannot be prosecuted in South Sudan in a manner that reflects their gravity.¹⁹³
- Modes of liability for the commission of crimes under international law, including command and superior responsibility, are not codified in domestic law.
- Procedural rules for criminal cases concerning sexual violence should include safeguards, in line with international best practice, that guarantee that testimony of survivors of sexual violence does not need to be corroborated¹⁹⁴, that victims of sexual violence are shielded from irrelevant and inappropriate questions during testimony concerning prior or subsequent sexual history, which can constitute secondary victimisation, and that *in camera* hearings and other methods such as video-link can be used to hear the testimony of survivors of sexual violence.

The customary laws of South Sudan's different ethnic groups also prohibit rape and other forms of sexual violence, both within and outside of conflict.¹⁹⁵ Under Nilotic customary laws, for example, the targeting of women during conflict is forbidden. According to Michael Makuei, who at the time was the Attorney General for the Government of Southern Sudan, "[I]n our [Dinka] rules of war, you don't kill a vulnerable person; you don't kill a person who is disarmed; you don't kill a woman; you don't kill a child. This is something that is in our custom."¹⁹⁶

South Sudan has acceded to several regional and international human rights treaties, including the African Charter on Human and People's Rights, the Convention Against Torture (CAT), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and the Convention on the Rights of the Child (CRC), and is also bound by customary international human rights law. These treaties and customary international human rights law protect the right to physical integrity and to be free from torture and other cruel, inhuman or degrading treatment, including rape, and to be free from forms of exploitation including sexual exploitation and slavery. South Sudan is required to take effective measures to prevent violations of these rights and to conduct prompt, independent and impartial investigations into reports of rape and other forms of sexual violence. Those suspected of committing such acts must be prosecuted in proceedings that meet international fair trial standards, and the government must provide fair and adequate reparations to victims.¹⁹⁷

South Sudan is also bound by international humanitarian law, including the four Geneva Conventions of 12 August 1949 and their Additional Protocols, which it acceded to in 2013.¹⁹⁸ The conflict in South Sudan is a non-international armed conflict that is governed by Article 3 common to the Geneva Conventions as well as by Additional Protocol II. Many of the specific rules included in these and other treaties form part of customary international humanitarian law and are thus binding on all parties to the conflict.¹⁹⁹ Many of the

¹⁹³ While this conduct may be prosecuted as crimes under international law in other jurisdictions, including under universal jurisdiction or before an international tribunal, it is preferable that the law in South Sudan allows prosecution of this conduct as crimes under international law.

¹⁹⁴ This is due to a realistic understanding of the particular nature of the crime of sexual violence, which often takes place with no witnesses or only witnesses acting in collaboration with the perpetrator.

¹⁹⁵ Jok Madut Jok and Sharon Elaine Hutchinson, "Sudan's Prolonged Second Civil War and the Militarization of Nuer and Dinka Ethnic Identities", *African Studies Review*, Vol. 42, No. 2, September 1999, p. 131. UNDP, *In Search of a Working System of Justice for a New Nation: The Ascertainment of Customary Laws*, Volumes 1-3.

¹⁹⁶ Francis M. Deng, *Customary Law in the Modern World*, 2010, p. 240-41.

¹⁹⁷ See, for instance, UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, General Assembly resolution 60/147 of 16 December 2005.

¹⁹⁸ South Sudan became a state party to the Geneva Conventions of 1949 and Additional Protocols I & II on 25 January 2013.

¹⁹⁹ See Jean-Marie Henckaerts and Louise Doswald-Beck, *Customary International Humanitarian Law*, Vol. I: Rules, Cambridge University Press, 2005 (hereinafter ICRC Customary IHL Study).

acts of sexual violence described in the report are serious violations of these rules and therefore constitute war crimes.²⁰⁰ South Sudan's Geneva Conventions Act of 2012 stipulates that any person who, while in South Sudan, commits or otherwise aids and abets any breach of the relevant Geneva Conventions or Protocols, is guilty of an indictable offense and subject to imprisonment.²⁰¹

Under customary international criminal law, acts of rape and other forms of sexual violence constitute crimes against humanity when they are committed as part of a widespread or systematic attack against a civilian population, pursuant to or in furtherance of a State or organizational policy to commit such attack.²⁰² The acts of sexual violence committed by parties to the current conflict may amount to crimes against humanity. Under international criminal law, military commanders and non-military superiors may in some cases bear responsibility for acts of sexual violence perpetrated by their subordinates.²⁰³

CHRONIC IMPUNITY

South Sudanese authorities have repeatedly failed to conduct thorough, effective and impartial investigations into crimes of sexual violence or to hold those responsible to account in fair trials. This failure results both from the capacity and resource gaps within the criminal justice system as well as from a clear absence of political commitment to criminal accountability.

There are numerous weaknesses within South Sudan's criminal justice system. Qualified personnel and infrastructure are extremely limited. The few formal courts that are operating are largely based in towns or other urban areas, so only a small percentage of victims and witnesses are able to access these courts; for most people, the trip is too far, too expensive, and too dangerous. There are few legal aid or counselling services available for survivors of sexual violence. Training for judges, attorneys, prosecutors and police has been hampered by the government and international community's prioritization of the political and humanitarian crisis, which has left reform of the legal system on the back burner. South Sudanese citizens do not have confidence in the legal system and perceive judges and other judicial officials as biased, corrupt and lacking independence.²⁰⁴ Judges themselves went on strike in April 2017 because of salaries and working conditions, and also demanded the resignation of the Chief Justice. The strike was still in force in June 2017.²⁰⁵

For many survivors of sexual violence, customary courts governed by the laws of South Sudan's various ethnic groups are the only accessible form of justice. Indeed, most disputes in South Sudan are resolved through customary legal systems.²⁰⁶ Customary courts, however, are ill-suited to handle sexual violence. Cases are usually heard in public, presided over by panels of chiefs and elders, most of whom are men. The resolution of cases under customary law generally focuses on compensation and reconciliation, rather than punishment. Rape, therefore, is usually resolved through payments – in cash or livestock – to the family of the victim.²⁰⁷ Addressing rape in this manner fails to recognize the harm perpetrated against the victim or her right to justice and protection, and adds to the culture of impunity. In some cases, customary courts recommend that the rapist should marry the victim.²⁰⁸ Though customary courts do sometimes sentence individuals to prison, this is outside their legal mandate, which excludes criminal jurisdiction.²⁰⁹ The importance and authority of customary justice systems has also been undermined by conflict. Chiefs and communities have been separated and displaced, some chiefs have been killed, while others have been

²⁰⁰ ICRC Customary IHL Study, Rule 156.

²⁰¹ South Sudan Geneva Conventions Act, 2012, Sections 6-8.

²⁰² See Rome Statute, Art. 7.

²⁰³ For the specific circumstances when commanders or other superiors would bear responsibility, see Rome Statute, article 28 (Responsibility of commanders and other superiors).

²⁰⁴ FIDH, *South Sudan: We fear the worst – Breaking the cycle of violence and impunity to prevent chaos*, August 2014, p. 22, available at www.fidh.org/en/region/Africa/south-sudan/16598-we-fear-the-worst-breaking-the-cycle-of-violence-and-impunity-in-south. The AUCISS concluded that formal justice has 'a limited reach, and statutory courts lack human, financial and physical capacity to deliver justice'. AU Commission of Inquiry on South Sudan, Final Report, October 2014, www.peaceau.org/uploads/auiciss.final.report.pdf, p 290.

²⁰⁵ Justice and Judges Committee, Judiciary of South Sudan, *An Open Letter to His Excellency the President of the Republic of South Sudan Gen. Salva Kiir Mayardit*, 20 April 2017.

²⁰⁶ David K. Deng, *Challenges of Accountability: An Assessment of Dispute Resolution Processes in Rural South Sudan*, March 2013, p. 21.

²⁰⁷ For examples of how customary law punish rape, see UNDP, *In Search of a Working System of Justice for a New Nation: The Ascertainment of Customary Laws*, Volumes 1-3.

²⁰⁸ For a discussion of the treatment of sexual violence in South Sudan's legal systems, see Anyieth D'Awol, "'Sibu ana, sibu ana' ('Leave Me, Leave Me'): Survivors of Sexual Violence in South Sudan," in Friederike Bubenzer and Orly Stern, eds., *Hope, Pain and Patience: The Lives of Women in South Sudan*, p. 70-74. See also David K. Deng, *Challenges of Accountability: An Assessment of Dispute Resolution Processes in Rural South Sudan*, March 2013, p. 37, 47. See also Haki, *Combating gender-based violence in the customary courts of South Sudan*, December 2013, p.18, 46

²⁰⁹ According to the Local Government Act 2009, customary courts shall not have the competence to adjudicate on criminal cases, except those criminal cases with a customary interface referred to it by a competent statutory court. Local Government Act, 2009, Sections 98(1) and 98(2).

detained or threatened.²¹⁰ Militarization has contributed to reduced respect for chiefs and their authority, and weakened their ability to implement decisions. Chiefs also often have little power to intervene in relation to conflict abuses occurring between hostile communities and between armed groups.²¹¹

Survivors of sexual violence residing within PoC sites live in a particularly stark legal vacuum. They have effectively no system to turn to, as they cannot safely access even the minimal services available through national police or courts.²¹² Doing so would require survivors to leave the PoC and confront representatives of the same government they see as responsible for crimes perpetrated against them. While there are customary courts within the PoC sites, their jurisdiction is limited to disputes between PoC residents; they have no power to call or compel anyone residing outside the PoC site to appear. Because they have no criminal jurisdiction, they are not even supposed to consider rape cases that occur between PoC residents. They also have no authority to order imprisonment – and there are no prisons available – so their ability to impose any kind of punishment is also extremely limited.²¹³

In addition to the failings within the legal and justice system, there is also an absence of political commitment to accountability. President Kiir has called for trials to be put on hold until peace is achieved.²¹⁴ He has also repeatedly granted blanket amnesties. In February 2015, he issued a decree granting a general amnesty for all those “waging war against the State”.²¹⁵ On 16 November, the President announced an amnesty for the 750 SPLA-IO soldiers in the DRC.²¹⁶ The government refused to participate in a January 2017 workshop on transitional justice convened by the Commission on Human Rights on South Sudan, a body mandated by the UN Human Rights Council to provide guidance on transitional justice.²¹⁷ The government spokesperson, Michael Makuei, has repeatedly stated that accountability should be delayed.²¹⁸

The few cases of sexual violence by soldiers that have been prosecuted have been handled by the military, rather than the civilian judicial system. In March 2017, for example, the government military announced that it had arrested four government soldiers for rapes that took place in Kubi village, near Juba.²¹⁹ In May 2017, a preliminary hearing was held in military court for soldiers accused of rape, murder and looting committed at the Terrain hotel in July 2016.²²⁰ These cases have not been transferred to civilian courts though the SPLA Act itself provides that: “Whenever a military personnel commits an offence against a civilian or civilian property, the civil court shall assume jurisdiction over such an offence.”²²¹ Indeed, the jurisdiction of military courts over criminal cases should be limited to trials of military personnel for breaches of military discipline. The prosecution of human rights violations and crimes under international law should take place in independent and impartial civilian courts that victims and their family members can access without fear.

²¹⁰ For example, Chief Wilson Peni, the Zande community paramount chief, was arbitrarily detained by South Sudan’s National Security Service (NSS) between 23 November and 17 December 2016. Amnesty International, Urgent Action: Three Freed, Four More Arbitrarily Detained (Index AFR 65/5293/2016).

²¹¹ For a discussion of the evolving roles of chiefs, see Rift Valley Institute (RVI), *Now We are Zero: South Sudanese Chiefs and Elders Discuss Their Roles in Peace and Conflict*, 2016, available at <http://riftvalley.net/publication/now-we-are-zero#.WUJUKeuGNhE>

²¹² GBV Sub-Cluster Strategy, *South Sudan*, p. 6.

²¹³ Rachel Ibreck and Naomi Pendle, *Customary Protection? Chiefs’ courts as public authority in UN Protection of Civilian Sites in South Sudan*, September 2016, p. 10, 28, 37, available at www.lse.ac.uk/internationalDevelopment/research/JSRP/downloads/JSRP-34.Ibreck.Pendle.pdf

²¹⁴ Salva Kiir and Riek Machar, “South Sudan Needs Truth, Not Trials”, *The New York Times*, 7 June 2016, available at www.nytimes.com/2016/06/08/opinion/south-sudan-needs-truth-not-trials.html. Following publication of this op-ed, Riek Machar disavowed its contents, saying he had not been consulted.

²¹⁵ *Report of the Secretary-General on South Sudan*, 29 April 2015, UN Doc. S/2015/296.

²¹⁶ Human Rights Council, *Report of the Commission on Human Rights in South Sudan*, 6 March 2017, UN Doc. A/HRC/34/63, para. 60. While these amnesties do not expressly cover all crimes committed, the lack of specificity leaves that as a possible interpretation.

²¹⁷ Yasmin Sooka, “Speech of the Chair of the Commission on Human Rights in South Sudan to the Human Rights Council”, 14 March 2017, available at <https://unmiss.unmissions.org/south-sudan-un-expert-urges-action-end-rights-abuses-country-where-impunity-norm-un-news-centre>

²¹⁸ Sudan Tribune, “South Sudan Says Establishing Hybrid Court Undermines Peace”, 31 January 2017, available at www.sudantribune.com/spip.php?iframe&page=imprimable&id_article=61533; Voice of America, “We Need Peace Before Justice”, 6 May 2015, available at www.voanews.com/a/south-sudan-says-proposed-hybrid-court-not-in-the-interest-of-peace/2749533.html

²¹⁹ Reuters, “South Sudan military arrests soldiers over gang-rape accusations”, 3 March 2017, available at www.reuters.com/article/us-southsudan-security-idUSKBN16A1RE

²²⁰ A government investigation found that government soldiers committed murder, rape and extensive looting. *Note verbale dated 4 November 2016 from the Permanent Mission of South Sudan to the United Nations addressed to the President of the Security Council*, 7 December 2016, UN Doc. S/2016/933.

²²¹ SPLA Act, 2009, Section 37(4).



Preliminary hearing in a military court trial of government soldiers accused of rape, murder, and looting at the Terrain hotel in Juba, in July 2016. Juba, South Sudan, 30 May 2017. © Samir Bol/AFP/Getty Images

In 2014, the Government of South Sudan signed a joint communiqué with the UN Special Representative to the Secretary-General on Sexual Violence in Conflict, Zainab Bangura, in which it committed to address conflict-related sexual violence through measures including the issuance and enforcement of clear orders through military and police chains of command prohibiting sexual violence, accountability mechanisms, exclusion of perpetrators from the security forces and from amnesty provisions, and enhanced services for survivors.²²² A focal point on sexual violence was established within the Presidency, and a working group formed to follow up on recommendations, but generally little concrete progress has been made towards implementation of these commitments.²²³ One exception is a command issued in December 2016 by the then Chief of General Staff Paul Malong instructing all soldiers to stop and prevent sexual violence.²²⁴ This as mentioned earlier may have contributed to the reduction of incidents of sexual violence around the UNMISS PoCs in Juba.

There has been little progress towards the establishment of the Hybrid Court for South Sudan (HCSS). The parties to the conflict agreed to the establishment of this court in the August 2015 ARCSS and it was also recommended by the African Union Commission of Inquiry on South Sudan (AUCISS). The HCSS will have a mandate to investigate and prosecute individuals bearing criminal responsibility for violations of international law and/or applicable South Sudanese law committed from 15 December 2013 through the end of the transitional period. Since the signing of the agreement, however, there has been little progress towards the establishment of the court. The government has failed to cooperate with the African Union to ensure the speedy establishment of the Hybrid Court for South Sudan.²²⁵

²²² Joint Communiqué of the Republic of South Sudan and the United Nations on addressing Conflict-Related Sexual Violence, 11 October 2014.

²²³ Human Rights Council, *Report of the Commission on Human Rights in South Sudan*, 6 March 2017, UN Doc. A/HRC/34/63, para. 40.

²²⁴ SPLA Chief of General Staff, Command Order to Prevent and Respond to Sexual Violence Crimes Within the Sudan People's Liberation Army (SPLA), 1 December 2016.

²²⁵ Ken Scott, "In South Sudan, peace requires justice: Government and military officials need to be held accountable for atrocities", Denver Post, 12 May 2017, available at www.denverpost.com/2017/05/12/south-sudan-where-peace-requires-justice/



Zainab Hawa Bangura (top right), Special Representative of the Secretary-General on Sexual Violence in Conflict, meets with Kuol Manyang Juuk (top left), Minister of Defence of the Republic of South Sudan. Juba, South Sudan, 2014. © United Nations

OBSTACLES TO REPORTING

South Sudan's weak criminal justice system and its inaccessibility create challenges for victims to report sexual violence. In response to questions about why they did not report the crimes committed against them to relevant government authorities, survivors described feeling unsafe reporting sexual violence, particularly if they were accusing a government official, as they feared reprisal. They said that they feared the social stigma attached to being publicly known as a rape victim. Survivors also felt that reporting was futile because of the painfully slow pace of justice and the inability of many to identify perpetrators. They know that there is little chance of seeing justice done. The fact that so many survivors are not able or ready to report sexual violence further contributes to impunity.²²⁶

Nyachah, who was gang raped in Juba in December 2013, dreams of accountability but has no faith in the ability of the criminal justice system to independently investigate and prosecute crimes committed by members of the military.

*"I did not report to the police because the men who raped me are from the same government. They should be taken to a court of law... and held responsible for the crimes they have committed during the conflict... If they are found wrong or guilty, then they should be accountable for the crimes that they have committed during the conflict. The perpetrators should be sentenced to life imprisonment for a period not less than 15 years."*²²⁷

Veronica described her reluctance to report being beaten and gang raped by government soldiers in December 2013 as primarily due to fear of reprisal.

*"I did not report this case to the police station because at that time they used to kill you when you open a case against any police or army person. You will lose your life."*²²⁸

Nyaguande, who was gang raped by six men in December 2013 in Malakal, said that reporting her experience to the police would have been both useless and unsafe.

²²⁶ GBV Sub-Cluster Strategy, South Sudan, p. 6.

²²⁷ Interview with Nyachah (pseudonym) in Juba PoC site, South Sudan, 7 November 2016.

²²⁸ Interview with Veronica (pseudonym) in Juba PoC site, South Sudan, 13 October 2016.

*"I did not report to the police or government, because I know that no justice is going to take place and that I may expose myself and my family and put them at risk of being killed by the government soldiers or officials, because my case is against them."*²²⁹

While most victims cannot name their attackers, others can. In some cases, women knew their attackers before the incident occurred. In other cases, women learned their names while being raped. While knowledge of a perpetrator theoretically increases the possibility of criminal accountability, in the current context, this in fact heightens the survivors' fear of reprisals if they do report. Indeed, given the ongoing fighting and the total absence of victim and witness protection services, speaking out would likely put them at risk.

While **Nyabuok** was being gang raped by government soldiers in December 2013, a family friend stood by. Because she knew him, and he knows her, filing a case seemed too dangerous.

*"I did not report my case to police because there will be no solution... and because the friend of my husband will kill me as he was present with those who raped me... the justice I want is for Salva Kiir to be taken to court."*²³⁰

Jackline also knew one of the government soldiers who attacked and raped her in August 2016. He was her neighbour. While her ability to identify her perpetrator should have smoothed the way for justice, Jackline still saw seeking justice as simply futile given the general absence of rule of law.

*"I did not report this case to the police station as our country is a lawless country. I cannot do anything to him [the perpetrator]... If we have a strong Parliament then these things can be controlled and if we have peace and constitutional law then these things can be stopped from happening."*²³¹

CALLS FOR JUSTICE

Survivors of sexual violence repeatedly expressed their frustration with the absence of accountability and have made clear calls for justice. They want perpetrators to be held responsible, and to see them punished. Some expressed that this was the only way to break the cycle of violence, allow different groups to live together, and secure a peaceful future for South Sudan. The intense anger and desire for revenge expressed by some survivors underline the importance of accountability as a means for preventing individuals and communities from taking matters into their own hands.

Chol, 36, was raped in January 2014 in Juba by three Dinka soldiers she identified as part of the government's Mathiang Anyor militia. She called for trials, punishment, and compensation.

*"The perpetrators should be taken to court and held accountable and responsible for the crimes they have committed... The justice I want is to bring the perpetrators to court and if found guilty... they should be imprisoned for not less than five years. And there should be compensation for the victims through the Government of South Sudan."*²³²

Joy watched her father being killed and her 16-year-old daughter abducted in Malakal in December 2013. In addition to trials and compensation, she called for the government to work to return abducted women and girls.

*"The ones who did this should be taken to a court and held accountable for their crimes and because they violated human rights and they should be kept in prison until they confess why they did this. Compensation should be given to the victims by the government. The Government of South Sudan should work very hard to bring our girls back who were abducted during the conflict."*²³³

Jacob called for the SPLA-IO soldiers who raped his wife to be brought to justice, but specified that this must take place outside of South Sudan.

²²⁹ Interview with Nyaguande (pseudonym) in Juba PoC site, South Sudan, 8 November 2016.

²³⁰ Interview with Nyabuok (pseudonym) in Juba PoC site, South Sudan, 14 November 2016.

²³¹ Interview with Jackline (pseudonym) in Juba PoC site, South Sudan, 12 October 2016.

²³² Interview with Chol (pseudonym) in Kiryandongo refugee settlement, Uganda, 25 November 2016.

²³³ Interview with Joy (pseudonym) in Pagrinya II refugee settlement, Uganda, 6 December 2016.

“SPLA-IO committed serious crimes against humanity. Leaders of SPLA-IO should be taken to the ICC. Whoever has committed crimes in the recent conflict should be held accountable...I want justice through the ICC, not here in South Sudan.”²³⁴

Justice is critical to prevent revenge. **Veronica**, for example, told researchers that if there is no justice, she would want to take revenge against the men who gang raped her and her sister in Juba in December 2013.

“According to me, I have two choices; one is to revenge if I recognize one of the men if there’s no justice. Second, if there is justice, those people who did that should be punished with the maximum punishment according to the law, or the death penalty.”²³⁵

Nyalaw, 29, was raped in Nhialdiu payam in Unity state in May 2015 by government soldiers. She also said that accountability would help prevent further violence.

“Something should happen to the ones who did this. They will one day face justice...If there will be any peace in South Sudan let there be justice...to have those account for what they did and to avoid revenge killing.”²³⁶

To fulfil victims’ rights to – and demands for – accountability, South Sudan must increase the capacity and independence of the criminal justice system, and ensure that prompt, effective and impartial investigations take place into crimes of sexual violence. To facilitate access of survivors to the national justice system, it should establish a victim and witness protection system and ensure that survivors can access legal support. It should also improve the legislative framework so that all crimes of sexual violence are defined in accordance with the highest international standards. As the national justice system is a long way from being ready to conduct trials that meet international standards, the government must support and facilitate the establishment of the Hybrid Court for South Sudan (HCSS) by the African Union Commission.

²³⁴ Interview with Jacob (pseudonym) in Kiryandongo refugee settlement, Uganda, 28 November 2016.

²³⁵ Interview with Veronica (pseudonym) in Juba PoC site, South Sudan, 13 October 2016.

²³⁶ Interview with Nyalaw (pseudonym) in Juba PoC site, South Sudan, 17 November 2016.

6. CALLS FOR REPARATIONS

THE RIGHT TO REPARATION

Sexual violence has profound and life-changing consequences on victims as well as their families and communities. While criminal accountability can serve to acknowledge the harm suffered by victims of sexual violence and ensure perpetrators are identified, held responsible and punished, reparative measures go farther, towards addressing their suffering and restoring their well-being. Victims of sexual violence have a right to prompt, effective and adequate reparation, including restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition for the crimes committed against them.²³⁷

To fulfil the right to reparation, South Sudan should ensure victims can access adequate medical and psychological services to help address the physical and mental harm caused by sexual violence. South Sudan should facilitate the return of any women or girls who have been abducted or are subject to sexual slavery. It should also publicly acknowledge the role of government actors in perpetrating sexual violence and make public apologies to victims. Reparative measures should also be transformative; they should “aspire, to the extent possible, to subvert, instead of reinforce, pre-existing structural inequality that may be at the root causes of the violence”.²³⁸ To achieve this, South Sudan should undertake efforts, such as educational and training programs, to improve the status of women in South Sudanese society and to address the societal acceptance of certain forms of violence against women, and the stigmatization of and discrimination against victims of sexual violence. The government should also address the political and inter-ethnic fissures that continuously drive the cycle of sexual violence, as a way of preventing their repetition.

The ARCSS envisions reparations as an integral part of the transitional justice agenda for South Sudan. It provides for the establishment of a Compensation and Reparations Authority (CRA) that will “provide financial and material support to citizens whose property was destroyed during the conflict”.²³⁹ It also provides for the establishment of a Commission on Truth, Reconciliation and Healing (CTRH) whose mandate includes to “recommend processes and mechanisms for the full enjoyment by victims of the right to remedy, including by suggesting measures for reparations and compensation”.²⁴⁰ The mandate of the HCSS also includes reparations; ARCSS states that it shall “award appropriate remedies to victims, including but not limited to reparations and compensation”.²⁴¹

²³⁷ The Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (Basic Principles) recognize five forms of reparation: restitution, compensation, rehabilitation, satisfaction, and guarantees of non-repetition.

²³⁸ Report of the Special Rapporteur on violence against women, its causes and consequences Ms. Rashida Manjoo, Reparations to women who have been subjected to violence (2010), para. 31, available at www.un.org/en/ga/search/view_doc.asp?symbol=A/HRC/14/22. See also, UN, *Guidance Note of the Secretary-General, Reparations for Conflict-Related Sexual Violence*, June 2014, p. 8.

²³⁹ ARCSS, Chapter V, art. 4.2(d).

²⁴⁰ ARCSS, Chapter V, art. 2.1.5.

²⁴¹ ARCSS, Chapter V, art. 3.5.3.

Unfortunately, there has been little progress towards implementation of these provisions.²⁴² The establishment of the CRA has been hampered by a lack of political will – when President Kiir signed the ARCSS, he expressed reservations about the establishment of the CRA, arguing that rather than compensating victims, funds should be channelled into “the reconstruction of infrastructure and the rebuilding of livelihoods of communities in the States most affected by the conflict”.²⁴³ In December 2016, the Ministry of Justice established a technical committee responsible for development of the CTRH. It is meant to commence a process of national consultations with the view to producing draft legislation, but as of June 2017, the consultations had not yet commenced.²⁴⁴ As noted above, progress towards establishing the HCSS is at a standstill.

There is no doubt that survivors of sexual violence want, and need, reparations to rebuild their lives. Testimonies speak clearly to the deep impacts of sexual violence and the need for measures to address them. A survey conducted in 2014 and 2015 found that reparations for survivors generally enjoy widespread support from South Sudanese, with 81% of respondents agreeing that South Sudan should provide compensation to victims of human rights violations and abuses.²⁴⁵

THE FIVE FORMS OF REPARATION

Restitution includes measures aimed at restoring the situation that existed before the violation happened, including restoration of property rights, employment, liberty, citizenship or residency status.²⁴⁶

Compensation involves monetary payment for economically assessable losses, including: physical or mental harm; lost opportunities, including employment, education and social benefits; material damages and loss of earnings, including loss of earning potential; moral damage; and costs required for legal or expert assistance, medical services, and psychological and social services.²⁴⁷

Rehabilitation aims to address any physical or psychological harm caused to victims including medical and psychological care as well as legal and social services.²⁴⁸

Satisfaction includes important symbolic measures such as: verification of the facts and full, public disclosure of the truth; the search for the whereabouts of the disappeared and the bodies of those killed; the recovery, identification and reburial of the bodies of those killed in accordance with the wishes of the victims, or the cultural practices of the families and communities; public apology, including acknowledgement of the facts and acceptance of responsibility; judicial and administrative sanctions against persons liable for the violations; commemorations, memorials and tributes to the victims; and inclusion of an accurate account of the violations that occurred in education materials at all levels.²⁴⁹

Guarantees of non-repetition involve measures aimed at preventing a recurrence of the same crimes. Such measures include: ensuring effective civilian control of military and security forces; strengthening the justice system; providing international human rights and humanitarian law education to different sectors of society, including law enforcement and military; and reviewing and reforming laws which contribute to or allow violations of human rights and humanitarian law.²⁵⁰

²⁴² More generally, implementation of ARCSS faced major challenges following the outbreak of fighting in Juba in July 2016 and the flight of Riek Machar, with some describing the agreement as having collapsed. *Letter dated 13 April 2017 from the Panel of Experts on South Sudan established pursuant to Security Council resolution 2206 (2015) addressed to the President of the Security Council*, UN Doc. S/2017/326, 13 April 2017, available at www.un.org/en/ga/search/view_doc.asp?symbol=S/2017/326. Despite the uncertainty surrounding ARCSS, the international community continues to call for its implementation. On 12 June 2017, IGAD called for a forum to “revitalize” the agreement. *Communique of the 31st Extra-Ordinary Summit of IGAD Assembly of Heads of State and Government on South Sudan*, 12 June 2017.

²⁴³ The Reservations of the Government of the Republic of South Sudan on the “Compromise Peace Agreement on the Resolution of the Conflict in South Sudan”, Juba, 26 August 2015 (on file with Amnesty International).

²⁴⁴ Human Rights Council, *Report of the Commission on Human Rights in South Sudan*, 6 March 2017, UN Doc. A/HRC/34/63, para. 68.

²⁴⁵ South Sudan Law Society and UNDP, *Search for a New Beginning: Perceptions of Truth, Justice, Reconciliation and Healing in South Sudan, 2015*, p. 53-57, available at www.ss.undp.org/content/dam/southsudan/library/Rule%20of%20Law/Perception%20Survey%20Report%20Transitional%20Justice%20Reconciliation%20and%20Healing%20-.pdf

²⁴⁶ UN Basic Principles and Guidelines on the Right to a Remedy and Reparations for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (UN Basic Principles and Guidelines), 2006, UN Doc. A/RES/60/147, art. 19.

²⁴⁷ UN Basic Principles and Guidelines, art. 20.

²⁴⁸ UN Basic Principles and Guidelines, art. 21.

²⁴⁹ UN Basic Principles and Guidelines, art. 22.

²⁵⁰ UN Basic Principles and Guidelines, art. 23.

THE NEED FOR PHYSICAL REHABILITATION

The physical consequences of sexual violence continue long after the abuse, often for a lifetime. Common medical problems experienced because of rape include sexually transmitted diseases including HIV/AIDS and fistula – tearing of the walls between the vagina, bladder, and anus. Some survivors interviewed for this report, who were penetrated with objects, mutilated with knives or tortured, have suffered serious internal wounds and damage to reproductive organs. Alongside sexual violence, many survivors interviewed for this report were also subjected to beatings – with sticks, whips or the butts of guns – and others were kicked, causing broken bones, cuts and bruises to their hands, backs, and legs.

Survivors seldom receive appropriate medical treatment; most do not currently have access to even basic life-saving services.²⁵¹ The nearest functional health facility may be too far, or the roads to reach it too insecure. In rural areas, there may be nowhere to go for medical services, especially given the collapse of the healthcare systems in many communities because of the conflict. Hospitals and health clinics have been attacked or looted by armed actors.²⁵² NGOs who provide health services face major security constraints including attacks and harassment by armed actors, as well as mass displacement, a shortage of skilled staff, and logistical constraints.²⁵³ Another major obstacle to adequate treatment for survivors of sexual violence can be their failure to fully disclose to medical staff the nature of abuse they have suffered. This results from their sense of shame or fear of being stigmatized.²⁵⁴

The survivors interviewed for this report who visited medical centres often complained about the services they received. They described having lingering pains, problems urinating or passing stool, and stomach cramps.²⁵⁵ While researchers for this report did not undertake a comprehensive assessment of the availability, accessibility, quality and appropriateness of government and NGO provided health services, service providers interviewed said that facilities in humanitarian settings were only equipped to provide sexual and reproductive health services and information including emergency contraception, HIV counselling, testing and post-exposure prophylaxis, and testing and treatment for other STIs.²⁵⁶ Abortion is only allowed under South Sudanese law if it is performed in order to save the life of the pregnant woman.²⁵⁷ Service providers, however, regularly provide care following abortions carried out using traditional methods or by illegal practitioners.²⁵⁸

As detailed in the testimonies below, some of the survivors of sexual violence have suffered extensive physical damage that may require specialised medical care. Such services need to be provided and made accessible to survivors.

Four months after being gang raped by government soldiers, 65-year-old **Eva** described having lingering pain. She said, *“They penetrated my anus...my anus is injured seriously. As you can see I can’t sit properly because it is painful.”*²⁵⁹

Nyabong was beaten and raped by seven government soldiers in Juba in July 2016. She described having chronic diarrhoea following the abuse. *“After they left us...some of us started vomiting because the beatings were severe. Ever since I was raped, I am having diarrhoea until now. And even if it starts, sometimes I am not able to reach the latrine and it can just flow on me since the latrines are far.”*²⁶⁰

Jokudu, who was gang raped with two other women in Yei county in December 2016, said that the two women suffered from fistula as a result and that she continues to experience urinary incontinence. According to Jokudu, none of them received adequate medical care.

“We were taken to a hospital in Yei by people who found us. I was bleeding and I could not walk. All of us had to be carried. The doctors there gave us some medicine. Two of the girls, their vagina

²⁵¹ GBV Sub-Cluster Strategy, South Sudan, p. 6.

²⁵² GBV Sub-Cluster Strategy, South Sudan, p. 6. Médecins Sans Frontières, South Sudan Conflict: Violence Against Healthcare, 2014, available at https://msf.lu/sites/default/files/msf-south_sudan_conflict-violence_against_healthcare.pdf

²⁵³ GBV Sub-Cluster Strategy, South Sudan, p. 6.

²⁵⁴ Telephone interview with Dr. Alphonse Munyakazi, 13 June 2017.

²⁵⁵ It is possible that some of these complaints are psychosomatic and unrelated to ongoing physical conditions. Regardless, their persistence indicates unmet health needs, whether physical or psychological.

²⁵⁶ Telephone interview with Dr. Alphonse Munyakazi, 13 June 2017. Interview with IRC staff member in Payinjiar, South Sudan, 20 May 2017. Interview with IMC staff member, Juba, South Sudan, 24 May 2017.

²⁵⁷ The prohibition of abortion for women who have become pregnant as a result of sexual violence, may amount to torture and ill-treatment. The CAT Committee has called on states to ensure free access to abortion in cases of rape. K.L. v Peru, Human Rights Committee, 2005; LC v Peru, CEDAW Committee, 2011; LMR v Argentina, Human Rights Committee, 2007; CEDAW, Concluding Observations: Zambia, para. 33(b), U.N. Doc. CEDAW/C/ZMB/CO/5-6 (2011); CAT Committee, Concluding Observations: Peru, para. 15(e), U.N. Doc. CAT/C/PER/CO/5-6 (2012).

²⁵⁸ Telephone interview with Dr. Alphonse Munyakazi, 13 June 2017.

²⁵⁹ Interview with Eva (pseudonym) in Juba PoC site, South Sudan, 11 November 2016.

²⁶⁰ Interview with Nyabong (pseudonym) in Bentiu PoC site, South Sudan, 23 November 2016.

and anus tore and became one [fistula]. The doctors said that they could not treat them. Even today I cannot control my urine, I have difficulty going to the toilet. I bleed even when I am not on my monthly period.”²⁶¹

NSS officers pierced **Chaplain’s** testicles with needles while he was detained in Juba, as a form of torture. He tried to seek medical care but was told the specialized treatment he requires is unavailable in South Sudan.

“I have gone for treatment using the meagre resources I have, but I don’t have enough... I cannot erect because my testicles were not treated. I was told that I need a testicle specialist abroad but I cannot afford traveling to Kenya, Uganda or Khartoum for further treatment.”²⁶²

Poni, 45 years old, was gang raped by two government soldiers in July 2016. She has hip pain and suffers incontinence as a result. She has seen a doctor, but did not reveal to him that she was raped.

“When I got home [after being raped], I realised that my leg was painning from the hip joint, I think it is broken. I am limping even now and only walk with support of a stick. I cannot sit for long. Sometimes I sit in warm salt water, it helps the pain. I cannot even contain stool, sometimes it just comes out. It is embarrassing. I rarely go out in public because I do not know what can happen. I went to a health centre here and spoke to a doctor about the pain in my leg but I did not tell them about the rape. I can sleep through the night but only if I pray very hard. I think very hard about why children like them would do this to me. I am old like their mothers. I regularly meet with women from the church group and we share our experiences. It makes it easier.”²⁶³

Juan, 23, had a miscarriage in August 2016 after government soldiers kicked and beat her with sticks and the butts of their guns in a village called Goja, near Sanjasiri in Yei county. She said that services were limited because all the doctors had fled the health centre.

“After the soldiers left, I was taken by some of the women to a health centre nearby. I had lost the baby and they just gave me painkillers. All the doctors had left and the nurses were also in a state of panic. They said that they were going to flee with everyone else in the town.”²⁶⁴

Juan worried that she would not be able to have children again.

In addition to injuries to reproductive organs, survivors experienced injuries in other areas of their bodies. **Victoria** who was raped in February 2015 between Bor and Gatdiang by seven government soldiers spoke of ongoing pain, including in her back.

“My lower parts are still painful and also the area around my kidneys. I never experienced something like this until after the rape. Now I am carrying a baby from someone else but I still experience bleeding. I cannot do anything for myself, I cannot even carry heavy things, because my back has a problem.”²⁶⁵

Nyalam’s hand was broken when she was raped in Dakuon, Mapel in April 2014. She has difficulties carrying out day-to-day activities as a result.

“I became disabled because they broke my hand... it is useless now because I can’t even carry my baby and can’t fetch water... My stomach was swollen that time... am not healthy and even I used to feel headache.”²⁶⁶

Nyantot was frustrated that the clinic she went to in the UNMISS Thongpiny base was unable to tell her whether she had contracted any STDs as a result of being gang raped by government soldiers in Juba.

“I went to the clinic inside UNMISS and I explained to them my ordeal. They gave me medicine for one week. But I was not tested. They just gave me medicine based on what I told them. I had wanted to be examined comprehensively, but they told me that they did not have machines for testing people. Up to now, I have not gotten good medication. I do not know whether I am free from HIV/AIDS and other infectious diseases.”²⁶⁷

The government, with the support of international donors, should ensure that survivors of sexual violence can access comprehensive sexual and reproductive health information and services as required, including

²⁶¹ Interview with Jokudu (pseudonym) in Imvepi refugee settlement, Uganda, 15 March 2017. Researchers advised Jokudu of resources for medical and psychosocial support in Imvepi.

²⁶² Interview with Chaplain (pseudonym) in Juba PoC site, South Sudan, 20 December 2016.

²⁶³ Interview with Poni (pseudonym) in Bidibidi refugee settlement, Uganda, 14 March 2017.

²⁶⁴ Interview with Juan (pseudonym) in Bidibidi refugee settlement, Uganda, 14 March 2017.

²⁶⁵ Interview with Victoria (pseudonym) in Payinjjar, South Sudan, 26 December 2016.

²⁶⁶ Interview with Nyalam (pseudonym) in Juba PoC site, South Sudan, 8 November 2016.

²⁶⁷ Interview with Nyantot (pseudonym) in Juba PoC site, South Sudan, 9 January 2017.

emergency contraception; HIV counselling, testing and post-exposure prophylaxis; safe and legal abortion; and maternal health support. They should specifically work to improve the physical accessibility of services, and to combat the stigma that sometimes prevents survivors from seeking out services.

THE PSYCHOLOGICAL IMPACTS OF SEXUAL VIOLENCE

The psychological burden carried by survivors of sexual violence is enormous, and the consequences are often life-changing. Survivors interviewed for this report described having nightmares, loss of memory, lack of concentration, thoughts of revenge or suicide – common symptoms of psychological distress associated with post-traumatic stress disorder. Some expressed feelings of loneliness and despair. For some, their emotional distress was debilitating, making it difficult to carry out their day-to-day activities.

Unfortunately, specialized mental health services are almost entirely absent in South Sudan. While various organizations provide psychosocial support services for sexual violence survivors, access to these services is also limited.²⁶⁸ Livelihood initiatives exist, but are too few compared to the needs.²⁶⁹

Problems sleeping were among the most commonly described signs of psychological distress. **Nyabake** was raped by government soldiers at the Yei Road checkpoint when she was returning from Custom market to the Juba PoC site and now has nightmares about what she experienced.

“I can’t sleep at night. I used to dream and get up at night sometimes, I used to go wake my children that there is a ghost there. I used to feel as if [the soldiers] were coming back to me. I can only sleep for three to four hours a night. I do not have a normal thinking. When people laugh and joke, I used to get angry because I am not feeling ok... Even now I am angry.”²⁷⁰

Nyabang was raped in July 2016 by government soldiers when she left the Juba PoC site in Jebel. She described having problems remembering things.

“My memory is not ok because sometimes when I start thinking about what happened to me that day, it affects my thinking... I can forget something, what I’m supposed to do that day because it occupies my mind and I can’t remember anything else, only that troubling day. When the night comes, sometimes I don’t sleep because I think too much about what I faced that day.”²⁷¹

In December 2013, **Jackline** witnessed her husband being shot and his body burned by government soldiers in the Newsite neighbourhood of Juba. In August 2016, her neighbour, a government soldier, raped her daughter and attempted to rape her. She revealed that her psychological distress and ongoing suffering led her to attempt suicide.

“There was a time that I attempted to hang myself to death because I am here all alone with my children, life is very difficult and we are still suffering.”²⁷²

Jackline was rescued by her neighbours who counselled her not to harm herself.

Nyabang, 45, also thinks about suicide. The fact that she was raped by younger men and suffers from ongoing physical problems contributes to her distress.

“When I meet Dinka people, I feel like revenging because of what happened to me. I even think of killing or hurting myself because I was raped and spoilt in a shameful way, at this age. And those who raped me were young men the age of my children. It would have been better if God took my life on the same day I was raped, instead of living this life, with skin diseases.”²⁷³

Jacob’s wife was raped and killed in front of him by SPLA-IO soldiers in Juba in July 2016. He said he has considered suicide.

“I cry sometimes because of my wife’s death. Sometimes I think of killing myself because my wife left me alone.”²⁷⁴

²⁶⁸ For a full analysis of the availability of mental health services in South Sudan, see Amnesty International, “Our Hearts Have Gone Dark”: The Mental Health Impact of South Sudan’s Conflict; GBV Sub-Cluster Strategy, South Sudan, p. 5.

²⁶⁹ GBV Sub-Cluster Strategy, South Sudan, p. 6.

²⁷⁰ Interview with Nyabake (pseudonym) in Juba PoC site, South Sudan, 17 November 2016.

²⁷¹ Interview with Nyabang (pseudonym) in Bentiu PoC site, South Sudan, 18 November 2016.

²⁷² Interview with Jackline (pseudonym) in Juba PoC site, South Sudan, 12 October 2016.

²⁷³ Interview with Nyabang (pseudonym) in Bentiu PoC site, South Sudan, 18 November 2016.

²⁷⁴ Interview with Jacob (pseudonym) in Kiryandongo refugee settlement, Uganda, 28 November 2016.



An elderly woman sleeps outside a health centre in Bidibidi refugee settlement, Yumbe district, Uganda, 2016. © Natalia Jidovanu

Nyafene, 29, was five months pregnant with her first child after 10 years of marriage. She was gang raped by government soldiers in July 2016 and had a miscarriage as a result.

"I feel hurt, humiliated... so disappointed with life because they have taken my happiness of being a mother after 10 years of marriage. They killed the only dream I had and I may not be able to get a baby again..."²⁷⁵

Juan had a miscarriage and her husband was killed when government soldiers attacked them in Yei county in August 2016. She carries the burden of losing one child while caring for the others with little support.

"I think very hard. I can sit here and look at my hands and my mind gets lost. I miss my husband. I had to ask other men to come help me build my tukul [mud house with a thatched roof] I have three children that I don't know how to take care of. With the miscarriage, I don't even know if I will have a child again. I don't think I will remarry."²⁷⁶

Some survivors have abandoned religion as a result of their experiences. **Nyagai** said that she stopped going to church after she was raped and does not pray anymore. *"Satan went through me, the day I was raped"*, she said. She also described having difficulties performing day-to-day tasks. *"Sometimes it is difficult for me to cook, carry water and think normally, because I am weak."²⁷⁷*

“Satan went through me the day I was raped.”

In addition to the physical consequences of being gang raped by government soldiers in December 2016 in Yei county, **Jokudu** lost four of her immediate family members.

"Even when the sky is blue and clear I just see it is dark. I don't know what will happen in my future. My father and three brothers were slaughtered in April 2015. I am alone with my mother. I

²⁷⁵ Interview with Nyafene (pseudonym) in Juba PoC site, South Sudan, 15 November 2016.

²⁷⁶ Interview with Juan (pseudonym) in Bidibidi refugee settlement, Uganda, 14 March 2017.

²⁷⁷ Interview with Nyagai (pseudonym) in Juba PoC site, South Sudan, 16 November 2016.

*go to the school nearby to watch all the other children play and laugh. It makes me happy and sad. At least here, we are free and there is school. You can move, play and laugh. There is school. But back home in the village, they have taken all this away... We're left with fear."*²⁷⁸

Sukeji was gang raped in front of her two children, aged four and six, in Kajo Keji county in August 2016. In tears, she told researchers she is frightened about the psychological impact the attack may have had on her children.

*"I do not want to remember but sometimes it just comes in my mind, and I cry. Sometimes I wonder whether my children have this in their memory. When they grow up, what will they think of their mother?"*²⁷⁹

South Sudan, with support from international donors, must take steps to increase the availability, accessibility and quality of mental health services for survivors of sexual violence.



A woman walks on 7 July 2014 past one of the buildings of the Leer Hospital that was burned during the fighting. Hundreds of thousands of people were cut off from critical, lifesaving medical care after the Leer Hospital, run by Médecins Sans Frontières (MSF-Doctors Without Borders), was ransacked and destroyed between the final days of January and early February. © Nichole Sobecki/AFP/Getty Images

SHAME, STIGMA AND REJECTION

While psychological distress is, to a large extent, a predictable consequence of experiencing extreme trauma such as sexual violence, this is aggravated by survivors' feelings of shame, experiences of stigma, and rejection by spouses and family members. Victims are blamed for what occurred and are sometimes stigmatised more than the perpetrators themselves. Survivors and families weigh their desire to seek medical and psychological support with the social cost of disclosure, and in the end often opt to conceal their distress. The silence often exacerbates both the medical and emotional problems.²⁸⁰

The shame, stigma and rejection that survivors experience are often the results of discrimination and contribute to the long-term societal oppression of survivors of sexual violence. As noted previously, stigma deters survivors from reporting crimes and from seeking medical and psychological support. Addressing the

²⁷⁸ Interview with Jokudu (pseudonym) in Imvepi refugee settlement, Uganda, 15 March 2017. Researchers advised Jokudu of resources for medical and psychosocial support in Imvepi.

²⁷⁹ Interview with Sukeji (pseudonym) in Imvepi refugee settlement, Uganda, 13 March 2017.

²⁸⁰ See Report of the Secretary-General on Conflict-Related Sexual Violence, 15 April 2017, UN Doc. S/2017/249; Report of the Secretary-General on South Sudan, 29 April 2015, UN Doc. S/2015/296.

stigma associated with sexual violence and its impacts is therefore critical to ensuring that survivors live with dignity and respect, and that they can access justice and reparations.

Kangach, who was gang raped in Juba in July 2016, told researchers that being a survivor of sexual violence has affected how she is seen within the community.

"I noticed changes in interaction with the community because once they know you are raped they keep talking that she had sex with Dinka and they don't consider that it was against my will... They treat me differently, as if I am not part of the community..."²⁸¹

"They treat me differently, as if I am not part of the community."

Nyafene described being ostracized by community members who suspected she might have contracted HIV as a result of being gang raped by government soldiers in Juba, in July 2016.

"Within the community people keep talking about me saying; this woman was raped and I think she got HIV. Sometimes they don't allow their children to play with me because they are thinking that I am HIV positive."²⁸²

Nyamachar was abducted, raped, and held in a military barracks for two weeks before returning to the Juba PoC site. She felt angry and frustrated by the stigma she has experienced.

"People here do not differentiate between prostitution and raping. People think here that we willingly decided to go to [the military barracks] with the soldiers just to have sex, as if we were not receiving sex from our husbands. People are very stupid here. They even used to call me 'Ciek Jangi' meaning 'Dinka's wife'. This attitude of associating people with what happened to them has forced many people to leave the camp...I am being mocked..."²⁸³

Nyawicyian, who was detained in a military barracks for two months and raped repeatedly, cried as she recounted how her in-laws rejected her when she returned home.

"I went to...where my brothers-in-law were living, and they almost killed me. They told me that their brother, my husband committed suicide. They forcefully evicted me from the house and I fled away to the PoC... I am now with my child in the PoC...I am now living a hopeless life because I have lost my husband and I am no longer wanted by my in-laws...I'm just living a useless life. I do not want to be here because if my brothers-in-law discover that I am here, they will come to take me away and may kill me."²⁸⁴

Some husbands have beaten, rejected or abandoned their wives upon learning they have been raped, sometimes accusing them of being responsible for what happened. **Nyasunday** was detained by government soldiers in Leer town over a period of three days, during which multiple soldiers repeatedly raped her. After she was released, she went home and told her husband. He beat her up and then left her. She said, *"When I remember what the soldiers did to me, I always cry, because they have caused my separation with my husband."²⁸⁵*

Doris, 33 years old and a mother of five children, was fleeing from Rubkona towards Leer in February 2014, after the conflict started. Government soldiers gang raped her and others over the course of three days, in the presence of her children. This has created distance between her and her husband.

"I haven't conceived ever since because my husband doesn't want to have intercourse with me... my husband is very suspicious of contracting any disease I might have been infected with."²⁸⁶

The fact that **Sarah** was gang raped in front of her brothers has added to her sense of shame.

²⁸¹ Interview with Kangach (pseudonym) in Juba PoC site, South Sudan, 15 November 2016.

²⁸² Interview with Nyafene (pseudonym) in Juba PoC site, South Sudan, 15 November 2016.

²⁸³ Interview with Nyamachar (pseudonym) in Juba PoC site, South Sudan, 11 October 2016.

²⁸⁴ Interview with Nyawicyian (pseudonym) in Juba PoC site, South Sudan, 12 December 2016.

²⁸⁵ Interview with Nyasunday (pseudonym) in Bentiu PoC site, South Sudan, 10 December 2016.

²⁸⁶ Interview with Doris (pseudonym) in Payinjar, South Sudan, 9 December 2016.

*"I feel humiliated and my level of dignity has decreased because of having sex against my will and more so in front of my brothers, it was too bad...shameful."*²⁸⁷

The experience of broken gender norms and feeling of emasculation adds to the shame felt by male victims and witnesses to sexual violence. **Moses**, who was castrated by government soldiers in Malakal, in December 2013, questioned his place in society as he could no longer procreate.

*"I feel humiliated and my status as a man is no longer there, am now like a woman and I feel sometimes women are better than me because they can have children. I don't have anybody left...I cannot have children to carry my name and my father's name."*²⁸⁸

James was tied to a chair while nine opposition soldiers undressed, gang raped, and then killed his wife, **Acham**, in front of him. He said:

*"I feel hurt and humiliated [to witness soldiers] having sex with my wife in my presence and I was tied on a chair even I failed to protect her and at the end they killed her like an animal and even animals deserve respect from human beings because it's their rights... I do feel that I'm different from anyone especially men because a man who failed to protect his wife is not a real man and now am not proud to walk like a man again with my head up."*²⁸⁹

Elderly women felt disgraced by being raped by men who could be their sons. The experience of being raped in front of family members, or in public view, contributed to feelings of shame. **Nyaguande**, 56, was gang raped by a group of six young men in Malakal in December 2013. She said:

*"... I am the same age as their mothers, but they still raped me... I feel humiliated and it has decreased my respect in the community because culturally in Nuer, a woman of my age can't have sex...I should be taking care of my grandsons and granddaughters."*²⁹⁰



A woman walks with her baby in the Gudele area of Juba, South Sudan. © Natalia Jidovanu

²⁸⁷ Interview with Sarah (pseudonym) in Kiryandongo refugee settlement, Uganda, 29 November 2016.

²⁸⁸ Interview with Moses (pseudonym) in Kiryandongo refugee settlement, Uganda, 30 November 2016.

²⁸⁹ Interview with James (pseudonym) in Pagrinya II refugee settlement, Uganda, 5 December 2016.

²⁹⁰ Interview with Nyaguande (pseudonym) in Juba PoC site, South Sudan, 8 November 2016.

Juliana was gang raped by government soldiers in a village called Lapority in Yei county, in front of her five children. She lamented:

"...with my children, I feel like I cannot order them anymore because I was raped in front of their eyes. This makes it difficult for me to interact with them..."²⁹¹

Unmarried female rape survivors expressed concern that they would never be able to marry. Where women are valued primarily for their roles as wives and mothers, unmarried women who are raped and perhaps become pregnant feel they will be less likely to find husbands and so risked always remaining on the margins of society. **Nyanial** was 16 years old in March 2015, when she was raped by two soldiers in Bang, Koch county. She expressed fear about her ability to marry in the future.

"I'm upset because now, I am not a girl, nor am I a woman. Sometimes I try to avoid other girls. The thing that pains me the most is that the soldiers have spoilt my life as a girl, and my dignity, and my future marriage is uncertain."²⁹²

Some women and girls told researchers they had conceived as a result of rape. In some cases, the birth of a child has caused an additional psychological burden for the mothers, or has caused divisions within families, especially between wives and their husbands. Even children who are accepted cause financial pressure; women struggle to provide for the children they have borne. For several women, the fact that they conceived a child from rape spurred rejection by their husbands. **Nyalok**, 25, was gang raped by government soldiers in Leer county on 18 July 2015 and later discovered she was pregnant.

"When my husband heard [that I was pregnant], he said, 'Go with your husbands in the government and don't come back to me'. And he abused me telling me that I am a prostitute who brought a child from the enemies and that he didn't want me again..."²⁹³

When the village of Kueydok in Leer county was attacked by government soldiers in July 2016, soldiers harassed, beat, and gang raped **Nyamilow**, a mother of two. She conceived as a result.

"When I was raped, I reported the case to my husband... I told him I was pregnant with this child from government soldiers... he rejected me immediately, and he beat me and then we separated."²⁹⁴

South Sudan must take steps, such as reconciliation and healing, educational and training programs, to reduce the stigmatization and discrimination against victims of sexual violence, in order to ensure that they can live in dignity and access all legal, medical and psychological services available.

Where stigmatization and discrimination is reduced, victims of sexual violence have a better chance of recovery and reintegration. Some survivors interviewed for this report described how crucial it was to receive family and community support after their ordeals.

Ayak, 28, was gang raped by four soldiers in Malakal in 2013. She has not been shunned by her family or community.

"There is no change in relationship between me and my family members because they know I was raped by force...within the community I told some few people but nobody blamed me for that. They even came and encouraged me to be strong in order to help my child and my husband... in fact there is extra care for me since I was raped. Even people in South Sudan call me and check in on me."²⁹⁵

Nyachah's husband has accepted her and the child she conceived from being gang raped by government soldiers in Juba in December 2013.

"My husband knows that I was raped and there is a child born out of the rape. But he just says that since I am alive, there is no problem... my husband accepts the child and he gave her his name, so considers her as his biological daughter... people visit me every day and buy presents for the child and play with her. That makes me happy."²⁹⁶

Nyakong was gang raped by three government soldiers outside Bentiu PoC on 26 July 2015. She explained how her husband responded when she finally made it back to the PoC.

²⁹¹ Interview with Juliana (pseudonym) in Kiryandongo refugee settlement, Uganda, 24 October 2016.

²⁹² She could not identify whether the soldiers were affiliated with the government or the SPLA-IO. Interview with Nyanial (pseudonym) in Bentiu PoC site, South Sudan, 17 November 2016.

²⁹³ Interview with Nyalok (pseudonym) in Bentiu PoC site, South Sudan, 19 November 2016.

²⁹⁴ Interview with Nyamilow (pseudonym) in Bentiu PoC site, South Sudan, 11 December 2016.

²⁹⁵ Interview with Ayak (pseudonym) in Pagrinya II refugee settlement, Uganda, 11 December 2016.

²⁹⁶ Interview with Nyachah (pseudonym) in Juba PoC site, South Sudan, 7 November 2016.

*"I have no problem with my husband...he was the one who brought me to the hospital for treatment. He told me that this is not my own problem. That many people are going through those painful things and accepted it because all South Sudanese are suffering everywhere."*²⁹⁷

In December 2013, **Nyakuma**, 55, was gang raped in Juba by government soldiers who she said were the age of her last born child. She said that community members still accept her.

*"There are no changes that I experienced with my relatives...they are the ones helping me. Community members are also treating me well and they are seeking my advice, meaning that they still love me...because I was an active member of the community..."*²⁹⁸

28-year-old **Nyakhor** was raped and beaten in front of her children by multiple government soldiers in May 2015 in Leer county, Unity state. Her husband understood that this was just one example of the harsh realities of the conflict.

*"Can you imagine I was raped in front of my children?! I feel as bad as you see me crying now. After that, I went to my husband and explained to him what had happened to me and he managed to understand, and he forgave me...as that was a general situation which happened to most people. It wasn't me alone."*²⁹⁹

GUARANTEEING NON-REPETITION

PREVENTATIVE MEASURES

There are numerous steps South Sudan should take to prevent sexual violence. The government should ensure that members of the security forces cease acts of sexual violence by issuing clear orders prohibiting sexual violence, providing forces with appropriate training, and putting in place mechanisms to adequately monitor the conduct of forces. There must be repercussions for forces who engage in sexual violence. In addition to disciplinary measures and criminal accountability, South Sudan should institute a proactive vetting process of members of the security forces, to remove suspected perpetrators of sexual violence, until allegations concerning them can be independently and impartially verified or dismissed.

South Sudan must urgently address the situation of individuals who remain in continuous situations of violation, such as those who have been abducted or arbitrarily detained. It should facilitate their immediate release. It should also develop safe shelter or security options for survivors at risk of immediate threats.

Thousands of people rely on UNMISS to ensure their protection from threats, including sexual violence. UNMISS should take all possible additional measures to improve protection of civilians, particularly those in the PoC sites, by expanding areas of patrols and increasing the availability of accompaniment to individuals who need to leave the site to fill basic needs.

ADDRESSING SOCIETAL FRACTURES

In the longer term, the government must address the societal fractures that are both a consequence and cause of sexual violence as well as many other crimes. Acts of sexual violence have created fractures within and between communities, contributed to inter-ethnic animosity, and fuelled continued cycles of abuse. The sentiments of hatred, desire to dominate, or humiliate that drive perpetrators of sexual violence has inspired similar feelings in some survivors.

Many survivors described a desire for revenge.

Nyabong, gang raped by government soldiers in July 2016, wished she could exact revenge when asked about what should be done to the perpetrators.

"When I think about what has happened to me, I keep asking God why he didn't give me the power to revenge. If I had the power I would go and revenge for myself by killing them [the

²⁹⁷ Interview with Nyakong (pseudonym) in Bentiu PoC site, South Sudan, 11 December 2016.

²⁹⁸ Interview with Nyakuma (pseudonym) in Bentiu PoC site, South Sudan, 24 November 2016.

²⁹⁹ Interview with Nyakhor (pseudonym) in Bentiu PoC site, South Sudan, 1 December 2016.

perpetrators]... The kind of justice I want is for them to be killed because they have killed and raped many people... so their families will also feel the same pain."³⁰⁰

Nyadueri, raped by two Dinka government soldiers in Juba in July 2016, said she wanted to see Dinka women share the same fate.

*"I feel like hurting Dinka. If I have the opportunity, I can rape them... What I will do is that I will call [a] Dinka woman and tell her to lay down and call Nuer boy to rape her in front of my eyes. I cry because I was raped just because of the political differences between Riek Machar and Salva Kiir."*³⁰¹

Some survivors had little hope that the ethnic divides that sexual violence has contributed to can ever be repaired. **Nyabake**, 24 years old, who was gang raped by government soldiers in Juba in July 2016, said:

*"They did that to me because it was a problem between Nuer and Dinka and I was a Nuer... even in the war between North Sudan and South Sudan there was nothing like harming women. I think they just want to keep the difference that each ethnic group must be alone. Maybe in future it will not be easy to reunite those ethnic groups or tribes again in South Sudan especially the Dinka and the Nuer, they may not be one again."*³⁰²

In one case, the Nuer wife of an SPLA-IO soldier, gang raped by a group of Nuer soldiers whom she believed were also IO supporters described the fractures within her ethnic community.

*"I don't know why I was raped. I cannot say it was tribalism because they were Nuer and I am Nuer too... maybe they wanted money... or they just wanted to have sex with women and infect them with STDs or HIV/AIDS. Maybe the motive was domination because they are in a position of power... I feel hurt and sad because I was raped by my own people... I feel hopeless because they were my hope, but they disappointed me."*³⁰³

As part of South Sudan's obligations to prevent the continued recurrence of sexual violence, particularly to the extent that it is motivated by and targeted based on ethnicity or perceived political allegiance, the government must undertake efforts to address these social fractures. The CTRH provided for in the ARCSS is one potential avenue for beginning to heal these social wounds. Other paths towards social healing could include the frank acknowledgement by the government of incidents of sexual violence; real efforts to hold perpetrators accountable and put in place preventative measures; and commitment to the provision of justice and reparation to survivors, and in particular comprehensive health services. Such practical steps could help stem the cycle of revenge and counter-revenge.

³⁰⁰ Interview with Nyabong (pseudonym) in Bentiu PoC site, South Sudan, 23 November 2016.

³⁰¹ Interview with Nyadueri (pseudonym) in Juba PoC site, South Sudan, 10 November 2016.

³⁰² Interview with Nyabake (pseudonym) in Juba PoC site, South Sudan, 17 November 2016.

³⁰³ Interview with Sharon (pseudonym) in Pagrinia I refugee settlement, Uganda, 6 December 2016.

7. RECOMMENDATIONS

TO THE GOVERNMENT OF SOUTH SUDAN

- Ensure that members of the security forces immediately cease all violations of international human rights law and international humanitarian law. Issue clear orders prohibiting sexual violence, provide forces with appropriate training in the prohibition of sexual violence and in human rights and humanitarian law, and establish mechanisms to adequately monitor the conduct of forces;
- Ensure that members of the security forces immediately cease violence against humanitarian personnel and assets and other obstructions to humanitarian assistance, and ensure immediate and unhindered access by UN agencies and international humanitarian organizations to all areas of South Sudan for the purposes of providing assistance to civilians affected by the conflict;
- Ensure that members of the security forces allow full access to UNMISS peacekeepers and human rights monitors to provide protection and document violations and abuses of international human rights law and international humanitarian law, including sexual violence;
- Establish a vetting mechanism to remove from the ranks anyone suspected of ordering, committing or acquiescing in violations of international human rights law and international humanitarian law, including acts of sexual violence, until allegations concerning them can be independently and impartially investigated. Initiate prompt, effective and impartial investigations into allegations of violations of human rights law and crimes under international law, including sexual violence. Bring those suspected of criminal responsibility to justice in open, accessible civilian courts and in fair trials without recourse to the death penalty;
- Criminalize all forms of sexual violence (including rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization and any other form of sexual violence of comparable gravity) and define them in accordance with the highest international standards. Ensure each of these acts are characterized, as appropriate, as torture, war crimes, crimes against humanity, and genocide so they can be prosecuted at the national level as crimes under international law;
- Establish a victim and witness protection program;
- Remove any obstacles in national law or policy which serve as barriers to investigation, prosecution, and adjudication of crimes of sexual violence, including grants of amnesties, pardons, and claims to immunity;
- Train police, prosecutors and the judiciary in best practices for investigation, prosecution and adjudication of crimes under international law and in identifying and addressing gender inequality in relation to access to justice, and provide general gender sensitization training for conducting all their interactions with complainants and other members of the public in a gender-responsive manner;
- Ensure sufficient points of access for women to report incidents of sexual violence including by creating more gender desks and recruiting more women police officers;
- Ensure the immediate release of those who have been abducted and/or arbitrarily detained and guarantee their safe and unhindered return;
- Facilitate the expeditious establishment of the Hybrid Court for South Sudan (HCSS), the Compensation and Reparations Authority and Fund (CRA and CRF), and the Commission for Truth,

Reconciliation and Healing (CTRH), without delay. Ensure that all bodies effectively implement elements of their mandate related to reparations, and that collective and individual reparation programs fully address the needs of survivors of sexual violence;

- Ensure the meaningful participation and consultation of survivors in the mapping, design, implementation, monitoring and evaluation of reparation programs;
- Ensure that survivors of sexual violence can access comprehensive and confidential sexual and reproductive health services and information as required, including emergency contraception, HIV counselling, testing and post-exposure prophylaxis, safe and legal abortion, and maternal health support;
- Develop programs aimed at eradicating stigma and discrimination against sexual violence survivors and at breaking cycles of victimization and disempowerment of women and girls, including for example through public education campaigns and training programs;
- Publicly acknowledge the role of government actors in perpetrating sexual violence, speak out publicly against sexual violence, and make public apologies to victims;
- Allow civil society and media to operate freely, to speak out critically, and to document and investigate sexual violence.

TO THE SPLM/A-IO AND ALL OTHER ARMED GROUPS

- Ensure that members immediately cease all abuses of international human rights law and international humanitarian law, including sexual violence by issuing clear orders prohibiting sexual violence, providing their forces with appropriate training, and by putting in place mechanisms to adequately monitor the conduct of forces;
- Ensure members immediately cease violence against humanitarian personnel, assets and other obstructions to humanitarian assistance and ensure immediate and unhindered access to all areas of South Sudan to UN agencies and international humanitarian organizations for the purposes of providing assistance to civilians affected by the conflict;
- Remove from the ranks anyone suspected of responsibility for ordering or committing violations of international human rights law and international humanitarian law, including acts of sexual violence;
- Cooperate with all independent and effective investigations and prosecutions of members for crimes under international law.

TO THE UN MISSION IN SOUTH SUDAN

- Take all possible additional measures to ensure effective protection of civilians, particularly those who have sought refuge in UNMISS protection sites. Expand the area of patrols and provide accompaniment to individuals needing to leave the sites for essential purposes, such as to go to the market or collect firewood.
- Ensure thorough investigations take place into security incidents in and around UNMISS bases with a view to ensuring that perpetrators are held accountable and to improving civilian protection measures;
- Provide regular and timely public reporting on the human rights situation in the country, including sexual violence.

TO THE AFRICAN UNION

- Ensure the speedy establishment by the AU Commission of the Hybrid Court for South Sudan (HCSS) in a format that complies with international law, prioritizing the establishment of investigatory units, and victim and witness protection units;

- Call on the Government of South Sudan to initiate independent criminal investigations into allegations of sexual violence committed by members of the security forces;
- Call for a comprehensive vetting mechanism to ensure that members of the security forces against whom there is credible information that they have committed crimes under international law or other serious violations or abuses of human rights, including sexual violence, are excluded from service, until allegations concerning them can be independently and impartially investigated;
- Call on the Government of South Sudan to adequately protect internally displaced populations and ensure their security;
- Support the establishment of the Commission on Truth, Reconciliation and Healing (CTRH) and the Compensation and Reparations Authority and Fund (CRA and CRF). Ensure that all bodies effectively implement elements of their mandate related to reparations, and that collective and individual reparation programs fully address the needs of survivors of sexual violence.

TO THE INTERNATIONAL COMMUNITY

- Strongly denounce crimes of sexual violence, as well as other violations and abuses of human rights and humanitarian law by all parties and insist on accountability for the perpetrators;
- Provide increased financial, technical and political support for monitoring and documenting sexual violence and for protecting victims and providing them with medical, psychological, legal, and social support services;
- Support, through development cooperation, South Sudan's obligations to ensure reparations to victims of sexual violence;
- Using all diplomatic and political tools at your disposal, put pressure on the parties to the conflict to cease violations and abuses of international human rights law and international humanitarian law, including sexual violence;
- Call on the Government of South Sudan to initiate independent criminal investigations into allegations of sexual violence committed by members of the security forces;
- Call for a comprehensive vetting mechanism to ensure that members of the security forces against whom there is credible information that they have committed crimes under international law or other serious violations or abuses of human rights, including sexual violence, are excluded from service, until allegations concerning them can be independently and impartially investigated;
- Call on the Government of South Sudan to ensure the security and protection of internally displaced populations;
- Support the establishment of the Hybrid Court for South Sudan (HCSS), the Commission on Truth, Reconciliation and Healing (CTRH), and the Compensation and Reparations Authority and Fund (CRA and CRF). Ensure that all bodies effectively implement elements of their mandate related to reparations, and that collective and individual reparation programs fully address the needs of survivors of sexual violence;
- Provide development assistance to support police, prosecutors and the judiciary in adopting and implementing best practices for investigation, prosecution and adjudication of crimes under international law and in identifying and addressing gender inequality in relation to access to justice, as well as in provision of general gender sensitization training for conducting all their interactions with complainants and other members of the public in a gender-responsive manner.

TO NATIONAL AND INTERNATIONAL HUMANITARIAN ORGANIZATIONS

- Increase public reporting and information sharing on violations and abuses of human rights and humanitarian law observed or documented, including sexual violence and obstructions to humanitarian access;
- Increase the information available and accessible to victims of sexual violence on their rights and entitlements;
- Establish or expand programmes which respond to the specific needs of victims of sexual violence, including:
 - Programmes to raise awareness of the prevalence of sexual violence in the context of the conflict in South Sudan and its impact; and which reduce stigmatization of victims of sexual violence, including men; and
 - Provision of comprehensive health services to victims of sexual violence, including sexual and reproductive health services, and mental health services.
- In provision of humanitarian services, include measures to prevent sexual violence including the provision of firewood within the PoCs.

**TEN SOUTH SUDANESE HUMAN RIGHTS
DEFENDERS CONTRIBUTED TO THIS REPORT
BUT ARE NOT NAMED DUE TO FEAR OF
REPRISAL BY THE GOVERNMENT.**

**AMNESTY INTERNATIONAL IS A GLOBAL
MOVEMENT FOR HUMAN RIGHTS.
WHEN INJUSTICE HAPPENS TO ONE PERSON,
IT MATTERS TO US ALL.**

CONTACT US

 info@amnesty.org

 +44 (0)20 7413 5500

JOIN THE CONVERSATION

 www.facebook.com/AmnestyGlobal

 @AmnestyOnline

“DO NOT REMAIN SILENT”

SURVIVORS OF SEXUAL VIOLENCE IN SOUTH SUDAN CALL FOR JUSTICE AND REPARATIONS

Since the outbreak of South Sudan’s internal armed conflict in Juba in December 2013, thousands of South Sudanese have been subjected to sexual violence including rape, gang rape, sexual slavery, sexual mutilation, torture, castration, or forced nudity. These acts of sexual violence are shocking in their scale and level of brutality, and will leave physical, psychological, and social impacts for decades to come.

In this report, survivors of sexual violence recount their experiences, often with disturbing detail. They call for the perpetrators to be held accountable, reparations, and measures to address the social fractures that cause and result from sexual violence. The report is based on 182 interviews with survivors and witnesses of sexual violence, conducted between October 2016 and March 2017 by South Sudanese human rights defenders and Amnesty International researchers. It documents incidents of sexual violence that have occurred since December 2013.

Index: AFR 65/6469/2017

July 2017

[amnesty.org](https://www.amnesty.org)

AMNESTY
INTERNATIONAL

