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Republic of South Sudan

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The internal armed conflict that erupted in South Sudan in December 2013 resulted in tens of thousands of deaths and the destruction of entire towns. Approximately 1.4 million people were internally displaced and another 500,000 fled to neighbouring countries. An estimated 4 million people were at a high risk of food insecurity, with the UN repeatedly warning of a deepening humanitarian crisis and potential famine should fighting continue. Despite a cessation of hostilities agreement in January 2014 and continuous efforts by the Intergovernmental Authority on Development (IGAD) to negotiate a political solution to the conflict, fighting continued throughout 2014. The conflict was characterized by a total disregard for international human rights and humanitarian law and there was no accountability for abuses committed in the context of the conflict.

Background

On 15 December 2013, a political dispute within South Sudan's ruling party, the Sudan People's Liberation Movement (SPLM), escalated into an armed confrontation in Juba between forces loyal to President Kiir and those loyal to former Vice-President Riek Machar. By the end of 2013, violence had spread to Jonglei, Unity and Upper Nile states.

IGAD, an eight-country East African regional organization, began mediating between the government of South Sudan and the Sudan People's Liberation Army/Movement in Opposition (SPLA/M-IO) in January 2014. The parties signed a cessation of hostilities agreement on 23 January, but it was violated almost as soon as it was signed. The parties subsequently recommitted to the cessation of hostilities on 5 May and signed an agreement to resolve the crisis on 9 May, but fighting continued.

In June, participation in the IGAD negotiations was broadened to include other stakeholder groups. This included several SPLM leaders who were detained in December, accused of participating in an attempted coup. Seven were released at the end of January while four others stood trial for treason, but were released at the end of April after the government dropped charges against them. Delegates from civil society, political parties and faith-based groups also participated in the talks.

IGAD continued its efforts to reach a political settlement. On 8 November, IGAD heads of state issued a resolution granting the warring parties 15 days to consult with their constituencies on the structure of a transitional government. The resolution recommitted the parties to end all hostilities, and provided that further violations of the cessation of hostilities agreement would result in asset freezes, travel bans and an arms embargo. IGAD leaders further authorized the IGAD region to intervene directly in South Sudan to protect life and restore peace.

On 24 December 2013, the UN Security Council approved an increase in the military strength of the UN Mission in South Sudan (UNMISS) to 12,500 troops and an increase in the mission's police force to a maximum of 1,323 personnel. In May 2014, the Security Council revised the mandate of UNMISS to focus on protection of civilians, monitoring and investigating human rights, creating the conditions for the delivery of humanitarian assistance, and supporting the implementation of the cessation of hostilities agreement.

A Commission of Inquiry was established by the AU in March 2014, but its final report had not yet been publicly released by the end of the year. The AU Peace and Security Council (PSC) repeatedly condemned the killing of civilians and violations of the 23 January cessation of hostilities agreement by both parties to the conflict. The AU PSC also indicated its readiness, upon recommendation by IGAD, to take targeted sanctions and other measures against any party that undermined the search for a solution to the conflict.

Internal armed conflict

Both government and opposition forces demonstrated a disregard for international humanitarian law. Other armed groups, including the opposition-allied White Army and the Sudanese Justice and Equality Movement (JEM) fighting on behalf of the government, also committed violations of international humanitarian law.

In the days following the outbreak of violence in Juba, government soldiers targeted and killed people based on ethnicity and assumed political affiliation. Hundreds of Nuer civilians and government soldiers who had been captured and disarmed or otherwise placed hors de combat were executed, mainly by Dinka members of the armed forces. Many Nuer were killed in or near their homes. Some men were picked up at home or in the street, taken away and later killed in other locations. In one incident, over 300 people were killed in a police building in Gudele.

Parties to the conflict attacked civilians sheltering in hospitals and places of worship. For example, after government forces re-took control of Bor town on 18 January, the bodies of 18 women, all of them Dinka, were found in and around the compound of St Andrew's Cathedral. They were believed to have been victims of an attack by opposition forces. The remains of 15 men and women were found at Bor hospital. When opposition forces attacked Malakal for the third time in mid-February, they targeted Malakal Teaching Hospital, where civilians had previously found safe shelter. They shot dead a number of people.

Conflict-related sexual violence was widespread. This included cases of gang rape, of pregnant women being cut open and of women being raped using wooden sticks or plastic bottles.¹ At least four girls staying at Christ the King Church in Malakal were abducted by opposition forces on the night of 25 February and raped nearby.

Government and opposition forces burned down homes, damaged and destroyed medical facilities and

looted public institutions and private property as well as food stores and humanitarian aid. Looting and destruction left Bor, Bentiu, Malakal and many other towns destroyed.

UNICEF estimated that parties to the conflict had recruited approximately 9,000 children to serve in armed forces and groups.

Civilians were injured, abducted and killed within or in the immediate vicinity of UN bases. On 19 December, approximately 2,000 armed youths surrounded the UNMISS base in Akobo, Jonglei state, and opened fire, killing two peacekeepers and an estimated 20 civilians who had sought refuge there. On 17 April, there was an armed assault on the UNMISS base in Bor during which more than 50 internally displaced people were killed.

Obstruction of humanitarian assistance significantly impeded civilians' access to life-saving assistance. Parties to the conflict also attacked UN and humanitarian workers. Members of the Mabanese Defense Force, a government-allied militia, killed five humanitarian workers of Nuer ethnicity in August. The whereabouts of two Nuer UN employees abducted in October by forces of the government-allied Shilluk militia leader Johnson Olony remained unknown. In September, a UNMISS helicopter was shot down, killing three of its crew members.

Freedom of expression

The authorities, especially the National Security Service (NSS), harassed and intimidated journalists and human rights defenders. The NSS summoned journalists for questioning, arbitrarily detained journalists and ordered a number of journalists to leave the country.

In March, the NSS ordered the Almajhar Alsayasy Arabic language newspaper to cease publication because of its description of the genesis of the conflict and for interviewing politicians critical of the government.

In June, NSS officers contacted the editors of several newspapers and instructed them to stop publishing articles discussing the federal system of government. On 2 July, NSS officers went to the offices of Juba Monitor and seized copies of the paper because it contained two opinion pieces about federalism. Around 15 armed NSS officers confiscated all 3,000 copies of The Citizen newspaper on the morning of 7 July.

On 1 August, Deng Athuai Mawiir, acting chairperson of the South Sudan Civil Society Alliance and a member of the civil society delegation to the IGAD-brokered peace negotiations, was shot in the thigh by an unknown gunman. While the perpetrator and motive for the attack remained unknown, this incident contributed to a climate of fear among civil society activists, journalists and human rights defenders.²

Justice system

The criminal justice system routinely failed to ensure accountability for perpetrators of human rights abuses due to weaknesses in the criminal justice system. These included inadequate technical capacity in investigatory methods, a lack of forensic experts, interference or resistance by security services and the government and a lack of victim support and witness protection programmes.

The justice system also failed to guarantee due process and fair trials. Common human rights violations included arbitrary arrest and detention, prolonged pre-trial detention and the failure to ensure the right of an accused person to legal counsel.

Two UNMISS employees were arrested by the NSS in Wau in August and transported to Juba. They remained in detention at the NSS headquarters at the end of the year. They had not been charged or brought before a competent legal authority.

The internal armed conflict exacerbated pre-existing problems in the justice system, particularly in Jonglei, Unity and Upper Nile states. The capacity of the police and judiciary to enforce the law was undermined by militarization and the defection of many police officers. Representatives of the judiciary and the Ministry of Justice left these states following the outbreak of violence and had not returned to their posts by the end of 2014.

Lack of accountability

The government did not conduct prompt, thorough, impartial and independent investigations with a view to prosecuting and holding accountable individuals suspected of crimes under international law and serious violations of human rights.

President Kiir established a committee to investigate human rights abuses allegedly committed during an attempted coup on 15 December 2013. The committee's eight members were selected by the President's Office, its activities were funded by the presidency and it was mandated to report directly to the President. No report, or update on its findings, was made public by the end of the year.

The SPLA set up two investigation committees at the end of December 2013. In February 2014, the SPLA announced that approximately 100 individuals had been arrested as a result of investigations. However, they all escaped on 5 March during a gunfight among soldiers at the Giyada military barracks in Juba, where they were detained. In November, the SPLA announced that two individuals had been rearrested for their role in violations committed in December. No information was made public about their identity or the charges against them.

On 30 December 2013, the AU PSC called for the establishment of an AU Commission of Inquiry into human rights violations and abuses committed during the armed conflict in South Sudan. Its mandate

included recommending measures to ensure accountability and reconciliation. Members of the Commission, chaired by the former president of Nigeria, Olusegun Obasanjo, were sworn in by March 2014. In its June interim report, the Commission of Inquiry said it was not yet in a position to determine whether crimes under international law had been committed. The Commission of Inquiry submitted its final report to the AU Commission in October, but it had not been publicly released by the end of the year.

Legal developments

South Sudan was not party to any core international or regional human rights treaties. Although parliament voted to ratify several treaties and President Kiir signed their instruments of accession, the government failed to formally deposit instruments of accession with the AU or the UN. The treaties were: the African Charter on Human and Peoples' Rights; the AU Convention Governing the Specific Aspects of Refugee Problems in Africa; the UN Convention on the Rights of the Child; the UN Convention against Torture; and the UN Convention on the Elimination of All Forms of Discrimination against Women.

A National Security Service Bill was passed by Parliament on 8 October and was awaiting presidential assent in December 2014. The Bill grants the NSS broad powers, including the power to arrest and detain, without adequate provisions for independent oversight or safeguards against abuse. National and international human rights advocates as well as a number of members of Parliament called for President Kiir to refuse assent and to return the Bill to parliament for revisions.³

A draft Non-Governmental Organizations Bill was being considered by Parliament, which would restrict the right to freedom of association. The Bill would make registration compulsory, prohibit NGOs from operating without being registered, and criminalize voluntary activities carried out without a registration certificate.

The national legal framework failed to define and sanction crimes under international law, including crimes against humanity and genocide. It also failed to define or criminalize torture. In addition, it failed to provide for command or superior responsibility as a mode of liability for crimes under international law.