

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	181
Land:	Sydsudan
Kilde:	UN Mission in South Sudan (UNMISS)
Titel:	Indiscriminate Attacks against Civilians in Southern Unity, April and May 2018
Udgivet:	9. juli 2018
Optaget på baggrundsmaterialet:	25. september 2018



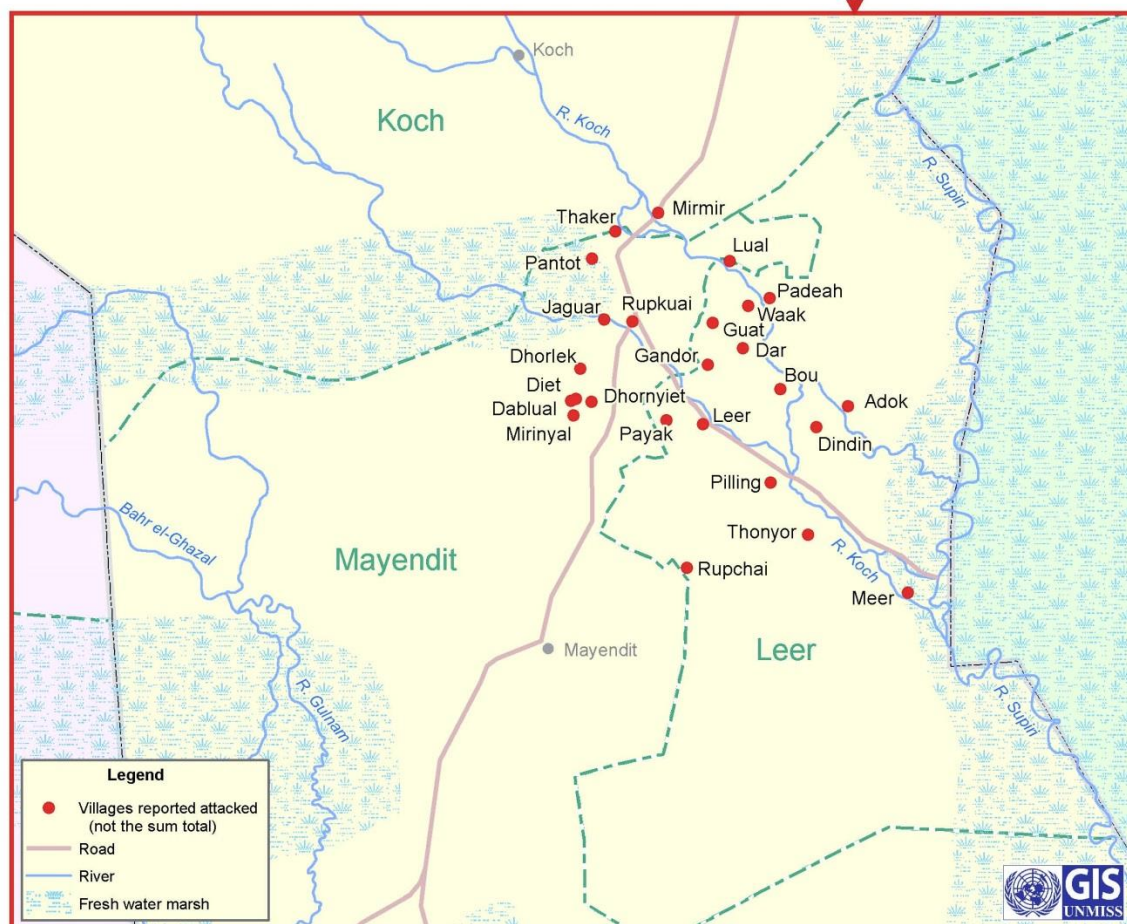
**INDISCRIMINATE ATTACKS AGAINST
CIVILIANS IN SOUTHERN UNITY
APRIL-MAY 2018**

Table of Content

1. Executive Summary	1
2. Methodology	2
3. Contextual Background	2
3.1 <i>Historic Context</i>	2
3.2 <i>Recent Context</i>	3
4. Legal framework	4
4.1 <i>International Human Rights Law</i>	4
4.2 <i>International Humanitarian Law</i>	5
4.3 <i>International Criminal Law</i>	5
4.4 <i>Domestic Law</i>	6
5. Violations of International Human Rights and International Humanitarian Law	6
5.1 <i>Unlawful Killing of Civilians</i>	6
5.2 <i>Rape, Sexual Slavery and Other Forms of Sexual Violence</i>	7
5.3 <i>Unlawful Destruction of Property and Pillage</i>	8
5.4 <i>Forced Displacement</i>	9
5.5 <i>Attacks on Humanitarian Actors and Facilities</i>	10
6. Responsibility	10
6.1 <i>Nexus between SPLA and Associated Forces</i>	10
6.2 <i>Responsibility for Violations of International Human Rights and Humanitarian Law</i>	11
7. UNMISS Response	12
7.1 <i>Political Engagement</i>	12
7.2 <i>Humanitarian Response</i>	12
7.3 <i>Human Rights</i>	12
7.4 <i>Proactive Presence and Visibility</i>	13
8. Conclusion	13
9. Recommendations	14



Unity



<https://bit.ly/2IUXUTu>

1. Executive Summary

1. This report is jointly published by the United Nations Mission in South Sudan (UNMISS) and the Office of the United Nations High Commissioner for Human Rights (OHCHR), pursuant to United Nations Security Council resolution 2406 (2018).¹ It contains the findings of UNMISS Human Rights Division's (HRD) investigations into the recent fighting between pro-Riek Machar SPLA in Opposition (SPLA-IO (RM)) and the Government's Sudan People's Liberation Army (SPLA), aligned SPLA-IO forces under First Vice President Taban Deng Gai (SPLA-IO (TD)), and affiliated armed youth militia² in Southern Unity State. Southern Unity is an SPLA-IO (RM) stronghold and the home area of the SPLM/A-IO Chairman Riek Machar, and has been the site of repeated and particularly violent military confrontations during the current conflict.
2. From late February 2018 onwards, HRD observed clashes between SPLA and associated forces and SPLA-IO (RM) in Unity, culminating in a significant military operation by Government and associated forces in multiple areas in Leer and Mayendit counties across southern Unity that were not under their control or influence. The nature of this operation indicates that it was carried out not only to drive out SPLA-IO (RM) elements from this area, but also to forcefully displace civilians. HRD focused its investigations on the period from 16 April to 24 May 2018, which has so far constituted the peak of the violence.
3. During its investigation, HRD documented that the SPLA and associated forces attacked at least 40 villages or settlements in the reporting period, during which 120 girls and women were raped or gang-raped. HRD also documented the killing of 232 civilians including 35 children, 50 women – including 25 who were killed by hanging, and 63 individuals comprising of children, elderly and persons with disabilities who were burned alive across these locations. UNMISS and humanitarian organizations documented that, as a direct result of these attacks, an estimated 1,995 people were forcibly displaced including 1,350 children, to the Temporary Protection Area established adjacent to the UNMISS temporary operating base in Leer, while 3,415 individuals arrived at the Bentiu Protection of Civilian site. Furthermore, approximately 8,000 displaced civilians are sheltering in the bush and swamps south-east of Leer, in addition to an estimated 18,000 displaced in Mayendit town according to humanitarian actors.³ Additionally, civilian objects, humanitarian facilities and supplies meant to support the vulnerable population were burnt and/or pillaged in at least 21 locations, and at least three national aid workers were killed and two wounded. HRD also received reports of seven killings of civilians and several wounded during SPLA-IO (RM) attacks in Koch on 18 and 22 April. The report documents acts that constitute gross violations and abuses of international human rights, and serious violations of international humanitarian law, which in many cases may amount to war crimes.
4. The HRD investigation has identified three individuals that may bear the greatest responsibility for violations committed during this period. The government of South Sudan is strongly urged to

¹ According to this resolution, UNMISS is mandated to monitor, investigate, verify, and report on human rights violations and abuses, and breaches of international humanitarian law, including those that may amount to war crimes, and specifically on violations and abuses committed against children and women, including sexual and gender-based violence in armed conflict.

² In this report, the SPLA, pro-Taban Deng forces and the youth militia will also be referred to as SPLA and associated forces.

³ As of 24 May 2018

undertake an effective, prompt, independent and impartial investigation into all allegations of serious violations and abuses of international human rights law and violations of humanitarian law committed in the context of the southern Unity operations. HRD also recommends continuing efforts in pursuit of accountability through documentation, evidence collection, and identification of perpetrators. HRD further urge donors and international partners to support local and international humanitarian organizations to provide adequate medical and psychosocial assistance for the survivors of conflict related sexual violence. Lastly, the international community and UNMISS, in addition to ongoing efforts to achieve a durable Cessation of Hostilities, should also support conflict resolution and reconciliation efforts at the sub-national and grassroots levels to address the root causes of the intra-ethnic, resources and politics-driven conflict in Unity State. Addressing the lack of accountability for perpetrators of crimes under international law is a key element in the resolution of the protracted conflict in Unity State.

2. Methodology

5. In order to investigate, verify and corroborate the violations and abuses documented in this report, human rights officers were deployed to the affected areas in Leer and Mayendit Counties from 30 April to 24 May 2018. Over 75 interviews were conducted with victims and eyewitnesses, the majority of whom had been displaced from their places of origin. HRD met with internally displaced persons in the Bentiu Protection of Civilian site, Leer, Nyal, Mayendit, Gandor, Pilling, Adok and Dablual, representing over 40 different villages or settlements across the two affected counties of Leer and Mayendit. Overall, HRD visited more than a dozen affected villages to document the scale of violations. Interviews were also conducted with SPLA officers, local commanders and State authorities, as well as with SPLA-IO (RM) officers. Furthermore, HRD analyzed various materials including satellite images, photographic evidence and documents to assess whether abuses and violations, including those that may amount to international crimes, were committed.
6. HRD employed *reasonable grounds to believe* standard of proof in making factual determinations on violations, incidents, and patterns of conduct by the perpetrators. Information presented in this report was gathered in accordance with OHCHR's human rights monitoring and investigations methodology.

3. Contextual Background

3.1 Historic Context

7. Since early 2014, areas in the former Unity State have been heavily contested between Government and Opposition forces, often involving aligned militia groups, including local armed youth groups.⁴ The most heinous human rights violations and abuses of international human rights law, and violations of international humanitarian law have been carried out in the southern counties of Unity, in particular Koch, Leer and Mayendit, areas where there are SPLA-IO Riek Machar's strongholds. Leer is Machar's hometown. Dry-season offensives led by government-affiliated forces have been documented in southern Unity in 2014 (from February to April) and 2015 (from April to August), during which there were gross violations of international human rights, and serious violations of international humanitarian law. According to OCHA in South Sudan, from November 2014 to November 2015, an estimated 7,100 people were victims of

⁴ Justice Equality Movement (JEM) opposition movement of Sudan supported the SPLA in the 2014-2015 offensives in southern Unity State.

violent death, over 800 drowned (most likely fleeing violence) and 890 were abducted⁵ in Unity State. The April-May 2018 offensive, which this report focuses on, largely repeats similar patterns of conduct, targeting the same locations and the same civilian populations.

8. While the conflict overwhelmingly stems from the crisis that split the SPLM/A in 2013 and persists today, some analysts trace the root causes of this pattern of violence to political tensions, splits and rivalries that have emerged among different sections of the Nuer ethnic group, which constitute the vast majority of the Unity population.⁶ Opportunism, personal agendas, grudges and a desire to expand clientelist networks are factors that drive high-ranking politicians and military commanders to overtly or secretly support these military offensives. It is worth mentioning that Unity was a major oil-producing area up to 2014 and it remains economically important for transhumance pastoralist groups, thanks to its vast grazing lands.

3.2 Recent Context

9. Since the split in the SPLM/A-IO in July 2016 there have been three main organized forces operating in central and southern Unity. The Government's main force is the SPLA Division IV with its headquarters in Bentiu. Also aligned to the Government are SPLA-IO (TD) forces, which are former Opposition forces that split with Taban Deng Gai or have since been recruited to join his faction, some of whom have been partially integrated into the SPLA. Lastly, there are SPLM/A-IO (RM) forces remaining in opposition and loyal to Riek Machar. These organized forces are periodically supported by aligned armed youth militia.
10. Since late December 2017, there has been a series of clashes between SPLA and/or aligned forces and SPLA-IO (RM) to contest locations around Bentiu and in Southern Unity, in violation of the Agreement on Cessation of Hostility, Protection of Civilians and Humanitarian Access (ACoH) signed on 21 December 2017. These included several clashes in Rubkona, near Nhialdiu and Jazeera, and Koch areas in April, and near Leer town, which is an isolated SPLA outpost surrounded by SPLA-IO (RM) controlled areas that is frequently contested by the Parties. By mid-April, there was an observed military escalation by the SPLA and associated forces, mostly from northern Unity, to clear the opposition presence in multiple locations in southern Unity, particularly in Mayendit and Leer Counties, during which violations of international human rights law and international humanitarian law were committed with horrific consequences for the civilian population.
11. Between 16 and 18 April 2018, the SPLA and associated forces, launched attacks in Rubkona to retake Nhialdiu and on the SPLA-IO (RM) position at Jazeera (south-west of Bentiu Town).⁷ In the same period, SPLA-IO (RM) and aligned youth attacked locations in Guit, at Kuergeng where there were Taban Deng-aligned forces, and in SPLA controlled Koch town and areas, reportedly killing seven civilians and raiding cattle. During this attack, SPLA-IO (RM) forces reportedly used light weapons.⁸ As part of the broader SPLA effort to clear opposition-held areas, armed youth mainly from Koch, Guit and Rubkona, armed with light weapons and led by SPLA and

⁵ United Nations Office of the Deputy Humanitarian Coordinator for South Sudan, 2016. Crisis Impact on Households in Unity State, South Sudan, 2014-2015: Initial Results of Survey, January, p. 23. https://reliefweb.int/sites/reliefweb.int/files/resources/160202_Crisis%20impacts%20on%20households%20in%20Unity%20State_SS.pdf

⁶ Joshua Craze, Jérôme Tubiana with Claudio Gramizzi, A State of Disunity: Conflict Dynamics in Unity State, South Sudan, 2013-15, Small Arms Survey, Graduate Institute of International and Development Studies, Geneva, 2016

⁷ Some sources attribute the reported SPLA attack on Nhialdiu as part of a clash initiated by SPLA-IO (RM).

⁸ AK47, RPG and PMK

SPLA-IO (TD) commanders and the Gany County Commissioner,⁹ advanced south from Koch town on 21 April 2018. They attacked villages north of Mayendit.¹⁰ The attacks reportedly lasted for three days. During these attacks, SPLA-IO (RM) reportedly put up limited resistance or fled from the advancing government and pro-government forces, who were better equipped and/or outnumbered them.

12. In the morning of 24 April, the Gany County Commissioner arrived in Leer with a large number of armed youth and a group of SPLA and SPLA-IO (TD) soldiers. While some of them remained in Leer for two days, ostensibly planning further attacks in villages in Leer County and distributing ammunitions that was supplied from Juba on 22 and 23 April, others returned back to the villages in northern Mayendit, for a mopping up operation. On the morning of 26 April, a large group of armed youth, SPLA-IO (TD) and SPLA soldiers were dispatched respectively northeast¹¹ and southeast of Leer,¹² supported by an APC in both locations. Attacks, including shelling against civilians in multiple locations or hiding in swamps, took place from 26 April to 12 May. Continued shelling and repeat attacks on civilians attempting to return to their villages forced them to remain in hiding in swamps and bushes.
13. The motives behind these attacks could be attributed to both immediate responses to escalating clashes between opposing forces in close proximity, as well as the longer-term objective to defeat SPLA-IO (RM) forces and increase territories under Government control. Government interlocutors had repeatedly warned of their intent to recapture areas recently occupied by SPLA-IO (RM) forces, and to open supply route between Bentiu and the SPLA position in Leer.

4. Legal framework

4.1 International Human Rights Law

14. The Republic of South Sudan is a State party to the African Charter on Human and People's Rights (ratified in 2016) and five United Nations human rights treaties: the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (ratified in 2015) and its Optional Protocol; the Convention on the Elimination of All Forms of Discrimination against Women (ratified in 2015) and its Optional Protocol; and the Convention on the Rights of the Child (ratified in 2015). International human rights law applies both in times of peace and armed conflict. South Sudan is also bound by provisions of international human rights law that have attained the status of customary law.
15. Therefore, under the international human rights law framework, the Republic of South Sudan is obliged to respect, protect, promote, and fulfil the human rights of all persons within its territory or under its control. In particular, South Sudan has the obligation to prevent all acts of killings, torture and inhuman or degrading treatment, abductions, rape and other forms of sexual violence, as well as destruction of villages and pillages, and to take effective measures to prevent and promptly investigate violations of international human rights and humanitarian law to ensure full accountability. Under international human rights law, South Sudan is responsible for the wrongful conduct of individuals or groups not formally integrated into its security forces when the latter act on its instructions or under its direction or its effective control. It is also obliged to take necessary action to prevent, protect against, and respond to violence against women, whether perpetrated by private or public actors. It is important to highlight that the SPLA and the SPLA-IO have

⁹ The current Gany County Commissioner is also the former Koch County Commissioner.

¹⁰ Rubkway, Dablual, Mirinyal, Kak, Bur, Dhorlek, Buot, Jaguar, Thaker, Dhornyiet and Dhiach, among others.

¹¹ Gandor, Padeah, Guat and Lual among others

¹² Pilling, Thonyor, Touchriak, Adok, Meer, Yang and Tulung among others.

previously been listed by the United Nations for committing sexual violence in conflict and grave violations against children including killing and maiming; recruitment and use of child soldiers; abduction and rape¹³.

4.2 International Humanitarian Law

16. International humanitarian law, which regulates the conduct of parties to an armed conflict, applies to the non-international armed conflict in South Sudan.¹⁴ The Republic of South Sudan is also a State party to the four Geneva Conventions of 1949, and the two Additional Protocols of 1977 (ratified in 2013). In addition, all parties to the conflict have to abide by the relevant rules of customary international law applicable in non-international armed conflict, including the principles of distinction, proportionality and precaution in attack. Under this legal framework and in particular Common Article 3 of the Geneva Conventions, SPLA and armed opposition groups are bound to distinguish at all times between civilians, including humanitarian relief personnel, and combatants and treat humanely persons taking no active part in hostilities. Shelling of civilians, unlawful killing, torture, cruel or inhuman treatment and outrages upon personal dignity, in particular humiliating and degrading treatment, rape and other forms of sexual violence, destruction of property, pillage, enforced disappearance, arbitrary deprivation of liberty and forced displacement are prohibited. In addition, children, the elderly, people with disabilities and the infirm affected by armed conflict are entitled to special protection. According to customary international law, humanitarian relief personnel and objects must always be respected and protected.
17. States are responsible for all violations of international humanitarian law committed by their armed forces or those acting under their direction or control. Under international law, the Government of South Sudan is obliged to investigate serious violations of international human rights and humanitarian law and to ensure full reparation for loss or injury caused by the State. In many cases violations documented in this report may constitute war crimes and engage the individual criminal responsibility of the perpetrators.

4.3 International Criminal Law

18. Under international criminal law, individuals can be held individually criminally responsible for, amongst other international crimes, war crimes and for crimes against humanity, which entail systematic or widespread inhumane acts. South Sudan is under an international obligation to prosecute the perpetrators of any such acts committed on its territory, including bearers of command responsibility. The August 2015 Agreement on the Resolution of Conflict in South Sudan (ARCSS) envisioned the establishment of a hybrid court, which according to its draft statute will have jurisdiction over war crimes as well as crimes against humanity, and other serious crimes under international law. The Hybrid Court should have primacy over national jurisdictions to prosecute individuals, both civilian and military, who have reportedly committed these crimes. To date, the Government of South Sudan has not signed the Memorandum of Understanding with the African Union for the establishment of this court. As the Republic of South Sudan is not a State party to the Rome Statute, the International Criminal Court (ICC)

¹³ See the 2018 report of the Secretary General on Conflict Related Sexual Violence, <http://undocs.org/en/S/2018/250>

¹⁴ See in particular the Annual Report 2013 at page 200, the press release 6 January 2014, <https://www.icrc.org/eng/resources/documents/news-release/2014/01-06-south-sudan-juba-petermaurer-president-visit.htm>; Annual Report 2014 at page 204; the Intercross blog interview with the ICRC of 12 June 2015, <http://intercrossblog.icrc.org/blog/interview-with-head-of-delegation-in-southsudan>; Annual Report 2015 page 208; Annual Report 2016, page 195.

would have jurisdictions over international crimes committed in South Sudan, only if there is a referral of the situation to the ICC Prosecutor by the Security Council, a referral by a State party or if the Prosecutor initiates an investigation *motu proprio*.

4.4 Domestic Law

19. Under South Sudan domestic law, national jurisdictions could prosecute individuals allegedly involved in serious violations of international human rights or international humanitarian law for crimes such as murder or rape. The right to life and physical integrity is protected by the Constitution and the Penal Code Act 2008. In addition, in 2012, South Sudan incorporated the provisions of the Four Geneva Convention and its Additional Protocols into domestic law, as a result there can be prosecutions before the South Sudanese Courts for breaches of Common Article 3 of the Geneva Conventions, including for war crimes.

5. Violations of International Human Rights and International Humanitarian Law

20. From late February 2018 onwards, HRD observed a push by government aligned forces to clear opposition presence in multiple areas across southern Unity that were not under their control or influence. The horrific nature of the violations documented rooted in the *modus operandi* of forces involved in this offensive, are not only an exhibition of impunity but also suggest a scorched-earth tactic. This tactic aims to forcefully displace civilians, prevent their return and control these areas, removing support for opposition forces. Due to the gravity and scale of violations between 16 April and 24 May 2018, HRD focused its investigations mainly on this period

5.1 Unlawful Killing of Civilians

“Why do these forces not just kill each other if killing is what they want... why do they have to kill innocent children and helpless civilians, including disabled-elders? Until now I can still hear the cracking of their bones when a tank ran over them and how their stomach popped.” 60-year-old woman from Gandor Payam (Leer County) narrated.

21. Armed with Rocket-Propelled Grenades (RPGs), Kalashnikov Machine Guns (generally referred to as PKM) and Kalashnikov rifles (AK 47), SPLA soldiers and associated forces, entered the villages by foot, often supported by one or two armored vehicles, and reportedly deliberately killed civilians. In some instances, the presence of pick-up vehicles mounted with a machine-gun was also reported. Overall, HRD found that at least 40 villages or settlements were attacked in the reporting period.
22. While recounting the attacks, victims and witnesses recalled the large number and the ruthlessness of armed youth commanded by SPLA and SPLA-IO (TD) elements, sometimes attacking in groups of between 100 and 200 or more. In a few villages such as Mirnyal, Adok, Thonyor and Rubkway, SPLA-IO (RM) elements and/or local armed cattle keepers put up little resistance before fleeing or fled without a fight as they were reportedly outnumbered. The majority of the villages that were attacked were reportedly not sheltering members of SPLA-IO (RM) at the time of the offensive.
23. The *modus operandi* of SPLA and associated forces clearly indicates that they deliberately targeted civilians. According to witness accounts, they stormed into villages, early morning, or around dawn catching civilians unaware. They would surround the village, then start shooting at

fleeing villagers. Some corpses seen by UNMISS in villages in Northern Mayendit, on 12 May, exhibited bullet wounds in their backs. Others were allegedly summarily executed after being found in their hideouts. As described in the next section, women were killed when they sought to resist being raped.

24. Victims and witnesses also informed that after taking control of villages, the attackers forced the survivors to give them money. Those who did not comply immediately were reportedly beaten or killed by hanging also to terrorize the population further and force survivors to comply. HRD documented 25 killings of women by hanging in 10 villages.

25. According to information received children, elderly, sick and persons with disabilities unable to flee, were often burnt alive, as the attackers set ablaze their *tukuls* with lighters or they had their throats slit. HRD documented the killing of 63 such individuals, in 17 villages.

“(…) All the violence I have witnessed is something I can never forget. How can I forget the sight of an old man whose throat was slit with a knife before being set on fire? How can I forget the smell of those decomposed bodies of old men and children pecked and eaten by birds? Those women that were hanged and died up in the tree?”
A 14-year old girl from Thonyor Payam (Leer County)

26. In at least 40 villages attacked between 16 April and 24 May, HRD documented unlawful killing of at least 232 civilians, including 35 children, 50 women and 35 elderly people.

27. In addition, the SPLA and associated forces reportedly deliberately attacked civilians, who had sought refuge in swampy areas and islands located south east of Leer town along the River Nile. Multiple victims and witnesses narrated for instance the indiscriminate shelling of Meer island and surrounding swamps at least three times between 26 April and 12 May 2018. At least 10 children reportedly drowned as civilians fled from attackers, including a seven-day old baby, a month-old baby and a ten-year-old boy.

28. SPLA-IO (RM) elements were also allegedly involved in the killing of civilians, but to a lesser extent than SPLA and associated forces. According to local officials and independent sources, while attacking Koch on 18 and 22 April, which was under the control of SPLA and associated forces, SPLA-IO (RM) killed seven male civilians and wounded 17 others, including two women and one girl. However, from accounts of victims and authorities, HRD has not been able to determine if the SPLA-IO (RM) deliberately targeted civilians.

5.2 Rape, Sexual Slavery and Other Forms of Sexual Violence

“My village was attacked early in the morning. I managed to run and hide in the bush with my three-day-old baby. I returned in the evening before sunset thinking that the attackers were gone, but a group of SPLA soldiers and youth found me and my baby in our tukul. I was still bleeding from labor, but one of the soldiers raped me. I kept quiet and did not resist as I saw other women being shot dead for refusing to have sex with the soldiers and youth.” A 20-year-old woman from Pilling Payam (Leer County) recounted.

29. According to information gathered, rape, sexual slavery and other forms of sexual violence were committed against women and girls by the SPLA and associated forces. The patterns of conduct and the scale of rape and other forms of sexual violence indicate that it was used as a weapon of

war.¹⁵ The brutality and ruthlessness of the attack, as described by survivors and witnesses, seems to have been carried out to punish and terrorize civilians.

30. In at least 40 targeted villages, at least 120 women and girls, including pregnant and lactating mothers, and girls as young as four-year-old, were raped and gang raped by one or multiple armed elements. A humanitarian organization publicly reported treating 21 survivors of sexual violence in 48 hours in one village.¹⁶ Those who resisted were sometimes reportedly shot dead on the spot. For instance, according to a witness, three young women from Dhorjak village in Mayendit County were shot dead by SPLA soldiers for resisting.
31. Accounts by survivors and witnesses indicate that rape was used by the attackers to demonstrate power over their victims, impose extreme humiliation, destroy their dignity and to fracture families and the community through the stigma and shame attached to survivors. For instance, on 11 May 2018, in Touchriak in Leer County, women were stripped off their clothes and subjected to forced nudity before being gang-raped. Young girls were not spared either as illustrated in the gang-rape of a six-year-old girl by eight soldiers who pulled her out of hiding in Jaguar village of Mayendit County on 21 April. According to witnesses, the soldiers continued to rape the girl even after she became unconscious and left her bleeding on the ground. HRD received information that an undetermined number of victims died as a result of injuries and bleeding caused by violent rape.
32. Additionally, HRD documented at least 15 incidents of abductions, involving at least 132 women and girls. After the attacks, the victims were reportedly taken away to be sexually enslaved or exploited as porters to locations where the assailants had set up their temporary bases. One such location where SPLA and associated forces had established a base was Mirnyal approximately 11 kilometers west of Leer town. According to one survivor who had been detained at a base and was released after a few days, women and girls being forced to carry looted items and to carry out domestic chores, were also repeatedly raped and compelled to become the ‘wives’ of soldiers and fighters. This is consistent with other incidents and with overall trends of sexual violence in South Sudan, where women and girls abducted in these circumstances are most likely also raped and sexually enslaved by their abductors.

5.3 Unlawful Destruction of Property and Pillage

“The attackers arrived in the village when I was still sleeping. Some were wearing military uniform and others in civilian clothes. I did not have time to run. They shouted us to come out of our tukuls and asked us for money and alcohol. I gave them the little money I had, and they asked me where my children and cattle were. Some of the attackers started to set fire to our tukuls, grains and food stocks. I lost everything, and I have no hope for my future. I am surviving by eating roots. It would have been better if they would have killed me.” A 75-year-old woman from Dablual Payam (Mayendit County) narrated.

¹⁵ Rape as a weapon of war is often committed in public and with brutal violence, targeting civilians. It involves gang rape and rape with objects and weapons. It includes other forms of sexual violence, such as sexual slavery. UN Security Council Resolution 1820 (2008) on Women and peace and security states that, “women and girls are particularly targeted by the use of sexual violence, including as a tactic of war to humiliate, dominate, instill fear in, disperse and/or forcibly relocate civilian members of a community or an ethnic group”.

¹⁶ Press release, ‘South Sudan: People caught in the frontlines of intense fighting in country’s north’, Médecins Sans Frontières, 31 May 2018.

33. SPLA and associated forces adopted a scorched-earth strategy: the unlawful destruction of villages not justified by military necessity, and pillage. Corroborated witness accounts *in situ*, visits by UNMISS and photographic evidence indicate that the combatants followed a similar *modus operandi* across multiple villages. After entering into the villages and shooting at civilians, they went directly to steal cattle and loot entire households, including kitchen utensils. In the context of South Sudan, and especially in Unity, where famine was declared in Leer and Mayendit Counties in February 2017, such looting poses existential threat to victims including to their very survival.
34. Victims and witnesses also narrated that, before leaving the villages, attackers burned entire homestead clusters and food stocks. They sometimes returned to villages after the initial attack, sometimes for three or four consecutive days, to continue with the burning of houses and food stocks, to raid more cows and to kill any remaining civilians, in what an eyewitness described as “*hunting for cows and people*”.
35. SPLA-IO (RM) elements were also reportedly involved in cattle raid during their attacks on Koch on 18 and 22 April. According to a state government source, during these two attacks, they stole about 4,000 cattle, which were later recovered. They also burnt down nine homesteads.

5.4 Forced Displacement

- “*You should have left the area because this place already belongs to us! We came here to kill you! “Go and tell your men that we are coming here to stay! Do not plan to come back or we will finish you all!”*”. Two victims of separate incidents in Thaker and Dar Payams described what the attackers told them.
36. The method of warfare used by SPLA and associated forces indicates a strategy to forcefully displace civilians. Witness testimonies indicate that the attackers’ intent was to cleanse those areas.
37. In addition to the killing, sexual violence and large-scale destruction and pillaging of villages and property described above, other actions of the members of the SPLA and associated forces point to the existence of this strategy. In at least seven villages, civilians were ordered to leave their homes and not to come back. Those who attempted to return or to reach their farmlands in the villages surrounding Leer Town and in Pilling, Thonyor and Touchriak, after a lull in the offensive were also reportedly attacked by SPLA and associated forces.
38. SPLA and associated forces continued their offensive by shelling areas where civilians were hiding in disease infected swamps and on islands along the Nile river. Multiple victims and witnesses narrated the shelling of Meer island and surrounding swamps between 26 April and 11 May 2018 where, according to humanitarian actors, hundreds of civilians were trapped, trying to reach a point of safety or protection southward in the direction of Nyal or northward in the direction of the Bentiu Protection of Civilians Site or the temporary protection area in Leer. HRD has not been able to determine exactly how many civilians were killed directly by shelling

“(…) *Our village was attacked at dawn by surprise. I heard the sound of gunshots and people screaming in panic. I was rescued from my tukul by my seven-year-old grandson. Together with him and two other grandchildren of 5 and 6 years old I traveled by foot and canoe for five days until we reached Nyal. They were my guides and protectors. We drank water from the river and ate grass and roots during these five days.*” - A 84-year old blind woman from a village in Yang island (Leer County)

39. However, witnesses informed that children died of infectious diseases as a result of being trapped in the swamps without proper feeding or medical care. UNMISS and humanitarian organizations documented forceful displacement of an estimated 1,995 people to the Temporary Protection Area in Leer, 3,415 to Bentiu Protection of Civilian site, and about 8,000 displaced civilians from these villages are stranded in bushes and swamps. A further estimated 18,000 are displaced in Mayendit Town according to humanitarian actors.¹⁷ The displaced population faces dire humanitarian challenges due to their vulnerability – mostly women, children, elderly, sick and persons with disabilities.

5.5 Attacks on Humanitarian Actors and Facilities

40. Humanitarian actors operating in southern Unity were not spared during the offensive. In at least 21 locations, the forces vandalized, destroyed and plundered schools and health facilities, including clinics run by humanitarian organizations. Equipment, supplies and drugs were stolen or burnt. Humanitarian compounds and facilities, clearly marked and fenced, were ransacked and plundered. The SPLA and associated forces also burnt humanitarian supplies that they could not carry including food supplies meant for malnourished children.
41. Witness accounts indicate that at least three national aid workers were killed in Lual, Thonyor and Padeah and two wounded in Touchriak and Meer. HRD has not yet been able to determine the exact circumstances of the killing and wounding of these aid workers. In addition, at least 43 humanitarian workers were relocated in the midst of the offensive. Those humanitarians who were left to provide limited life-saving presence on the ground faced serious risks as they were targeted along with civilians.
42. The deliberate targeting of health facilities and humanitarian organizations providing livelihood support to vulnerable section of population inherently dispossesses civilians of any coping mechanism in an environment where years of conflict have increased vulnerabilities.

6. Responsibility

6.1 Nexus between SPLA and Associated Forces

43. Following the outbreak of conflict in December 2013, the parties have relied on proxies, including clan-based youth militia to carry out and bolster military offensives. For instance, in Unity State, the SPLA has used proxies, including Justice Equality Movement (JEM), Mathiang Anyoor¹⁸ and various Nuer armed youths in its offensives. In the current offensive in southern Unity, the SPLA and associated forces relied on proxies from a range of opportunist Nuer armed youth militia, including cattle keepers.
44. While conducting its investigation, HRD established that the SPLA Division IV and SPLA officers asserted command and control, including of Nuer armed youth during these military offensives. Between 21 April and 12 May, in at least 15 incidents, victims described the use of SPLA mounted vehicles and one or two APCs to support foot soldiers and youth who were attacking villages. From 21 April, two APCs were deployed from Leer SPLA base to reinforce the SPLA and associated forces especially in the shelling of civilians who fled into bushes and swamps.

¹⁷ As of 24 May 2018

¹⁸ Dinka armed youth recruited and/or armed by the SPLA prior to and after the outbreak of conflict.

45. To boost operations and attacks against civilians, military supplies were reportedly flown from Juba to Leer on 22 and 23 April, prior to the arrival in Leer, of the SPLA and associated forces under the control of the Gany County Commissioner on 24 April. The arrival of the chartered planes and dispatch of military supplies, including boxes of ammunition was witnessed by multiple direct sources. This would not have happened without the authorization of high-ranking officers in Juba and Bentiu.

6.2 Responsibility for Violations of International Human Rights and Humanitarian Law

46. There are reasons to believe that three officials are amongst those who appear to have authority over those committing the violations documented in this report: the Gany County commissioner (former Koch County Commissioner), one SPLA-IO (TD) commander (Lieutenant General) and former Major General of SPLA-IO (RM) and one SPLA commander (colonel) from the SPLA Division IV in Bentiu. These authorities had effective command and control of operations of areas in which targeted attacks on villages and recruitment of armed youth were documented.
47. Corroborated accounts from three government officials revealed that the Gany County Commissioner, from Jegai sub-clan of Nuer, in Koch and an SPLA-IO (TD) officer were directly responsible for the mobilization of armed youth. Youth were reportedly mobilized from the County Commissioner's own sub-clan but also from the Jikany Nuer in Guit and Lek Nuer in Rubkona counties. It is important to stress that the Gany County Commissioner and the SPLA-IO (TD) officer allegedly mobilized and recruited youth with the acquiescence of SPLA Division IV command and civilian state officials.
48. In more than a dozen instances, corroborated victim accounts indicate that the three officials were giving orders in Leer to junior SPLA officers to lead mixed forces of SPLA, SPLA-IO (TD) and armed youth, about a size of a company or two to cause harm to civilians, pillage and destroy civilian properties, including humanitarian facilities in Gandor, Lual, Thonyor and Touchriak in Mayendit and Leer Counties.
49. Five women, abducted in Buot village of Mayendit County on 24 April, and later released, reported that they were forced to carry loot by SPLA and associated forces to their temporary bases including in Mirnyal, Gandor, and Rubkway. On arrival to these bases, they saw the Gany county official who they either knew before or who would introduce himself by his full name and warn them to either go to Leer base controlled by the government or to Bentiu Protection of Civilian Site and to completely leave the opposition-controlled areas. They also reported that in these temporary bases they saw looted cattle and other civilian items.
50. Across these attacks, the three officials knew that the SPLA and associated forces were committing serious violations of international human rights and humanitarian law, as they were themselves involved in these operations. Despite the scale and gravity of violations, UNMISS HRD could not find evidence that these officials took any necessary or reasonable measures to prevent, or to hold accountable alleged perpetrators for violations committed. Further investigation is needed to identify other persons and officials responsible for the crimes and violations.
51. For the attacks by SPLA-IO (RM), sources indicated that a SPLA-IO (RM) local commander based in Bieh to the southeast of Koch would have led these attacks.

7. UNMISS Response

52. In light of the deteriorating situation in southern Unity and to guarantee the protection of civilians, UNMISS adopted a four-pronged approach.

7.1 Political Engagement

53. The Special Representative of the Secretary General in South Sudan (SRSG) and the Director of the HRD in UNMISS travelled to the affected areas on 1 May, to witness first-hand the scale of violations and meet with victims and actors on the ground. On 9 May, the SRSG, accompanied by the Director of the HRD and Chief of Staff of UNMISS, also met with high-ranking Unity State government representatives, including the Deputy Governor, to express concerns about the reported scale of violence. UNMISS continues to engage with authorities and opposition actors to urge them to stop the targeting of civilians and adhere to the Agreement on Cessation of Hostilities. Subsequent engagements by SRSG were held with government officials in Juba, including the President, First Vice-President, and Northern Liech Governor to urge respect for the Agreement on the Cessation of Hostilities, a halt to such acts and accountability for gross violations of international human rights, and serious violations of international humanitarian law. This engagement and the severity of the violations reported led the UN Secretariat to send a White Note to the Security Council members on fighting in southern Unity. UNMISS also attempted to advocate through public awareness, releasing a press release on 2 May, and support to high-level engagements and statements by the SRSG on Sexual Violence in Conflict Pramila Patten, the Special Representative for Children and Armed Conflict Virginia Gamba, the Special Adviser on the Prevention of Genocide Adama Dieng, and Assistant Secretary-General for Peacekeeping Operations Bintou Keita.
54. At the state and county levels, UNMISS has also been engaging local SPLA commanders and civilian authorities, as well as SPLA-IO (RM) officials and commanders on similar issues. Between 30 April and 24 May 2018, UNMISS in Bentiu carried out over 10 missions in the affected areas and places of displacement.
55. Despite this robust political engagement, attacks against civilians, albeit less in intensity and scale, have continued in Southern Unity.

7.2 Humanitarian Response

56. UNMISS quickly provided water and limited medical support to the victims and survivors, displaced women, children and elders fleeing the violence, who were sheltering in an area near the Temporary Operational Base (TOB) in Leer. With an original capacity of 500 people, this area sheltered 1,195 individuals as of 24 May. United Nations Agencies and humanitarian NGOs conducted life-saving activities in and around Leer town, supported by UNMISS. Mission leadership also continued to engage South Sudanese authorities and SPLA-IO (RM) to allow unhindered access by its personnel and humanitarian organisations to reach affected populations with the necessary assistance.

7.3 Human Rights

57. In the midst of the attacks in Mayendit and Leer Counties, UNMISS deployed an HRD team to Leer, between 1 and 6 May to monitor the human rights situation and verify and document any violations and abuses committed by the parties to the conflict. This team was deployed again in Nyal (Panyjar County) between 16 and 18 May to interview displaced persons fleeing the attacks carried out by SPLA and associated forces. Concurrently, from 10 May, UNMISS established a

rotational civilian presence in Leer, including human rights component, to engage with local actors and document current and subsequent violations of international human rights and humanitarian law.

58. The draft report was shared with the Government of the Republic of South Sudan on 28 June 2018 to receive its comments and observations on the HRD's finding, including the responsibility of individuals that have been identified and on any actions taken or intended to address alleged violations of human rights and hold those responsible to account. No official response was received before the public release of the report. However, on 8 July, UNMISS was informed by Unity State authorities that the Gany County Commissioner, one of three officials who appear to have authority over those committing the violations documented was reportedly removed from his position and placed under house arrest by SPLA and police officers.

7.4 Proactive Presence and Visibility

59. To help deter violence, UNMISS strengthened its military and police presence at its temporary operating base in Leer, including the deployment of a platoon, and enhanced standby arrangements. The objective of this deployment was to protect civilians and further support humanitarian actors in areas of population concentration and increase active patrolling in Leer and Mayendit Counties. UNMISS has also increased support to the Bentiu Field Office to enhance protection of civilian activities, including support to the Temporary Protection Area in Leer, and support to humanitarian and human rights activities.

8. Conclusion

60. The military offensive led by SPLA and associated forces against SPLA-IO (RM) presence in southern Unity was characterized by violations and abuses of international human rights law, and serious violations of international humanitarian law, which in many cases amount to war crimes.
61. According to the findings by HRD, at least 232 civilians were killed; 120 women and girls raped or gang-raped and 132 others abducted. The tally of victims is expected to be higher as HRD has not been able to determine the number of civilians killed during the targeted shelling of those hiding in the swamps, or those who drowned while fleeing the violence. In addition, extensive destruction and pillage were documented, in particular through the burning of villages and looting of cattle. National and international humanitarian organizations have not been spared during these attacks. Their facilities have been targeted, vandalized and pillaged in several locations including Lual, Touchriak, Thonyor, Gandor, Dingding, Dablual, and Padeah.
62. The *modus operandi* of the perpetrators was very similar to that of the 2014, 2015 and 2016 attacks. The SPLA has been relying on proxies, as a force multiplier, as well as clan-based youth militia to carry out and bolster its military offensives.¹⁹ In the current offensive in southern Unity, the SPLA and SPLA-IO (TD) relied on proxies from opportunist armed youth militia. The conduct of the military operations, with no apparent distinction between military objectives and civilian population and civilian objects, also targeted protected persons under international humanitarian law. Findings indicate that before launching these attacks, the perpetrators had awareness of the extent of the anticipated harm they would cause to civilians. In that regard, HRD identified three officials as who may bear responsibility for the reported human rights violations due to their leadership role: the Gany County commissioner (former Koch County

¹⁹ In 2014, the proxies included JEM, Mathiang Anyoor and Nuer armed youths in its offensives. In the current offensives, armed Nuer youth mostly from Jegai, Jikany and Panaron have been used.

Commissioner), one SPLA-IO (TD) commander (Lieutenant General) and one SPLA commander from SPLA Division IV, who allegedly had the effective command and control of forces.

9. Recommendations

Conduct of operations

- (a) All parties to the conflict must abide by international human rights and humanitarian law. Parties to the conflict should reiterate and enforce orders that would ensure the conduct of any military operations is in strict compliance with international law, in particular the principles of distinction, precaution and proportionality and the prohibitions of unlawful killing, sexual violence and other forms of torture and inhumane treatment and pillage. Additionally, parties to the conflict should always respect and protect humanitarian relief personnel and objects. Further, parties to the conflict should not use or cooperate with ad-hoc youth militia in any of their military operations.

Accountability

- (b) The Government of South Sudan should conduct an effective, prompt, independent and impartial investigation into all allegations of violations and abuses of international human rights law, and violations of humanitarian law committed in the context of the southern Unity operations and prosecute anyone who allegedly bears responsibility for crimes committed, including those in positions of command and authority. Where the Government is unable or unwilling, other accountability mechanisms should be invoked – including through the Hybrid Court for South Sudan. Further and in-depth investigation with the intention of establishing criminal responsibility for war crimes, and other violations and abuses of international human rights law and violations of humanitarian law, as well as continued efforts to document and collect evidence is recommended.

Victim Support

- (c) Donors and international partners should support local and international humanitarian organizations to provide adequate medical and psychosocial assistance for the survivors of conflict related sexual violence. The parties to the conflict should also grant unhindered access to humanitarian organizations and UNMISS to reach displaced civilians and victims. Access denial currently exercised by the parties could constitute a deliberate strategy to starve and/or inflict pain and suffering of victims.

Conflict Resolution

- (d) The international community, the United Nations system in South Sudan and other peace actors should support sub-national and grassroots conflict resolution and reconciliation efforts to address the complex and inter-linked root causes of the resources and politics-driven conflict in Unity State.

END