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Conflict-related sexual violence against women and girls in South Sudan

Conference room paper of the Commission on Human Rights in South Sudan

Summary

Conflict-related sexual violence against women and girls is widespread and systematic throughout South Sudan. Ongoing conflict across the country, including in the Equatoria, has created a perilous situation of great insecurity for women and girls, exacerbated by a lack of accountability for sexual and gender-based violence. Widespread rape and sexual violence in armed conflict, while complex, can be attributed to a patriarchal society, and is reflected in the inferior status of women maintained by the State and its institutions, creating conditions in which these violations thrive.

Sexual violence in South Sudan has been instrumentalized as a reward and entitlement for youth and men participating in conflict. It serves as a means of building ethnic solidarity to mete out retribution against perceived enemies; the objective being to inflict maximum disruption and the destruction of the fabric of communities, including through their constant displacement. This scourge has had the most profound impact on victims, their families and communities.

Drawing on the Commission's documentation of testimonies of survivors and witnesses, this paper highlights incidents, patterns and impact of the gross human rights violations and abuses against women and girls. While the Commission has documented incidents of rape and sexual violence against men and boys, this phenomenon continues to be underreported.

The Commission acknowledges the initiatives taken by the Government of South Sudan to address sexual and gender-based violence including through establishing a Special Court and military prosecutions. Nevertheless, these measures remain woefully inadequate, given the scale and extent of conflict-related sexual violence in the country. The Commission notes that the Government of South Sudan has the primary obligation to end impunity for all forms of violence against women and girls during and after armed conflicts, especially sexual violence. The Commission notes with grave concern the Government of South Sudan's lack of progress in implementing key aspects of the 2018 Revitalized Peace Agreement, which provide the basis for addressing the persistent conflict and insecurity in which conflict-related sexual violence takes place.

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I. Introduction

1. The magnitude of conflict-related sexual violence against women and girls in South Sudan and its gendered impact is yet to be fully understood, as these crimes are massively underreported. Where women have reported these crimes, they encounter major obstacles to accessing the justice system and threats of retaliation, given the extremely high levels of impunity. Yet despite these obstacles and at considerable personal cost, South Sudanese women and girls are speaking out, and demanding their rights to truth, justice, reparation and guarantees of non-repetition. In speaking out they encounter threats and risks to their physical security and that of their families. These risks extend to women defenders and organisations who support survivors. Without the courage of South Sudanese survivors, and the support from the dedicated work of women defenders and organisations, none of these cases would ever come to the fore.
2. To grasp the full impact of conflict-related sexual violence, it is necessary to understand the social and cultural context in which sexual violence occurs, under patriarchal systems based on domination and gender discrimination, as well as social, political, legal and economic marginalization. For South Sudanese women these factors combined with historical attitudes of inequality, gender discrimination and the low status of women at an individual and systemic level, contribute to an environment in which sexual and gender-based violence is widespread and pervasive. Impunity for sexual and gender-based violence entrenched over decades has reinforced pre-existing norms and patterns of discrimination against women and girls, both inside and outside of the conflict. These crimes are perpetrated by all armed actors.
3. Conflict in South Sudan is characterized by the fragmentation of warring parties, the proliferation of small arms and military-grade weapons, and political allegiances centred on ethnic, regional and other group identities. In this context, humanitarian aid workers, women's rights defenders, and civil society organizations supporting survivors of sexual and gender-based violence, consistently find themselves targeted by armed actors as well. The funding of conflict at a national and sub-national level is linked to political elites and to the shadow parallel economy, from which they benefit. The conflict involves the deliberate expulsion of local populations from their territory, often with the intention of changing the ethnic composition and political control of the territory. Strategies have included terrorizing local populations, killing, burning of villages and the looting and control of local resources as well as rape and sexual violence. Women and girls in South Sudan face diverse forms of oppression including targeted killings, rape and sexual violence, slavery, forced marriage, forced procreation, forced labour, and other forms of sexual violence and inequality. Widespread violence against civilian populations has also led to large numbers of internally displaced persons, and refugee populations.
4. The causes of sexual violence in armed conflict are multiple and complex. Sexual and gender-based violence against women and girls in South Sudan is also structural in nature, and ranges from domestic violence to sexual violence in conflict. Patterns of violence are historically based on entrenched patriarchy, centring on male dominance and control of resources, which also encompasses the exploitation of women, where the female body is perceived as 'territory' to be owned and controlled by males. Rape and sexual violence in South Sudan is underpinned by male dominance and privilege that constructs violence against women as permissible, along with other forms of violence. This fuels impunity for rape and sexual violence crimes and is compounded by the weakness or complete absence of state institutions, including judicial authorities, particularly at local levels.
5. In conflict contexts, commanders of the army and other armed actors condone rape and sexual violence, understanding that it is highly unlikely that perpetrators of rape and sexual violence crimes will ever be held accountable. While this paper focuses primarily on conflict-related sexual violence, it also recognizes that pervasive forms of discrimination and violence against women and girls in South Sudan are underpinned by patriarchal systems and cultural norms, beliefs and attitudes which also drive sexual violence against women in domestic life and multiple settings.
6. All armed actors engage in sexual violence against women, but there are some distinctive manifestations and patterns which are explored in this report. Women's bodies have been systematically used to achieve military or political objectives and are considered as the spoils of war.
7. This Conference Room Paper reveals the pervasiveness of conflict-related sexual violence against women and girls in South Sudan and identifies patterns which characterize and drive its perpetration. The purpose of the paper is to draw attention to the pervasive and destructive impacts

of conflict-related sexual violence in South Sudan so as to assist and support the Government of South Sudan and its international partners in addressing these egregious violations and support strategies for prevention. Urgent and effective measures are required to combat impunity for sexual and gender-based violence, and to ensure that survivors are able to access justice and reparations, especially as envisaged under the 2018 Revitalized Agreement on the Resolution of the Conflict in the Republic of South Sudan (the Revitalized Agreement).

II. Mandate and methodology

Mandate

8. The Commission on Human Rights in South Sudan was established by the Human Right Council in 2016 for an initial period of one year by its resolution 31/20, and the mandate was subsequently extended in resolutions 34/25, 37/31, 40/19, 43/27 and 46/23.
9. The current members of the Commission, appointed by the President of the Council, are Yasmin Sooka (Chair), Andrew Clapham and Barney Afako. The Commission is supported by a Secretariat based in Juba, South Sudan.
10. The Commission is mandated to monitor and report on the situation of human rights in South Sudan, to make recommendations to prevent further deterioration of the situation, as well as to report and provide guidance on transitional justice. The Human Rights Council has also requested the Commission to collect and preserve evidence of and to clarify responsibility for alleged gross violations and abuses of human rights and related crimes, with a view to ending impunity and providing accountability, and to make such information available to transitional justice mechanisms including the Hybrid Court for South Sudan, to be established with the African Union as set out in chapter V of the 2018 Revitalized Agreement on the Resolution of the Conflict in the Republic of South Sudan.¹
11. The Commission is mandated by the Human Rights Council to pay particular attention to sexual and gender-based violence, including alleged crimes carried out in the context of conflict in South Sudan, and to report on the situation and make recommendations to address violence as well as to preserve related evidence for the purposes of transitional justice, including for criminal accountability. The Commission's investigation and research has been undertaken in the implementation of its mandate, in various parts of the country, engulfed in conflict, and to neighbouring States which host refugee populations from South Sudan.²

Methodology

12. This Conference Room Paper is informed by incidents of conflict-related sexual violence documented by the Commission and is primarily based upon interviews conducted with victims/survivors of conflict-related sexual violence,³ as well as with witnesses, clinicians, service providers, humanitarian actors and related experts and stakeholders including United Nations entities. These were conducted during the period February 2020 to February 2022. This paper does

¹ In pursuance of its mandate, the Commission collects and preserves evidence that it stores and that it catalogues by a unique evidence registration number (ERN). Reference is made to these numbers throughout the report so that States and the African Union may use them when requesting to consult the evidence.

² Sexual and gender-based violence including conflict-related sexual violence was a subject of discussions at the second conference on transitional justice hosted by the Commission, held in Nairobi in December 2021 in collaboration with partners and with participation from key stakeholders including government representatives, entitled "Conference on sustaining momentum for transitional justice on South Sudan." For resolutions, see: https://www.ohchr.org/Documents/HRBodies/HRCouncil/CoHRSouthSudan/Summary_Resolutions_Conference_13-15_Dec_2021.pdf. See also the mandate report of the Commission, published in February 2022, available at: <https://www.ohchr.org/en/hrbodies/hrc/cohsouthsudan/pages/index.aspx>

³ When referring to individuals who have experienced sexual violence, the Commission predominantly uses the term victim throughout this report, although the term survivor is also used, including to attribute agency and dignity. While there is no hard and fast rule on this nomenclature, the term victim is significant for carrying legal status in terms of a crime or crimes, and it thereby has implications for accountability purposes. The Commission recognises the importance of legal status for victims of crimes, while recognising the dignity, agency and resilience of individuals who survive sexual violence, yet noting that many victims of sexual violence do not survive.

not purport to reflect the country-wide scale and prevalence of conflict-related sexual violence, and it does not deal with Sexual Exploitation and Abuse (SEA) by peacekeepers.⁴ It represents instead a compilation of illustrative incidents of conflict-related sexual violence occurring in South Sudan, noting distinct patterns and trends, also demonstrating the pervasiveness of ongoing incidents of sexual and gender-based violations and abuses over time and previously reported by the Commission.⁵

13. The Commission undertook field visits to a number of conflict-affected areas including Central Equatoria, Western Equatoria, and Unity State, where it mainly interviewed women and girls who had been displaced by the civil conflict and sub-national violence. The Commission also conducted individual interviews and group discussions with refugees in neighbouring countries. Women and girls told the Commission of their experiences of conflict-related sexual violence, as well as other forms of sexual and gender-based violence amidst the persistent insecurity. Victims also testified to the overall impact of the conflict on their livelihoods, the personal impact on their sexual and reproductive health, generating medical needs and mental trauma, and recounted other adverse consequences for their families and communities. Extracts from testimonies and the case studies illustrate the lived experiences of South Sudanese women and girls.
14. The paper is primarily focused on conflict-related sexual violence as experienced by women and girls. The Commission notes the constraints imposed on its work by the COVID-19 pandemic and the subsequent lockdown restrictions, which included travel restrictions and access to conflict areas and witnesses.
15. Conflict-related sexual violence refers to rape, sexual slavery, forced prostitution, forced pregnancy, forced abortion, enforced sterilization, forced marriage and any other form of sexual violence of comparable gravity perpetrated against women, men, girls or boys that is directly or indirectly linked to a conflict.⁶ The acts cannot be viewed in isolation from the immediate and lasting impacts they carry for the victims as well as their family members, social groups including ethnic or gender identities, and society as a whole.
16. The Commission has interpreted conflict-related sexual violence to include conflict at a national level, as well as at a sub-national level, including what is sometimes described as inter-communal violence or localised-conflict in South Sudan. The paper has also focused on areas where the army, other armed groups linked to the state, and armed actors, including hold-out groups not party to the 2018 Revitalized Peace Agreement, have been operating.
17. The Commission has previously documented incidents of conflict-related sexual violence perpetrated against men and boys, including the prevalence of sexual violence against men and boys in detention sites mainly managed by the National Security Services, including but not limited to contexts associated with conflict and armed groups.⁷ The sexual violence that men and boys have been subjected to includes rape, sexual assaults, sexual humiliation and torture, and genital mutilation; often causing serious injury and disability, and sometimes directly causing or leading to death.⁸ However, the extent to which these violations and abuses are occurring and the impact on victims including physical and mental health as well as on their family members in South Sudan has not been well understood, and warrants further investigations.
18. Despite the lack of empirical data and the underreporting by victims of conflict-related sexual violence, including men and boys, the Commission notes from its work in internally displaced centres and refugee settlements, the greater awareness and acknowledgement that men and boys form a significant proportion of victims of sexual violence, including in conflict-related situations, than has been recognised previously.⁹ In addition, the Commission was not able to document or investigate the extent of conflict-related and other gender-based forms of sexual violence against members of the LGBTI Q+ communities, distinct groups that are not recognised or acknowledged in South Sudanese society, given limitations of time and resources, and the difficulties encountered

⁴ This has previously been reported on by the Commission and continues to be monitored. See A/HRC/40/CRP.1

⁵ See for example, A/HRC/40/CRP.1 Note that given the illustrative rather than representative sample size of data collected, and noting difficulties with collating and accessing statistical data in South Sudan broadly, particularly in the context of widespread human rights violations, the paper does not feature the presentation or analysis of quantitative data, which remains an area of interest.

⁶ Report of the Secretary-General on Conflict-Related Sexual Violence, S/2018/250, 16 April 2018.

⁷ See A/HRC/40/CRP.1, para. 475. ERNs 105056-105059, FGD-05, FGD-03, 105068-105071, 105063-105067.

⁸ ERNs 01462-101469, 105068-105071, 105063-105067, 105056-105059, FGD-05, FGD-03

⁹ See for example discussion in “Sexual Violence against Men and Boys,” in *International Protocol on the Documentation and Investigation of Sexual Violence in Conflict*, Second Edition, March 2017.

when seeking to interview victims and witnesses. Further investigative activities and related interventions are thereby warranted.

19. The Commission employed best practices for fact-finding, thereby ensuring the safety, security, confidentiality and the well-being of witnesses. The Commission only used information where sources had granted their informed consent, the disclosure of which would not lead to the identification of sources or result in harm. The Commission thanks those victims and witnesses who shared their experiences. The Commission was at all times guided by the principles of confidentiality and “do no harm”.
20. The examples and case studies used in this paper deliberately do not specify dates and locations, in order to ensure the protection of victims and their families as well as witnesses. The details are stored on file in the Commission’s confidential archives, with the intention of being made available for formal accountability processes, subject to consent and witness protection issues. This also applies to information gathered by the Commissions on other forms of violations and abuses experienced by South Sudanese.

Legal framework

21. The Commission conducted its work while taking into account the domestic law of South Sudan, international human rights law, international humanitarian law and relevant criminal law. Factual determinations on specific incidents and patterns of conduct provide the basis for the legal qualification of human rights violations, crimes under the law of South Sudan and crimes under international law.
22. The Commission’s mandate emphasizes accountability, ensuring a focus on establishing responsibility for violations and identifying individuals and entities bearing responsibility for violations and crimes. The Commission has adopted a “reasonable grounds to believe” evidentiary standard. Its work is guided by the requirement to collect and preserve evidence to a standard that would support future accountability mechanisms, including criminal accountability.
23. Where the Commission found information linking alleged perpetrators to specific violations that would be sufficient to warrant future criminal investigations or prosecutions, such evidence was collected and preserved on a strictly confidential basis. Where insufficient information was available to identify the individuals responsible for violations and the acts or omissions were attributed to organs or offices of the Government of South Sudan, the State was identified as responsible. Where the acts point to the responsibility of an armed group or security force, that group or institution was also identified.
24. In South Sudan, conflict-related sexual violence takes place in the context of a variety of situations involving armed individuals and armed groups, and criminals taking advantage of conflict and insecurity to perpetrate violence with impunity. This includes situations that clearly constitute a non-international armed conflict, such as in Central Equatoria where the non-State armed group the National Salvation Front (NAS)¹⁰ is active and Government forces are involved in related counter-insurgency operations. This also includes situations of significant armed violence where armed groups and their command structures may be less clearly identifiable in military terms, including armed militias aligned to military forces. Conflict-related sexual violence can also involve acts taking place in the context of armed communities attacking other communities, such as in cattle-rustling.
25. While applicable international law may differ depending on the context in which conflict-related sexual violence is occurring, for example whether or not a situation meets the criteria for the application of international humanitarian law to a non-international armed conflict, most acts of a criminal nature are prohibited under the international human rights law binding on South Sudan, and generally also constitute crimes under national law and the offence of torture as defined in the United Nations Convention Against Torture, to which South Sudan acceded to on 30 April 2015.
26. The Commission is mandated to make information available for the Hybrid Court for South Sudan,¹¹ the Commission on Truth, Healing and Reconciliation and the Reparations and Compensation Authority, set out in Chapter V of the Peace Agreement, which the Government has committed to establishing.

¹⁰ “NAS” is the common term for the group, derived from Arabic; its English name is the National Salvation Front.

¹¹ See Chapter V of the 2018 Revitalized Peace Agreement, which has been endorsed by the African Union.

III. Gender inequality and its links to conflict-related sexual violence

27. The widespread use of sexual and gender-based violence against women and girls in South Sudan's conflicts must be framed within the context of the current legal framework and the broader socio-economic and political restrictions imposed on them.
28. Conflict-related sexual violence in the context of South Sudan can only be understood in the context of both historical and modern patriarchal systems, which inform the social and cultural relationships. While the Constitution guarantees equality for women, substantive equality remains elusive for South Sudanese women who remain marginalized and subject to tradition and patriarchal constraints. Coupled with other structural risk factors, such as social, legal, political and economic marginalization, these create a context for violence against women and girls. Gender inequality and impunity—which are not unique to South Sudan—contribute to exacerbating the conditions in which sexual and gender-based violence is perpetrated against women and girls. Impunity for these crimes reinforces, rather than challenges, these pre-existing norms and patterns.
29. South Sudan is one of few States where the United Nations Gender Inequality Index has not quantified the extent of gender inequality, due to the lack of available data.¹² However, South Sudan has been ranked 185 of 189 States on the Human Development Index, which, taken together with other data, indicates the extent of gender inequality.
30. Women are also dramatically underrepresented in positions of political and cultural authority, despite their participation in political and public life being both recognised and protected by law. Although the Transitional Constitution of South Sudan requires that the Government should promote women's participation in public life and their representation in the legislative and executive organs by at least 35 per cent as a positive measure to redress the imbalances of the past, this has not been applied, and women still fill very few positions at national level, and even less at state and county level.¹³
31. South Sudan has the highest maternal mortality ratio globally, with a woman more likely to die from causes related to pregnancy than in any other country, according to data compiled by the World Health Organisation.¹⁴ This is just one example of the outcomes of severe gender inequality.
32. UNICEF's "Child Marriage Country Profile" estimates that 1 in 2 young women in South Sudan were married off before the age of 18.¹⁵ Early marriages have emerged as a harmful and exploitative strategy employed particularly by families and communities with regard to girls who are separated from their biological parents, and who live with host communities.¹⁶
33. Women experience great insecurity, and are at risk of sexual violence, including rape, when they leave their homes, often walking long distances, in search of food, water, firewood, and other livelihood options.¹⁷ Women and girls also face protection concerns when seeking to access water or sanitation facilities. This invariably impacts on their health outcomes and demonstrates the intersectionality of violence and women's health. Where a woman or girl is placed at risk of sexual violence including rape, they may still be further punished or blamed by family members including through violence, as rape may affect the family's prospects for receiving a dowry price.¹⁸ This

¹² This in part reflects the extent of inequality areas as well as challenges associated with quantitative data collection and statistical analysis in the country.

¹³ Note that the Transitional Constitution was amended to revise this percentage figure up from 25 per cent, as part of the Government's implementation of the Revitalized Agreement into the Constitution. When the Cabinet of the Revitalized Transitional Government of National Unity was first appointed in 2020, it included seven women out of around 35 ministers. One of the ten State Governor positions subsequently appointed is held by a woman. The Commission understands there is one woman serving as a County Commissioner in the country.

¹⁴ World Health Organization, "Trends in maternal mortality 2000 to 2017: estimates by WHO, UNICEF, UNFPA, World Bank Group and the United Nations Population Division: executive summary," 2019, available at: <https://apps.who.int/iris/handle/10665/327596>

¹⁵ See: UNICEF, available at: <https://data.unicef.org/topic/child-protection/child-marriage/>

¹⁶ See for example Oxfam, "South Sudan Gender Analysis, 2017, pp. 44, available at: <https://oxfamilibrary.openrepository.com/bitstream/handle/10546/620207/tr-south-sudan-gender-analysis-060317-en.pdf>

¹⁷ Ibid. As an indicative example, ninety percent of respondents in the Oxfam study said that securing clean water was the responsibility of women.

¹⁸ Global Women's Institute of the George Washington University, "No Safe Place: A Lifetime of Violence for Conflict-Affected Women and Girls in South Sudan," 2017

existing prejudice underscores and compounds the extreme and lasting effects of rape and sexual violence in conflict.

34. Sexual violence and gender-based violence against women and girls are not confined to situations of conflict, although they are in all instances taking place against a backdrop of endemic impunity for such crimes. They reflect the State's failures or absence in providing protection from violence through preventing and punishing gender-based crimes.

IV. Conflict-related sexual violence against women and girls in South Sudan

35. There is no official State body in South Sudan that collates disaggregated data on the number of women and children who have been victims of sexual violence in the context of the conflict in South Sudan. The most recent report of the Secretary-General's Special Representative on Sexual Violence in Conflict notes that sexual violence is used as a tactic to displace and terrorize rival communities, that forced marriage and sexual slavery are chronic features of conflict, that access to services for survivors remains extremely challenging, and that impunity needs to be tackled including through prosecuting perpetrators of sexual violence, regardless of rank.¹⁹
36. The Commission through its documentation has amassed a considerable archive on incidents of conflict-related violence, focusing on rape, including gang rape, sexual violence, sexual slavery, forced marriage, torture and a range of sexually degrading cruel and inhuman acts and beatings.
37. Incidents of rape and sexual violence documented by the Commission indicate that adolescent and underage girls, and young women below the age of 30 years old, are specifically targeted by armed men and are disproportionately affected as a group. Perpetrators include armed men, uniformed and non-uniformed, who have been identified as part of regular or of non-State armed forces, including from different units of the South Sudan People's Defence Forces (SSPDF) and the South (Sudan People's Liberation Movement/Army-In Opposition) SPLM/A-IO. Militias with links to powerful individuals or institutions, as well as groups involved in organized armed violence between communities in the context of cattle-raiding, are also among the perpetrators. Incidents of rape and sexual violence often take place in the presence of family members, which is intended to destroy families and communities, as family members are forced to witness their wives, sister or mother raped and gang raped. Parents have been forced to watch as their children or babies are murdered, some have been forced to rape and violate loved ones.
38. Establishing the patterns and trends of conflict-related sexual violence is critical to understanding the structural drivers of violence against women and girls, in order to address accountability and prevention in the long term. The patterns documented include the link between sexual violence and economic interests, ethnic displacement of populations linked to control of territory and the characterization of women and girls as property, and spoils for the taking. In addition, poverty and widespread insecurity, political elite interests and the failure to pay the armed forces on all sides as well the existence of militias and armed groups creates a permissive environment in which women are regarded as currency. The failure to implement the security sector arrangements set out in the 2018 Revitalized Agreement have profound repercussions on the ongoing conflict at a range of levels.
39. Widespread sexual and gender-based violence in South Sudan reflects the context of widespread insecurity and impunity for crimes, including counter-insurgency activities implicating the SSPDF and NAS in Central Equatoria, the ethnic dimension of violent political conflict in Western Equatoria, the ongoing conflict in Unity State and the proliferation of localized conflicts in many other parts of the country.²⁰

¹⁹ "Conflict-related sexual violence: report of the United Nations Secretary-General," S/2021/312, paras. 47-51.

²⁰ Note that in many cases, while a pattern of sexual violence may be occurring in a single geographical place so be primarily localized, it is taking place in the context of subnational, national and other structures that are key drivers or enablers of such patterns, for instance in the case of underpaid or unpaid Government soldiers in Central Equatoria who are increasingly predatory on local populations.

A. Rape and other forms of sexual violence

Gang rape and mass rape

40. Rape perpetrated by groups of armed men against women and girls comprised the majority of conflict-related incidents of sexual violence documented by the Commission.²¹ Incidents involve multiple armed perpetrators raping multiple women, in incidents of mass rape, involving individual women being gang-raped by multiple men.²²
41. Incidents documented by the Commission reveal the complicity of perpetrators in carrying out the crime, through holding down the victim while another man forcibly penetrates her sexually with his penis or other object, awaiting his turn, and also through guarding and threatening witnesses to prevent them intervening or seeking help.

“I was dragged into a nearby bush, where one of them raped me while the other held my arms and watched the other one. When the man finished, the other man attempted to rape me” – a woman in Western Equatoria.²³

“Men armed with sticks... beat me and one raped me while the others watched” – a woman in Jonglei.²⁴

“They started biting me... They (four men) did not talk between themselves. Two of them held my hands down while others raped me. They ripped off my dress and raped me with without protection. They all ejaculated on me. I was screaming... but they put their hands over my mouth and punched me on my chest” – a woman in Central Equatoria.²⁵

“One of them raped me while the other two held my legs and watched. When he finished, another one raped me, while two pressed me to the ground, until each one of the four men raped me. When they finished, they started smoking cigarettes, discussing how they would enjoy me the whole night” – a woman in Jonglei.²⁶

42. Many women and girls told the Commission that they were threatened with being killed if they resisted being raped,²⁷ with many rapes taking place at gunpoint.²⁸

“They kept saying, we want to sleep with you, open your legs. If you refuse, we are going to kill you,” – a teenage girl attacked in the context of conflict in Juba.²⁹

“After one man bit me, another pointed the gun directly on my chest and said if I don’t accept them then he will kill me” – a woman attacked in her home, with her children were nearby, during a raid of soldiers on her village in Central Equatoria.³⁰

“He cocked his gun as though about to shoot me... he pinned me on the ground before pushing his thing in mine... I started bleeding and he just continued to rape me for a long time, also beating me with his gun in between” – a teenage girl attacked during a raid on her village by soldiers in Central Equatoria.³¹

43. Survivors recounted horrific stories of being raped multiple times by the same man, in the context of mass rapes where other women were also being raped, or by multiple men.

²¹ Rape involves a perpetrator or perpetrators using a sexual organ to invade any part of the body of a person in any way, or by using another object to invade a person’s sexual organ or genitalia or anus, in the context of the act being done by force or by threat of force or coercion, or in a coercive environment or where genuine consent is not possible. See *International Protocol on the Documentation and Investigation of Sexual Violence in Conflict*, Annex 1.

²² While the term gang rape generally infers a victim or victims being raped by multiple perpetrators, a mass rape tends to infer that there are a particularly high number of victims.

²³ 104859-104864

²⁴ 105021-105028

²⁵ 103766 - 103770

²⁶ 105002-105016

²⁷ 105037-105043, 105072-105075

²⁸ 103726-103730, 103721-103725

²⁹ 105072-105075

³⁰ 103746 - 103750

³¹ 103721-103725

“He raped me 9 times, one round after the other, with some small breaks, until my private part started bleeding, and he stopped. The soldier seriously assaulted me, he treated me like an animal. He kept shouting in his language to me as I cried. I heard cries coming from other women who were being raped” – a woman in Unity State.³²

“The soldier slept with me for some time, and I do not know how long it was for, because it seemed to take very long. I was screaming begging him to stop because I was in pain, but he did not stop. I could see the other ladies also getting raped, and they were screaming” – another woman in Unity State.³³

44. Incidents of gang and mass rape documented by the Commission reveal a pattern in which the rapes are carried out either during attacks on villages or settlements, and while women and girls are engaged in livelihood activities, typically including gathering food or firewood outside the villages or settlements in which they reside.³⁴
45. Gang or mass rape carried out during attacks on villages or settlements appears to involve a high degree of planning and deliberate intention, as with incidents of killings and lootings carried out during these attacks.³⁵ A resident of Jonglei State, now living as a refugee, described how armed men whom she identified as Shilluk soldiers arrived by boat and attacked her riverside village: in the ensuing attack, five soldiers captured her, raped and tortured her, while delivering a beating with the butts of their guns.³⁶ This incident is similar to many incidents of gang and mass rape perpetrated in Western Equatoria during 2021, where villages were attacked by armed men (see case study, below). Similar patterns were established in numerous incidents documented by the Commission in Central Equatoria in 2020 and 2021. Outside villages and settlements, where women and girls reside with male relatives and neighbours, victims of sexual violence have been targeted while searching for food, travelling to a farm or garden, or collecting charcoal or firewood and going to collect their monthly rations.³⁷ These areas, including village paths and roads or streams, tend to be relatively remote and isolated. Women and girls usually travel in groups or pairs, as do armed male perpetrators, who prey on these groups of women and perpetrate gang rape and mass rape. The Commission also documented that these are not random opportunistic incidents but usually involve armed soldiers actively hunting down women and girls.
46. Witness testimonies describe being captured and taken to encampments in forested areas where the perpetrators have set up temporary shelters. Many victims were not able to identify the specific location of the places they were taken to, detained and where they were gang raped. Women and girls interviewed described how they were forced to walk through bushes and forests for long periods, with the aim of deliberately disorienting them.
47. A mother of four children from Unity State, from a family of six siblings, described how in 2017 she and three women friends were walking the six-hour round trip from an IDP camp to gather firewood, when they ran into five armed men wearing military uniforms, who then brutally raped each woman multiple times, resulting in one of the women dying from her wounds that day.³⁸ In another incident, in 2021, a woman in Jonglei narrated how she was attacked and gang-raped by four armed men while she was in the bush collecting firewood, rendered unconscious for the entire night, and left for dead.³⁹
48. The Commission also documented how the proximity of military barracks to civilian settlements and villages, while facilitating the predatory behaviour of soldiers against the local population, notes that some of the attacks appear to have been deliberately planned. In parts of the country, such as in Unity and Central Equatoria, women and girls travelling to pursue livelihood activities are usually not accompanied by men or boys, as the men and boys fear being detained, or tortured, or forcibly recruited if they leave the camps. As a result, women and girls are much more vulnerable and easier prey for perpetrators.

³² 105032-105036

³³ 104989-104992

³⁴ These are identified trends rather than being exclusive or definitive.

³⁵ Note this has been identified as a trend rather than as an absolute pattern applicable to all such situations.

³⁶ 105059-105062

³⁷ 105017-105020, 105037-105043

³⁸ 105037-105043

³⁹ 105002-105016. Note that other prevalent forms of sexual and gender-based violence against women, including violence perpetrated by intimate partners and family members outside of or not in relation to conflict settings, often do involve a single perpetrator and single victim, as has been previously discussed in reports of the Commission.

49. The Commission has also documented incidents of sexual violence involving individual perpetrators and victims occurring in the context of conflict, for instance when an armed man attacks a lone woman in an isolated location.

“We decided to separate so we could collect firewood from different places... a man carrying an AK47 approached me... He pushed me hard on the ground and told me to be quiet, otherwise he would shoot me.... (after) some time, he was finished, got dressed and left. I got dressed and picked up the firewood I’d collected.” – a young mother in Unity State.⁴⁰

50. Numerous women and girls who suffered gang and mass rapes described how they were effectively left for dead by their perpetrators. A teenager raped in Juba said that after three men raped her, she heard them speaking among themselves, saying they “should leave this girl who will die”.⁴¹ Many women and girls have died while trying to flee being raped. They have either been killed during the attack, or in the course of escaping, some drowning while seeking to cross dangerous watercourses.

Abductions, detentions and sexual slavery

51. The Commission documented the experiences of numerous women who had been abducted and detained against their will, for long periods of time and used as sexual slaves by armed groups. They were also forced to carry out other tasks such as cooking, and the fetching of firewood and water. Service providers assisting victims of rape and sexual violence who have fled to refugee camps from different parts of South Sudan have confirmed that where women have been abducted and detained by State or non-State armed groups, they have suffered rape and other forms of sexual violence.⁴²

“The most important things to know are: the soldiers kept me at the barracks for six months, I was sometimes beaten, and I conceived my last born there before I fled. I also saw more civilians being brought into the barracks, with soldiers killing some” – a young woman abducted and detained in a military camp in Central Equatoria.⁴³

52. Women abducted and detained for long periods of time have been forced into sexual slavery and also other forms of exploitative gendered roles. A woman recounted to the Commission how she was abducted in Upper Nile around 2015 by a group of men and then forced into sexual slavery and repeatedly raped, while also being forced to cook and wash clothes. Following the repeated rapes, she became pregnant and conceived, giving birth to children.⁴⁴ In circumstances amounting to sexual slavery and sexual violence, she explained that she has been compelled to remain with one of her abductees who fathered two of her girls.⁴⁵
53. Conflict-related violence including sexual violence in South Sudan has an ethnic dimension, as the fate of abductees usually depends on their ethnic affiliation, confirming that the attacks are often targeted. Women and girls of the same ethnic origin as their captors reported to the Commission that they have been treated differently to women and girls from other ethnic groups. A young Azande woman in Western Equatoria abducted by teenage boys from the Azande militia, was abducted, detained and taken to military barracks where she witnessed detainees from other ethnic groups killed. After being moved back to a bush camp, her captors told her that had she been ‘Balanda’ she too would’ve been killed, rather than only being tasked with cooking duties.⁴⁶
54. In most instances of abductions in conflict areas, the situation of abducted women and girls remains unknown to their family members, even years after their enforced disappearance. Fathers, husbands, children and other relatives must live without knowing the fate or whereabouts of their loved ones.
55. A father of two young girls and two young boys described to the Commission how after several years he still did not know what had happened to his children and wife who had been abducted from their village in Pibor County in 2017. Of Murle ethnicity, the man said they were among 100

⁴⁰ 105017-105020

⁴¹ 105072-105075

⁴² FGD-05

⁴³ 104961-104964

⁴⁴ 103667-103673

⁴⁵ 103667-103673

⁴⁶ 104842-104846

people in his village abducted during an attack by armed men, allegedly by Dinka soldiers in government uniforms.⁴⁷ This village was the site of further raids in 2020; with women abducted and used exclusively as sex slaves by their captors, as previously reported by the Commission.⁴⁸ Another man informed the Commission that his wife was abducted by government soldiers and he has not been able to trace her whereabouts, and had been discouraged by authorities from investigating further, although he heard through informal channels that his wife “had been given to a Dinka man who initially married her and later passed her on to another Dinka man.”⁴⁹ The husband was so distraught that he said that he had considered taking his own life as a result.

56. In Jonglei, the abductions and detention of both women and girls have been a characteristic of the conflict involving members of ethnically different pastoral communities, as previously noted by the Commission.⁵⁰ A man from a Nuer family told the Commission how his wife had gone missing after leaving a Protection of Civilians (POC) site, at the time run by the United Nations Mission In South Sudan (UNMISS), to fetch water. He tried to follow-up on her disappearance but could not establish where she had gone. His inquiries confirmed that she had been kidnapped by a Dinka man who then forced her to marry and have children with him. The Nuer father of three boys and one girl said that his teenage daughter later also went missing whilst seeking medical care outside the POC, and that he had then received phone calls from her explaining that she had been kidnapped and was being held with together her mother by the same captor.⁵¹
57. Nuer women at the POC in Jonglei informed the Commission of female family members being abducted by Dinka men residing in nearby areas, forced into coercive relationships with their abductors including being forced to bear their children⁵² The Commission learnt some Nuer women, in relationships with Dinka men who deserted them, had their children subsequently abducted by the father.⁵³ One mother said that she knew where her children were being held but had been unable to reunite with them, as she feared the abductees and the lack of intervention by authorities.⁵⁴ Rape and other forms of sexual violence were also found to be prevalent around the POC site.⁵⁵

Sexual Torture, Beatings and Cruel and Inhuman Treatment

58. Cases of rape and sexual torture against women and girls, often involve the penetration of the vagina, anus or both orifices with foreign objects, such as pieces of wood or sticks,⁵⁶ causing serious injuries and often resulting in death, as told to the Commission by two women from Unity State describing separate incidents:

“One man said that he was tired but wanted to continue to have fun. He picked up a firewood stick and forced it inside the vagina of (one of my friends), who started to bleed, began vomiting and then died... we found her dead body which remained in the bush.”⁵⁷

“The attackers took one branch (of the collected firewood) and proceeded to take off the little branches attached to it, so it looked like a stick... They inserted the stick into my vagina, I started bleeding and lost consciousness because of the pain. They left me there because they thought I would die. When I awoke, the attackers were gone and the stick was still inside me.”⁵⁸

59. A woman in Unity State also described to the Commission how while searching for firewood outside a displacement settlement she was abducted by armed men, she described as deserted soldiers, each of whom raped her throughout the night. In the course of the multiple rapes, she was dragged through thick bushes and thrown against tree stumps on the ground, sustaining multiple

⁴⁷ 103639 - 103642

⁴⁸ See A/HRC/46/CRP.2, paras. 103-110.

⁴⁹ 103324–103327

⁵⁰ See A/HRC/43/56, paras. 30-36.

⁵¹ 103499-103503

⁵² 103490-103494

⁵³ 103525-103528, 103481-103485

⁵⁴ 103481-103485

⁵⁵ 103509-103514

⁵⁶ 102766–102770, FGD-05

⁵⁷ 105037-105043

⁵⁸ 102766-102770

injuries and scarring all over her body that are still visible some years later. Although she sought medical attention, her eye injuries, initially untreated, caused further damage following an infection:

“My eyes were burning. The tree stumps injured me because the men were dragging me on the ground. I have problems with my eyes which have been hurting since.”⁵⁹

60. Sexual assaults have involved victims being dragged along the ground or through bushes, being pushed against rough objects such as tree stumps, or being held down in uncomfortable positions in which the victim is vigorously and repeatedly struck against a hard object or surface, resulting in injuries such as broken and fractured bones, and wounds, and severe bruising as well as muscular and skeletal damage.⁶⁰ Beatings with objects, often with the butt of a rifle, are also common and cause massive injuries.

“Around five of the soldiers raped me. They also hit me with the butt of their guns on my chest, lower back and head. They tortured me throughout the rape” – a middle-aged survivor of an attack on her village by armed men in Jonglei.⁶¹

61. Many survivors showed the Commission the visible physical scars from their ordeals, in most cases including multiple scars from assaults with a piece of wood and or guns and other blunt objects, as well as from materials they may have been pushed up against during attacks such as tree stumps and walls and bushes.⁶² A woman who was part of a mass rape incident by soldiers in Central Equatoria explained how she viewed the experience:

“I was also hit all over my body and this is still so painful. This is why I say that I was raped brutally: I was being assaulted and also being raped.”⁶³

62. For victims with pre-existing health conditions, such as issues around the abdominal area or trauma from previous violence inflicted against them, the combination of beatings and sexual violence has exacerbated their existing injuries, causing serious health implications. A young woman in Central Equatoria raped by six men pleaded with them that her body could not handle the ongoing sexual assaults as she was still recovering from two recent surgeries in the lower abdominal area, but they ignored these pleas, and she thought she would die.⁶⁴ A young mother was raped by multiple soldiers in Central Equatoria just months after having giving birth through a caesarean section:

“By the time the fifth man was inside me... My stomach was on fire, and I felt like someone had thrown hot oil inside my vagina.”⁶⁵

63. Medical practitioners told the Commission that it is not uncommon to see women and girls who have been subjected to multiple incidents of sexual violence throughout their lifetime, and that for those survivors the repetition of physical injuries and psychological trauma have multiple health impacts.⁶⁶

Forced to witness sexual violence

64. A teenage girl present when her village in Central Equatoria was attacked told the Commission how her guardian was helpless in preventing armed soldiers from raping the women and girls:

“I heard my uncle telling the soldiers to kill him first instead of witnessing the soldiers raping us. While they were talking, three soldiers who had already taken away two women came and roughly carried me behind the tukul... I started bleeding and he just raped me and continued raping me for a long time, beating me with a gun in between... then he joined others who had finished raping, and started looting.”⁶⁷

⁵⁹ 105002-105016

⁶⁰ 104965-104970

⁶¹ 105059-105062

⁶² 104965-104970

⁶³ 103741-103745

⁶⁴ 103731-103735

⁶⁵ 104957-104960

⁶⁶ FGD-04

⁶⁷ 103721-103725

65. The Commission was informed of numerous cases where men were forced to watch their girl children, wives and sisters raped and killed.⁶⁸ A woman recounted what she considered to be a sickening threat from a soldier:

“One of the six men asked me a painful question. He said, ‘Tell us whether the rape was good. If not, we will immediately do it again...’

“Why are we raped and then insulted? What have we done to deserve such treatment? For how long do we have to suffer like this?”⁶⁹

66. Sexual violence in this context is strategically used to inflict psychological trauma on relatives and communities. While it has devastating consequences for the victims themselves, given the physical, psychological, social and economic effects, it may be even more traumatic for the victims' relatives, who experience feelings of helplessness and guilt at being unable to protect their next-of-kin. It may also have consequences for entire communities, as it creates fear and destroys the social fabric of the community.

“One raped me first, after removing my dress by force. The other one waited for the first one to finish, and he also raped me. This was happening in the presence of my mother and the children. It was difficult for my mother to watch what was happening to me while knowing that she could not help. She felt sorry for me and just cried.”⁷⁰

Forced unprotected sex, and unwanted pregnancies

67. The Commission also noted in the course of its investigations that perpetrators of rape typically do not wear any condoms or any form of protection and ejaculate inside or on the body of victim, causing many of them to fall pregnant and exposing them to the risk of sexually transmitted diseases.⁷¹ Victims are often reluctant or unable to seek timely medical attention following such acts.

“The nearest hospital was in (the Town I was raped), and I feared travelling back there because of what happened. Therefore, I never went to the hospital for medical attention. Now I am worried because I have missed my period. I fear that I might be pregnant.”⁷²

“I gave birth to a baby, a product of the rape. My husband’s brother told me that if I keep the child, he will kill me, that I could not keep the child of the enemy. After some months, the children and I joined people who walked to (a camp) for safety” – a woman in Unity State.⁷³

68. In the case of young adolescent girls, unwanted pregnancy carries distinct risks, including of injuries associated with childbearing when their bodies are still immature, which can lead to permanent and profound health impacts.⁷⁴ As well as concerns related to conceiving a child from the rape, women who spoke with the Commission more commonly expressed fears about being exposed to the risk of contracting sexually transmitted infections and related disease, particularly HIV and AIDS.⁷⁵

“All of us who were raped that day, that is the eight of us, are positive for HIV. My husband (is supportive, and) knows about my rape and my HIV+ status.”⁷⁶

69. In addition to health implications for the rape victim, and possibly for the children they give birth to, an infection or risk of a sexually transmitted infection can lead to abandonment by partners and families, severely impacting upon their livelihood options and ability to support their children.

⁶⁸ 104847-104854, FGD-08

⁶⁹ 103731-103735

⁷⁰ 104855-104858

⁷¹ 103746 - 103750, 103751 - 103755, 103756 - 103760, 103761 - 103765 , 103766 - 103770

⁷² 104859-104864

⁷³ 105037-105043

⁷⁴ See “Women and girls who become pregnant as a result of sexual violence in conflict and children born of sexual violence in conflict,” 31 January 2022, S/2022/77, para. 14.

⁷⁵ 102746-102750, 105032-105036, 103726-103730, 105063-105067, 103746 - 103750

⁷⁶ 102746-102750

"When my husband heard what happened to me, he said he was leaving me, that he could not be with me anymore because he did not want to get diseases. He left me and the children, and he is not support us... I am struggling to feed the children."⁷⁷

"After I travelled for medical attention (my husband) never returned... He did not want to get infected with diseases. I have not heard from him or seen him since. His family members are not talking to me, and none of his relatives have called to check on the children (who) I am struggling to support."⁷⁸

70. Multiple women who were pregnant at the time of the rape described unsuccessfully pleading with the perpetrators to stop.⁷⁹ Rapes and associated violence in some documented instances resulted in pregnancy complications or miscarriage, as well as associated social stigma and the resulting adverse implications for women's livelihoods in cases where it has resulted in the woman and child being abandoned by their partner. Culturally, in some communities if a lactating mother has sex with a man, especially if they are not their husband, it is seen as potentially poisoning the baby.

"I was two months pregnant when the soldiers gang-raped me. My husband said that he could not be with me until the birth of the baby, in case the baby is born with sickness" – a young mother in Central Equatoria⁸⁰

"They only used their penis in me, but I had a lot of pain because I was three months pregnant. I immediately miscarried" – a young woman in Jonglei.⁸¹

Sexual violence in the context of multiple forms of violence

71. South Sudanese women and girls who suffer rape and sexual violence in conflict experience multiple forms of violence and human rights violations, including killings, attacks and arson on villages and settlements, displacement and loss of livelihood raising the intersectionality of their experiences of conflict. In most cases the trauma, physical harm and damage to livelihoods are incurred concurrently, as evidenced in multiple witness testimonies.
72. Testimony from a woman refugee from Eastern Equatoria who had been the victim of sexual violence described violations by "rebels" during the period 2015-17 against members of her family (her description could not be directly established in relation to a particular armed group although she noted they had emerged from a camp in the bush). She told the Commission how the torture and severe beatings of her husband and family members caused his immediate death and the eventual death of her son once they had fled the country for refuge. She and her 15-year-old daughter, also survived the brutal incidents of sexual violence including vaginal rape. Both continue to suffer severe physical and psychological injuries. Following the multiple rapes and sexual violence, the witness described how her genitalia were torn, bleeding from both her vagina and anus, experiencing the temporarily paralysis of one leg. She lost a significant amount of weight and, after meeting a new partner, experienced two pregnancies, both of which ended in miscarriages. Several years later and following medical treatment, the woman still experiences pain in the pelvic area, including when urinating. She described her daughter's uterus as having been visibly pushed toward the vagina, having suffered a traumatic tear. Fistula injuries quite common to rape victims. It was only when they arrived in a refugee camp that they could both access medical care. In describing her situation to the Commission, she noted that even the limited counselling she was able to access has made an impact on her life:

"The only psychosocial support I got was from pastors who have helped me to overcome my trauma. This is why I have the courage to speak to people about my experiences and remain strong. When I speak about how my child was tortured and died, it pains me so much that I don't want to remember. But only through speaking can I get some help."⁸²

73. Another woman described in horrific detail, the attack on her village in Jonglei by an armed rebel group. In the attack, her mother was killed and then she herself was gang raped at gunpoint by so many men that she lost count. Having just entered her second trimester of pregnancy at the time

⁷⁷ 104965-104970

⁷⁸ 104957-104960

⁷⁹ 103751 - 103755, 103761 - 103765

⁸⁰ 104855-104858

⁸¹ 105079-105082

⁸² 105056-105058

of the gang rape, she bled for days before arriving at a medical clinic where she received treatment. She subsequently lost the baby. She then had trouble conceiving again with her husband, who ended up abandoning her, for this reason and out of fear that she carried a sexually transmitted infection that could be passed onto a new wife. She left South Sudan in the hope that her children could find peace and improved lives. Still, she experiences pelvic pain and irregular periods, along with back and stomach pain due to the gang rape. Beyond the rape, the premature death of her mother and the miscarriage and loss of her husband have profoundly affected her lived experience and that of her family.⁸³

B. Conflict-related sexual violence at subnational level

Central Equatoria State

74. Conflict-related sexual violence against women and girls has been a characteristic of the conflict in Central Equatoria for many years, as noted by the Commission in its first report published in 2016.⁸⁴ Conflict related sexual violence remains prevalent at the time of reporting, as evidenced by the Commission’s engagement with victims, witnesses, public officials, medical practitioners, and service providers up until February 2022.⁸⁵
75. Central Equatoria is highly militarized, with a range of armed groups involved in armed conflict, including the South Sudan’s Peoples Defence Forces (SSPDF), Sudan People’s Liberation Movement/Army-In Opposition (SPLM/A-IO) and NAS.⁸⁶ Prior to the signing of the Revitalized Agreement in September 2018, the Commission documented clashes between the then-Sudan People’s Liberation Movement/Army (SPLM/A) and the SPLA-IO, and incidents of sexual violence perpetrated by soldiers from both sides.⁸⁷ Since then, forces aligned to the SPLM-IG – the SSPDF – and the non-State armed group NAS (which was formed in 2017) are implicated in the ongoing conflict in the three Equatoria states. The Commission has also documented ongoing human rights violations and abuses linked to the conflict and clashes between the Government’s SSPDF and NAS, which is not yet a party to the Revitalized Agreement.⁸⁸ The violations and abuses documented by the Commission include killings, rape and sexual violence, forced recruitment, detentions and mass displacement.⁸⁹ Since early 2022, there has been a proliferation of heavily armed cattle-keeping groups increasingly moving southward into parts of Central Equatoria, causing insecurity and destabilizing the livelihoods of local residents, who depend on crops that are now being damaged by the cattle keepers.⁹⁰ These cattle keepers have a strong presence in both urban centres and remote villages, and are alleged to be closely linked to political elites at national level.⁹¹

Lasu Payam, Yei River County in 2020

76. SSPDF soldiers based at the Lasu military barracks in Lasu Payam carried out a brutally violent military operation against civilians, which peaked between mid-December 2019 and February 2020. The attacks involve the commission of numerous gross human rights violations including rape and sexual violence against women and girls residing in surrounding villages. This followed an earlier armed attack by armed NAS members on an SSPDF contingent in which NAS Forces overran the SSPDF’s Lasu Barracks from 13 December 2019.⁹² When SSPDF soldiers reasserted

⁸³ 105079-105082

⁸⁴ See A/HRC/37/CRP.2, paras. 279-357.

⁸⁵ Confidential Meeting, November 2021#3, Confidential Meeting, November 2021#4, Confidential Meeting, November 2021#5; Confidential Meeting, January 2021#1, Confidential Meeting, July 2021#1

⁸⁶ As noted above, “NAS” is the common term for the National Salvation Front. For further details from the Commission on Human Rights in South Sudan about the militarization of Central Equatoria and related human rights violations and abuses, see for example A/HRC/40/CRP/1, 20 February 2019, paras. 748-805 and A/HRC/49/78, 18 February 2022, paras. 59-62.

⁸⁷ Ibid (2019). Confidential Meeting, undisclosed location, February 2022.

⁸⁸ Although it is involved in the “Rome Talks” peace process.

⁸⁹ See A/HRC/49/78

⁹⁰ Confidential Meetings, locations undisclosed, February 2022.

⁹¹ Confidential Meetings, locations undisclosed, February 2022.

⁹² Other unlawful acts included, inter alia, the occupation by soldiers of the Lasu primary school, which constitutes a grave violation of the rights of the child as protected under the Convention on the Rights of the Child to which South Sudan is a State Party. See Panel of Experts on South Sudan, S/2020/342, 28 April 2020, paras. 45-53.

- their control of the area around 16 December, they embarked on a retaliatory and punitive campaign against unarmed vulnerable civilians in the area who, in the soldiers' eyes, are NAS members or supporters.⁹³
77. In late February 2020, the Commission interviewed 10 women and girls, victims from the Lasu area who had survived the brutal rape and sexual violence arising during this campaign. They had also witnessed the looting and destruction of their village and livelihoods.⁹⁴ Some had also lost male friends, family members and neighbours, all killed by the soldiers.⁹⁵
78. A young mother and a teenage girl related to her, described in separate testimonies, how around 30 armed SSPDF soldiers entered their village late one afternoon and embarked on a campaign of terror, beating residents and looting property.⁹⁶ The girl described how three soldiers each vaginally raped her at gunpoint, and ejaculated inside her.⁹⁷ The mother, who was two months pregnant, recounted how a soldier brutally raped her in the presence of other family members, who pleaded for the violence to stop, but were prevented from intervening by soldiers who threatened to shoot them dead.⁹⁸ Degrading verbal abuse accompanied these violations, for instance one soldier reportedly declared that, "All property here is the property of the SPLA, it's not for you. We will take everything that belongs to us including the women."⁹⁹
79. The Commission also documented the experiences of three women all in their twenties who were also raped and sexually assaulted by soldiers in a nearby area. The three women had been displaced during fighting between the SSPDF and NAS in 2019, and had been living in an informal settlement with limited access to food. They accompanied three older women one morning to their fields to gather food, believing that they would be safer from attack in a group of six women who were of mixed ages; the men in their families would not join them for fear of being detained themselves and killed by soldiers.¹⁰⁰ When the women did encounter four SSPDF soldiers, they were first harassed verbally, and accused of trying to steal food and of providing support to NAS. The soldiers then forced the women to accompany them to an isolated place, then separated the older women from the group and assigned one of the soldiers to stand guard over them so they could not return to the settlement. The other three soldiers then sexually assaulted the three younger women, two of whom were vaginally raped by the men with their penises, while the other woman, also a young mother, was seriously beaten and also raped.¹⁰¹ One of the older women was about to be raped but one soldier intervened to stop this, although she was still beaten with the butt of a soldiers' rifle, and consequently suffered a back injury.¹⁰²
80. One of the three women who was sexually assaulted, a mother of four children, described how she was raped and severely beaten and that she carries severe pain in her body. Another survivor recounted her efforts to resist the rape:
- "I told him, 'I am a four-month pregnant woman and I cannot accept you to have sex with me.' Yet the soldier beat me. He hit me on my shoulder, back and waist, and finally raped me. I did fight with him... finally he removed my skirt and blouse before raping me. He used no condom and ejaculated in me. All of us were raped."¹⁰³
81. A number of the women reported their experiences to their men in their community, including their husbands and leaders, many of whom were supportive and encouraging of them to pursue

⁹³ The Commission has consistently documented and corroborated the widespread violent treatment of civilians in Central Equatoria by SSPDF soldiers on the basis that they are suspected of supporting NAS, in the context of counter-insurgency operations in urban areas and villages. 104901-104903, 104904-104906, 104941-104944, 104907-104910, 104911-104913, 104952-104956, 104837-104841, 104985-104988

⁹⁴ 103731-103735, 103721-103725, 103756-103760, 103751-103755, 103726-103730, 103741-103745, 103746 - 103750, 103761 - 103765 , 103766 - 103770

⁹⁵ Where urgent medical and psychosocial support had not been accessed or made available, the Commission supported referrals, although most of the survivors interviewed has already accessed health support and this was indeed a requisite for the conduct of interviews, which in no circumstances take priority over immediate health needs.

⁹⁶ For confidentiality and protection purposes, the precise dates of the crimes are not listed here, but these are securely stored in the Commission's confidential files and dossiers.

⁹⁷ 103756-103760

⁹⁸ 103726-103730

⁹⁹ 103726-103730

¹⁰⁰ 103741-103745

¹⁰¹ 103741-103745, 103771-103775

¹⁰² 103771-103775

¹⁰³ 103761-103765

accountability.¹⁰⁴ Although at least some of the soldiers had attempted to cover their faces with clothing, the three younger women told the Commission that nevertheless they had been able to identify the men.¹⁰⁵ The women were able to do this and when the Chief of their settlement reported the crimes to the local military commander, they were able to identify four of the perpetrators.¹⁰⁶ The survivors, who laid complaints, have been threatened for reporting the incidents and, are extremely fearful for not only their own safety but also for that of their family members, particularly husbands and children, as they risk retaliation by the perpetrators (for further discussion of barriers to reporting, see below).

82. The punitive retaliatory military operation conducted by members of the SSPDF based at the Lasu military barracks in the first months of 2020, did not go unpunished. The military judicial system, addressed some of the crimes perpetrated by holding some of the perpetrators accountable (see section on accountability efforts, below). While the Commission did not explore the full scale and extent of the human rights violations committed, or the harm suffered by victims and communities, as well as the lasting impact of continued attacks, the cases documented are illustrative of the experiences of women and girls who became victims of the rapes and sexual violence during that campaign. These are part of other violations including killings of family members, displacement, and looting, all of which are disruptive and have adverse impacts on livelihoods. While that violent campaign was conducted over a defined period, recent investigative activities by the Commission, in 2021, demonstrate that the same patterns and types of violence, including sexual violence, continue largely unabated in Central Equatoria.

Ongoing sexual violence and widespread predation on civilian populations in 2021

83. Witness statements, corroborated by the Commission, confirm that during 2021 SSPDF soldiers were the primary perpetrators of sexual violence against women and girls, as well as other violations against civilians.¹⁰⁷ Much of the rape and sexual violence documented by the Commission in 2021 occurred on roads and village paths where women and girls were travelling in groups, and is attributed to SSPDF soldiers. The Commission also received several accounts of SSPDF soldiers demanding goods, money and food from the women they had sexually violated.¹⁰⁸

“The way to resolve the situation is to remove the soldiers from the villages and move them far away from civilians. We are not safe if the soldiers are there. They will keep on attacking, raping women, and stealing and looting our belongings.”¹⁰⁹

“If I want to go to the bush to collect firewood, I cannot go alone, because it is not safe... There are soldiers raping women in bushes around town... Is it possible for you to talk to the government to remove soldiers from the village?”¹¹⁰

84. The Commission also documented numerous incidents of rape and sexual violence of women and girls during raids and attacks on their villages in 2021, which also included looting by SSPDF soldiers.¹¹¹ Testimonies of witnesses indicate that rape and sexual violence are designed to terrorize residents as part of a deliberate counter-insurgency strategy for depopulating villages, considered by the SSDPF to be loyal to NAS and providing them with safe havens.
85. Villagers, particularly women and girls, live with the constant threat and fear of sexual violence, when soldiers enter villages, harassing residents and demanding food and cooking from women and girls.

“Soldiers from the SSPDF barracks came to the village, looted and destroyed property, and raped women.”¹¹²

¹⁰⁴ 103741-103745

¹⁰⁵ 103771-103775

¹⁰⁶ 103741-103745

¹⁰⁷ Confidential Meeting, November 2021#3; Confidential Meeting, November 2021#4; Confidential Meeting, November 2021#5; Confidential Meeting, January 2021#1, Confidential Meeting, July 2021#1. Identifying features included uniforms, language spoken, physical appearance, weapons carried, and proximity of crime scenes to SSPDF military bases and installations.

¹⁰⁸ Confidential Meeting, November 2021#3; Confidential Meeting, November 2021#4; Confidential Meeting, November 2021#5; Confidential Meeting, January 2021#1, Confidential Meeting, July 2021#1

¹⁰⁹ 104837-104841

¹¹⁰ 104823-104826

¹¹¹ 104911-104913, 104929-104933, 104934-104936, 104937-104940, 104904-104906, 104914-104916

¹¹² 104837-104841, 104823-104826

“When soldiers came again... they beat civilians, looted property and told us to leave the village. Two of my friends told me they were grabbed by soldiers while they fled from the village, and taken into the bush, where they were each raped. The soldiers were speaking in Arabic, telling them not to return to the village.”¹¹³

86. The Commission has noted, in previous reports,¹¹⁴ how soldiers of the South Sudan People’s Defence Forces in Central Equatoria face extreme difficulties as they are deliberately neglected by the Government, suffer the delayed payment and even non-payment of their very low salaries. The neglect of soldiers has created an environment in which violations perpetrated against civilians are tolerated, with a military culture of predation whereby the perpetration of serious crimes is encouraged.¹¹⁵ Senior military officials and certain government officials have the authority to enforce discipline and allocate resources but have not done so; they therefore bear responsibility for the persistence of these acts.
87. The close proximity of soldiers to communities poses a huge risk to civilians, particularly in Central Equatoria where SSPDF members associate local residents with NAS, their military opponent, and punish them for this. Furthermore, the risks of women and girls of being exposed to rape and sexual violence are exacerbated as military personnel are not being paid and provided with sufficient resources for their basic subsistence. Consequently, they regard women and girls as spoils, in lieu of payment. They are neither discouraged from, nor held accountable for, their predatory behaviour. Thus, frequent raids involving house-to-house searches become terrifying for women and girls in this context, alongside the destruction of homes and property, together with widespread looting of food, produce and livestock.¹¹⁶

“When SSPDF come and ask for food, if we have it we must give it. When NAS come and ask for food... we must also give it. We are women, what should we do?”¹¹⁷

88. The Commission notes that given the diverse array of armed actors operating in Central Equatoria, and the challenges associated with the gathering of testimonies, it has not always been possible to determine which armed forces or groups are responsible for the human rights violations and abuses against women or girls in a number of incidents. Nonetheless, the Commission also documented several cases of rape and other forms of sexual violence perpetrated by members of NAS. These abuses took place in the context of abductions, consistent with an operational tactic designed to enforce civilians to provide support to NAS, to dissuade them from providing support to Government forces, and for the purpose of sustaining forces by forcing civilians to provide services such as portering and cooking which for some women and girls were also accompanied by exploitation for sexual servitude.¹¹⁸ Multiple women told the Commission that they were attacked by members of NAS around 2018 and held at their military camps for periods ranging from weeks to months.¹¹⁹

Unity State

89. Rape and other forms of sexual violence against women and girls have historically been a key characteristic of the conflict in Unity State since 2013, where victims have been targeted on the basis of their gender, ethnicity and political affiliation. While mainly women and girls were raped and sexually violated, men and boys have also been targeted. In addition to ethnic and political affiliations, victims have also been targeted on the basis of their relationship to a male member of the ‘enemy’ group namely being a wife, mother, sister or child. Many witnesses told the Commission that the perpetrators were deliberate in abandoning the traditional societal norms and

¹¹³ 104837-104841

¹¹⁴ A/HRC/49/78

¹¹⁵ Confidential Meeting, November 2021. 104837–104841 and 104904–104906.

¹¹⁶ Confidential Meeting, November 2021, 104833–104836, 104855–104858, 104837–104841 and 104823–104826.

¹¹⁷ 104941-104944

¹¹⁸ 104907–104910, 104833–104836, Confidential Meeting, January 2021#1, Confidential Meeting, July 2021#1. Confidential Meetings, undisclosed locations, January and February 2022. See also “Alleged NAS Attacks in Central and West Equatoria States April to June 2021,” CTSAMVM, 21 September 2021, https://ctsamvm.org/wp-content/uploads/2021/09/CTSAMVM-REPORT-2021_12-1-1.pdf and “Report...for the period 1 July to 30 September, RJMEC, para. 16, <https://reliefweb.int/sites/reliefweb.int/files/resources/RJMEC-3rd-Qtr-2021-Report-FINAL-2.pdf>, para. 16.

¹¹⁹ Confidential Meetings, undisclosed location, undisclosed month in 2022.

- practices such as the protection of the elderly and the young, by raping and sexually violating elderly women in their sixties and the very young.¹²⁰
90. Sexual violence during the period 2013 to 2016 in Unity State has been perpetrated along ethnic lines, and is linked to the broader conflict as it plays out amongst elites and sub-clans amongst the Nuer. The conflict in Unity has previously been documented by the African Union Commission of Inquiry in South Sudan (AUCISS), which in 2014 reported on incidents of sexual violence, which included rape, gang rape and the sexual assault of women, girls, men and boys which was widespread and extensive in Unity state. As Bentiu Town and surrounding areas changed hands between government and opposition forces, women and girls from opposing groups were deliberately targeted, raped and sexually violated and furthermore used by all of the armed groups as sexual slaves. Between 2014 and 2015, as the conflict raged, Unity became the focal point for rape and sexual violence, in areas such as Leer, Guit, Mayom and Mayendit. The United Nations Office of the High Commissioner for Human Rights (OHCHR) also documented numerous incidents of sexual violence in Southern Unity State, in an assessment mission conducted over 2015 and 2016. The OHCHR found that offensives in southern and central counties forced civilians, primarily women and girls, out of their villages, with most seeking refuge in the Bentiu POC site then-run by UNMISS, while men and boys mostly joined the different armed factions. During this period of the conflict, most perpetrators were less easily identifiable as government or opposition forces and identified as “unknown gun-men” or mask wearing attackers.¹²¹
91. From November 2018 to January 2019 there was a spike in the reporting of cases of rape and gang rape, following the signing of the 2018 Revitalized Agreement and prior to the formation of the Transitional Government.¹²² These reported incidents, which coincided with the 16 Days of Activism on Violence Against Women, saw numerous women raped in a short space of time; despite the perceptions that the security situation had improved in the area since June of that year.¹²³ Médecins Sans Frontières (MSF) noted this spike in the course of their own humanitarian support to women and girls and in November 2018 took the courageous step of publicly reporting on what they were witnessing. The MSF reports were corroborated and confirmed by other humanitarian agencies, members of the community in Bentiu and Rubkona as well as the Government.¹²⁴ The cases reported in the Bentiu Triangle of Bentiu, Guit and Nhialdu were shrouded in controversy, as the Government chose to publicly rebuke MSF for reporting these cases, rather than investigating those said to be responsible.¹²⁵ The Bentiu incidents are typical of patterns, trends and drivers of conflict-related sexual violence in South Sudan: this includes the militarisation of the area, including through the mobilization of youth militia to fight alongside government and opposition forces, and the creation of special defence forces linked to politicians and high-ranking officials.¹²⁶ A second factor involves other dynamics at local level including historical grievances that perpetuate conflict, and third, there is the impact of the protracted conflict on young people, where traditional social structures, that previously tempered young male behaviour, have become distorted.
92. Following the reporting of a large number of rapes in Bentiu, the Commission conducted its own follow-up missions in early 2020 and then in late 2021, to Bentiu and other locations in Unity State to gather additional information on the reported rapes in the area and to obtain a deeper understanding of the links between these incidents and the general cycles of atrocities and human rights violations in the state. In discussions on the spike in cases of sexual violence from November 2018, a witness told the Commission that “Bentiu has a long history of atrocity crimes, and that it will take a lot to achieve peace and stability.”¹²⁷ The witness explained that the spike in sexual

¹²⁰ In many parts of the country, motivations for sexual violence were primarily identified as retaliation and revenge, used to punish – especially in Juba, Bor and Malakal where members of the army defected – representatives of a community for acts perpetrated in Juba and even going back to historical conflicts such as the Bor Massacre of 1991. Other motivations for sexual violence included humiliating a group and/or prevention of reproduction of a particular group; this was in numerous witness narration collated by the AUCISS Report. More sexual violence also accompanied other violations such as burning of villages, houses and the stealing of belongings to move groups of people as various sides took control of territory.

¹²¹ A/HRC/31/CRP/6 para, 206

¹²² A/HRC/43/56, annex 1, paras. 58-60.

¹²³ See A/HRC/40/CRP 1 para. 453

¹²⁴ Following an investigation by a committee appointed by the President to the area.

¹²⁵ See Radio Tamazuj “No evidence to back claims of Bentiu rapes: investigation team” December 2018

¹²⁶ Confidential Meeting, September 2021#4

¹²⁷ Confidential Meeting, February 2021#1

violence was a confluence of several factors, which were known to authorities and that despite the initial willingness of the Government in Juba to respond, officials on the ground at state level “were in denial stating that there were no people raped and claiming there was no concrete evidence”¹²⁸

93. The incidents of rape and sexual violence, perpetrated in Bentiu in December 2018 involving more than 100 women over a 10-day period, were initially dismissed by the Government of South Sudan as “unfounded and baseless allegations”, but were later found by the Government’s own Investigation Committee to have taken place. The Investigation Committee’s final report conceded that some of the violations had taken place, although the Government continued to maintain that the numbers reported by MSF were an exaggeration.¹²⁹ The Commission’s own investigation uncovered that the pattern and timing of the incidents of rape and sexual violence was related to the monthly movement of women and girls traveling to the Bentiu POC to receive the food distribution by the World Food Programme (WFP), and to collect some of their food stored by other family members. And, as shared by one witness, the groups were also collecting black soil to decorate their houses and huts for the nearing Christmas period. Violence surged during this period of increased movement.¹³⁰
94. The violations committed in Bentiu in 2018 were perpetrated by armed actors affiliated to one or other side of the conflict. While many of the survivors spoke of their attackers as unidentifiable, because the perpetrators concealed their identities, they said that the men who attacked them wore civilian clothing, while some wore military clothing or included men dressed in uniform as well as in civilian clothing.¹³¹ They were always armed, carrying weapons with them including guns; victims also noted the large numbers of youth amongst the perpetrators.¹³² In describing the links between perpetrators of sexual violence and local political dynamics, the Commission was told:

“The perpetrators are armed men. Everyone in Bentiu carries guns to protect themselves, cattle and their belongings. Armed youth are allied to [County] Commissioners and they take part in violence. They know themselves and which village supports which side. So many attacks and violence including sexual violence is part of revenge violence. They would rather rape women and abduct because they know that you will follow to look for your wife/daughter.”¹³³

95. Youth identified as perpetrators have played a key role in the conflict, recruited by fighting forces, but at a later stage remaining behind as the conflict moved to another location to ‘protect the home front’ and assets that remain behind such as cattle, or in defection to an opposing side. The fluidity in affiliation and allegiance has had significant consequences where sexual violence is concerned. These groups or dormant fighting forces engage in serious criminal activity during times of no combat where civilians, and in particular women and girls are targeted for not only their possessions but sexually assaulted as well. The Commission heard that:

“These youth joined the war before but they remained behind when the forces moved. They also join but are not very active in the forces, they are not mobilising others to join – for example, if you live in the POC so you don’t want to be known. These people stay behind to look after their cattle and act like support to those who have control of the area [...] they take opportunity in criminal acts, for example in Nhialdu there are people who don’t want to be in the POC then they leave because they want fresh air and water but they participate in military [activities] as protection. They are allowed to attack civilians, rape to keep them happy and maintain support.”¹³⁴

96. The Commission documented how young armed men who have committed these violations, change their affiliations over time. While most of the fighting forces on all sides rely on the youth militias and self-defence units to gain and control territory, their allegiance can be lost just as

¹²⁸ Confidential Meeting, February 2021#1

¹²⁹ Radio Tamazuj “No evidence to back claims of Bentiu rapes: investigation team” December 2018. Refugees International October 2019. Report of the Investigation Committee for Alleged Incidences of Rape in Bentiu (unpublished).

¹³⁰ Confidential Meeting, February 2021#1

¹³¹ See A/HRC/40/69/3 para 40, Confidential Meeting, September 2021#1

¹³² Refugees International October 2019, “Still in Danger: Women and girls in South Sudan face Sexual Violence in South Sudan despite Peace Deal”, page 13

¹³³ Confidential Meeting, February 2021#1

¹³⁴ Confidential Meeting, February 2021#1

easily as it is gained. For example, the Commission was told about a former Governor of Southern Liech:

“He was unable to maintain control of the whole state, not many youths supported him. The attacks start from Northern Liech area to go to Leer and Mayendit. These youth are difficult to manage and control. If they are not pleased with you, they rebel. The Commissioners allow them to behave how they want, if I take women and cows this is considered my pay.”¹³⁵

97. Because of the frequent shifts in allegiance between different individuals and groups, it has been difficult to identify who commanded forces in the area. In addition to the several groups aligned to the various factions in the army were the Special Mobile Forces allied to the Government and loosely integrated into the SSPDF. This special group from Mayom is largely composed of youth who have not necessarily undergone any training and serve as bodyguards for political figures. They are in key security positions and are used to carry out revenge missions.

“When they come down and take girls, cattle and destroy houses, part of it is also to take revenge”.¹³⁶

98. Witnesses told the Commission that many of the incidents of sexual violence, perpetrated in November 2018, were part of a deliberate campaign of revenge against women and girls belonging to various subclans and communities. The political conflict between the Bul and Jikany clans goes back historically to the disagreement between Paulino Matip and Taban Deng Gai, and which included attacks against civilians with tanks and other heavy weapons.¹³⁷ The ongoing fights for control of territory and the historical grievances keep the most vulnerable in the communities at risk and ultimately prolong the war and its impact.

“The majority of women raped are from Jikany and Leek and others from Dok and Jaggei. But the people in charge of security, the army, police and national security are from Bul, Mayom, and have been protecting the Governor.”¹³⁸

99. The Commission also heard that the protracted conflict has ruptured the social fabric of these communities and has had a severe impact on young men, who reject the usual societal norms and constraints. The combination of the lack of accountability for these crimes, coupled with perceptions around the “interference of the culture” and inability to access resources all contribute to the criminal conduct of young men perpetrating sexual violence.¹³⁹

“The lack of accountability promotes the youth to misbehave, they are never held accountable. There is interference of the culture, where you fall in love with a girl and if she refuses you force her against her will. Rape is not a crime amongst us Nuer... Parents will have no option, they will say ‘Nyal cha kap’, ‘the girl has been lifted by force and taken against her will’.

“Youth have become part of these practices. The current war has intensified this practice, war is creating this brutality. There is a lack of resources. Most of the youth cannot afford to marry, now cows are being controlled by big people. Most cows are now under the control of Mayom [County Commissioner], the only county to not rebel. When they retaliated, they took many cows in the county. The youth have no access to cattle to marry, they take girls by force and say ‘let us wait until the war is over then we go to your family.’”¹⁴⁰

100. The Commission was informed that during the rainy season residents of the Bentiu POC would collect and save the food distributed by humanitarian agencies, including by storing food with family and friends. Also, when the security situation allowed, residents would return to their villages and homes, including in Guit and Nhialdu, but move back to the POC when insecurity returned. In the dry season, they would travel to Bentiu to collect their food to sustain them until the rains came again. The women would therefore move between their homes and the POC in large

¹³⁵ Confidential Meeting, February 2021#1

¹³⁶ Confidential Meeting, February 2021#1, Confidential Meeting, March 2020#1

¹³⁷ Confidential Meeting, March 2020#1 and see Amnesty International, 2012 “South Sudan Overshadowed Conflict: Arms supplies fuel violations in Mayom County, Unity State” that details attacks against civilians in North Unity State using heavy tanks and weaponry in conflict that included Paulino Matip trained Peter Gadet and then Govor Taban Deng Gai.

¹³⁸ Confidential Meeting, March 2020#1

¹³⁹ Confidential Meeting, September 2021#2, Confidential Meeting, September 2021#3

¹⁴⁰ Confidential Meeting, March 2020#1

groups for security purposes, which accounts for the larger numbers of women moving who were targeted.¹⁴¹

101. A witness confirmed to the Commission that women would travel to the POC seasonally informed also by time of year.¹⁴² The numbers of women moving and traveling also coincided with the period when the integration of forces was to begin; an exercise that resulted in the presence of large groups of military personnel in the area, as well as soldiers that had defected. The large numbers of women either moving towards Bentiu and the POC or towards their villages in Guit and Nhialdu would have been in possession of rations, collected and saved over several months, or harvested crops that they had been able to grow in their villages during the rainy season and that they were carrying back with them for their loved ones in the POC.

“The food distribution included lentils and CSB (super cereal) provided by WFP in a small plastic bag and the attackers also took this from the women. The attacks happened to both groups of women as they came to town to collect food and as they went back after collection.”¹⁴³

102. In focus group discussions, humanitarian responders revealed that most of those who had attended directly to survivors were overwhelmed with the numbers of women and girls who were raped and sexual violated in that ten-day period. The numbers had suddenly shot up from the usual 3 to 4 women and girls in a week, to 37 victims on a particular day. The age of the victims and the severe injuries the survivors had sustained caused great alarm to the medical support team as did the injuries sustained from the beatings accompanying the rape and sexual violence.

“During this crisis, since it started in 2013, many bad things happened here in South Sudan. [...] Especially in 2018, many bad things, those women raped, older women who are no longer producing and very young girls. There were many people here at that time. [...] Before they were coming one by one. The room was full, they were more than 37, I counted them and realised it was a crisis.”¹⁴⁴

103. Witnesses the Commission spoke to described how following the MSF report, Government officials who came from Juba visited Bentiu, intimidating and warning residents against reporting or speaking about the rape and sexual violence as well as the injuries they had seen. Given that the Revitalized Agreement had only recently been signed and that there were related concerns that its status was somewhat tenuous, witnesses told the Commission that the Government preferred to present a view that the country was secure, rather than to address the ongoing violations. Some witnesses were harassed by Government officials who deliberately sought to undermine their testimonies and discourage any further reporting of sexual violence.

“Why are you exposing this shame to [about] us?” “Why are you collecting those women who slept with their husbands last night and claiming that they were raped?”¹⁴⁵

104. Witnesses also reported that the Government spread the word through the community that victims seeking medical treatment for sexual violations would be arrested. These acts were also deliberately aimed at intimidating and stopping survivors from reporting their violations, but also prevented rapid intervention and longer-term harms.

105. Humanitarian responders were concerned that the Government’s actions and findings in their final report had been extremely detrimental to efforts to prevent sexual violence and encourage survivors to seek services in a timely manner. The Government’s report found that while some instances of sexual violence may have taken place, the numbers reported by MSF were exaggerated and obtained by offering free services such as dignity kits to women in exchange for testimonies of rape.¹⁴⁶ The Commission cross-checked the accounts heard but has not come across any instances where women who suffered rape and sexual violence concocted stories about sexual violence perpetrated against them. It is simply implausible that women would expose themselves to social stigma, especially for the purpose of obtaining some toiletries, as claimed by some government officials.

¹⁴¹ Confidential Meeting, February 2021#1

¹⁴² Confidential Meeting, February 2021#1

¹⁴³ 105083-105088

¹⁴⁴ 105089-105092

¹⁴⁵ 105083-105088

¹⁴⁶ Report of the Investigation Committee for Alleged Incidences of Rape in Bentiu (unpublished)

106. The Government's hostile treatment of survivors and first-responders in this case are illustrative of factors contributing to the trend of under-reporting of conflict-related sexual violence by both victims and service providers. Nonetheless, the instances of such crimes persist. In 2021 the Commission visited Unity State, where further testimonies were received from survivors of conflict-related sexual violence against women and girls, regarding violations and abuses occurring between 2013 and 2021. These testimonies indicate that such crimes remain pervasive.¹⁴⁷ Furthermore, displacement has increased in recent years due to flooding related to the global climate emergency,¹⁴⁸ as well as persistent conflict and insecurity. More women and girls are now displaced and continue to have limited security in these displacement settings, particularly given the presence of groups of armed men, the backdrop of prevailing impunity, and the recent experience of survivor's stories and witness reports being publicly and privately rebuked by authorities.

Western Equatoria State

107. Sexual violence was a key characteristic of the conflict in Western Equatoria during 2021, which centred around Tambura County but also affected other areas including Yambio and Ezo counties. The Commission's inquiries found that many survivors did not report their cases for fear of reprisals and stigma as well as from distrust of State institutions and local authorities. Nevertheless, the Commission was able to obtain evidence from interviews conducted with victims and witnesses, as well as from service providers and authorities, which confirmed that rape and other forms of sexual violence were extensive and widespread.¹⁴⁹ These crimes were perpetrated against women and girls by members of multiple armed groups.

108. Prior to the conflict of 2021, significant fighting had taken place in Western Equatoria between 2015 to 2018 involving several armed groups, including the then-SPLM/A forces and SPLM/A-IO forces. During this time, members of both groups were involved in committing rape and other forms of sexual violence. In the Yambio area, this included the abduction of hundreds of civilians, and more than five hundred women and girls, who suffered rape, sexual violence, and sexual slavery.¹⁵⁰ Perpetrators included members of the SPLM/A-IO under the command and effective control of Lieutenant General Alfred Futuyo, and involving General James Nando who at the time was an SPLM/A-IO officer.¹⁵¹ In 2019, SPLM/A-IO leader General Riek Machar issued an order to subordinates, including Futuyo and Nando, to release the hundreds of women and children being held in their bases.¹⁵² The Commission had learnt at the time that local commanders were dismissive of the order, and stalled in complying with it.¹⁵³ In February 2020, over 100 women and girls were released, but the bulk of abductees remained captive for some time.¹⁵⁴ Ultimately, even following further releases, scores of released abductees returned to the SPLM/A-IO bases having involuntarily become interdependent with or reliant on their captors. Many women and girls had established, under coercion, relationships with men there including through bearing children; for many, they could not locate the families from which they had been dislocated. They also found or believed that they and their children would face stigma if they were to return to their homes.¹⁵⁵

¹⁴⁷ Confidential Meeting, September 2021#3, Confidential Meeting, September 2021#4, 105017-105020, 105037-105043, 105032-105036, 105021-105028.

¹⁴⁸ See A/HRC/49/78, para. 51.

¹⁴⁹ Confidential Meeting, November 2021#2, Confidential Meeting, November 2021#9, Confidential Meeting, November 2021#11, Confidential Meeting, November 2021#12, Confidential Meeting, November 2021#10

¹⁵⁰ See A/HRC/43/56, paras. 61-70. See also Crisis Group, "South Sudan's South: Conflict in the Equatorias," 25 May 2016, and "South Sudan's Other War: Resolving the Insurgency in Equatoria, 25 February 2021.

¹⁵¹ See OHCHR and UNMISS, "Violations and abuses against civilians in Gbudwe and Tambura States (West Equatoria) April-August 2018," 18 October 2018, paras. 29 and 66-76.

¹⁵² S/2021/312, para. 49. Confidential document, on file with the Commission.

¹⁵³ Confidential Meeting, undisclosed location, late 2019.

¹⁵⁴ Human Rights Watch stated that thousands of people had been abducted over the years by the SPLM-IO. "Freeing South Sudan's Captive Women and Girls," 19 February 2020, Human Rights Watch (originally published in *African Arguments*). See also "SPLM-IO frees 78 abducted women in West Equatoria: UN official," 5 February 2020, Radio Tamazuj.

¹⁵⁵ Confidential Meeting, November 2021#12, Confidential Meeting, September 2021#1, Confidential Meetings, Juba, December 2019 and February 2020.

109. Following the signing of the Revitalized Agreement in September 2018, four states were merged in February 2020, to re-establish the Western Equatoria State. This process contributed to an increase in political competition and tension between the Sudan People's Liberation Movement - In Government (SPLM-IG) and SPLM/A-IO. In March 2020, local SPLM/A-IO Commander General Nando and forces loyal to him defected to the Government and the SSPDF. In June, SPLM/A-IO Lieutenant General Alfred Futuyo became Governor of Western Equatoria, while retaining his position as the SPLM/A-IO Commander for the state.¹⁵⁶ Futuyo was nominated by the SPLM/A-IO led by Riek Machar and appointed by SPLM -IG leader President Salva Kiir, as part of the implementation of power-sharing arrangements set out in the Revitalized Agreement.¹⁵⁷

110. Futuyo and Nando, who in the opposition at political and military level are both implicated in the incidents of sexual violence described above, have been embraced by the SPLM/A-IO and SPLM -IG, respectively.

111. From mid-2020, and around the time of Governor Futuyo's appointment, the escalating political conflict increasingly took on an ethnic dimension. Futuyo identifies as Balandia,¹⁵⁸ a minority ethnic group in the state, and was the first person of Balandia origin to take up a significant political position in the area, where positions of political authority are traditionally held by members of the majority Azande ethnic group (most of whom are from the Avungara sub-clan). On the other hand, other key positions of authority in Western Equatoria are held by Azande SPLM -IG members, including the Deputy Governor, and both the County Commissioner and Paramount Chief of Tambura. General Nando is also ethnically an Azande.

112. Leading into 2021, the political conflict in Western Equatoria between the SPLM -IG and the SPLM/A-IO involved clashes between the rival forces and attacks on the civilian population. By mid-2021, an Azande youth militia had been mobilized by the County Commissioner and Paramount Chief of Tambura to carry out attacks against the SPLM/A-IO and predominantly Balandia civilian communities.¹⁵⁹ These were increasingly carried out in coordination with Government Forces under the command of General Nando.¹⁶⁰ In response, another youth militia emerged, mainly constituted by Balandia men and boys, under the command of Angelo Davide, an Azande who reportedly refused to join the Azande militia.

113. The conflict involved clashes between these armed groups including the youth militias and attacks on villages and urban centres, resulting in the displacement of more than 100,000 civilians during the period from around April to September 2021.¹⁶¹ The Commission documented extensive human rights violations and abuses perpetrated by all parties during this period. These violations have also been independently confirmed by the Human Rights Division of UNMISS.¹⁶² The Commission and UNMISS both documented that rape and sexual violence appeared to be rampant, widespread, and extensive, implicating members of all the armed entities operating in Tambura.

114. Reports of abductions of Azande women by Balandia men indicate that rape and sexual violence occurred, and that the patterns of rape and sexual violence is consistent with sexual violence perpetrated by SPLM/A-IO Forces during other recent conflict in the area, as noted above.¹⁶³

¹⁵⁶ This happened weeks after Government Forces conducted a deadly attack on SPLM/A-IO Forces. See “SPLA-IO officer killed in SSPDF attack in West Equatoria,” South Sudan News Now, 19 June 2020.

¹⁵⁷ Note the SPLM/A is referred to here as the SPLM -IG (in Government) following the signing of the 2018 Agreement, while the SPLM/A-IO is referred to here using the same term before and after 2019. At the time of publication, the SSPDF is nominally under the command of the SPLM-IG.

¹⁵⁸ His father is Balandia and his mother is Azande.

¹⁵⁹ See the Mandate Report of the Commission, 2022, A/HRC/49/78, paras. 63-76. In line with its mandate from the Human Rights Council, the Commission has drawn up a list of persons of interest whom it considers warrant individual investigation for their roles in human rights violations and abuses, some of which may amount to serious crimes under national and international criminal law. This list of names, with links to evidence collected and preserved, forms part of the Commission’s confidential archives.

¹⁶⁰ Ibid.

¹⁶¹ State-wide assessment by humanitarian agencies, November 2021. D126687-D126696.

¹⁶² A/HRC/49/78, paras. 43 and 63-76. See also UNMISS and OHCHR, “Attacks on civilians in Tambura County, June-September 2021,” 1 March 2022. See also “South Sudan: survivors describe killings, mass displacement and terror amid fighting in West Equatoria,” Amnesty International, 9 December 2021.

¹⁶³ 104644–104647. Abductions by SPLM/A-IO members have previously been linked to rapes. See OHCHR and UNMISS, “Violations and abuses against civilians in Gbude and Tambura States (West Equatoria), April–August 2018”, 18 October 2018.

115.The Commission has also documented incidents of rape and sexual violence perpetrated against Balanda women and girls by groups of Azande males armed with guns and machetes.¹⁶⁴ The rape and sexual violence were carried out along ethnic lines, and in numerous instances, with male family members forced to watch.¹⁶⁵ The Commission also documented the incitement of ethnic-based hatred and hate speech, primarily by political forces, which spread into households including couples in mixed marriages. A Balanda woman resident in Tambura Town described to the Commission how she was violently raped and then abandoned by her Azande husband of five years, who said he was “doing my part” to avenge the death of his relatives.¹⁶⁶

116.Multiple Balanda women described being raped and gang raped by armed Azande men, while some victims were reluctant to identify the perpetrators.

“They all raped me. They were not wearing uniforms. Their faces were covered and only their eyes were free. One person had a gun, the others had machetes and sticks” – a Balanda woman.¹⁶⁷

“I was captured by two armed men speaking Arabic language, and was dragged to a nearby bush, where one of them raped me... the other man attempted to rape me, but failed because a group of people approached the bush” – an Azande woman.¹⁶⁸

117.In many of the incidents of rape and sexual violence, the victims were unable to identify the perpetrators, and the assaults appear to have been carried out in the general context of lawlessness and impunity.

“I was walking from the compound to conduct some chores at the nearby compound, located a few minutes’ walk. The armed men who were in civilian clothing approached me from behind and asked where I was going. They then told me that they were going to sleep with me because they had taken long without sleeping with a woman... One of them removed my dress and undergarments by force and raped me while the other one held my hands.”¹⁶⁹

118.Indicative of the prevailing impunity as well as the lack of healthcare support available, a rape victim said that police did not follow-up after she had reported the crime, and that upon visiting a hospital she was told there was no medication available for her.¹⁷⁰

119.The Commission notes that the Revitalized Government based in Juba intervened in Tambura during 2021, facilitating talks and commissioning investigative inquiries, which both the SPLM - IG and the SPLM/A-IO have previously endorsed.¹⁷¹

120.Nevertheless, the SPLM -IG and the SPLM/A-IO continue to back General Nando and General Futuyo, respectively, both of whom have been implicated as commanding officers responsible for committing sexual violence against women and girls before 2020. Despite their criminal conduct involving sexual violence in conflict against women and girls, these men have continued to serve in officer positions and in Futuyo’s case he was nominated and subsequently appointed as one of the SPLM/A-IO’s three Governors nation-wide, a position he still holds.¹⁷²

121.The leadership of both the SPLM -IG and SPLM/A-IO allowed these acts to go unpunished, disregarding the criminal conduct of both generals, by promoting them to the ranks of commander, and in effect rewarding them. In the case of General Futuyo, his appointment as Governor of Western Equatoria, sends a message that there is no accountability for the crimes of rape and sexual violence and officially endorses the ongoing impunity for serious international crimes. The ongoing unrelenting campaign of rape and sexual violence against women and girls by armed actors in Western Equatoria owes its origins to the environment of impunity that has become

¹⁶⁴ 104859–104864 and 104494–104497

¹⁶⁵ 104847–104854

¹⁶⁶ 104562–104566

¹⁶⁷ 104494–104497

¹⁶⁸ 104859–104864

¹⁶⁹ 104859–104864

¹⁷⁰ 104494–104497

¹⁷¹ Including meetings in Juba hosted by President Kiir and First Vice President Riek Machar. See “First Vice President Office’s Press Unit Republic of South Sudan,” Facebook post of 15 July 2021 and “Ministry of ICT & Postal Services - Republic of South Sudan,” Facebook post of 27 August 2021. The Commission also notes that it was informed by the Government that senior police officers had investigated the violence and produced a report.

¹⁷² 104733–104737 and 104498–104501. The Commission also holds in its confidential archives with information implicating Futuyo in other crimes perpetrated between the period 2015 and 2020.

entrenched. If this pattern persists, rape and sexual violence will continue unchecked and for which the Government bears responsibility.

C. Patterns of perpetration and drivers of sexual violence

122. Four distinct patterns driving conflict-related sexual violence have been identified by the Commission: attacks linked to military and political objectives; sexual and other forms of abusive exploitation of women and girls who are abducted by members of armed groups; a culture of entitlement to women and girls as the spoils of conflict, and criminal acts carried out by armed actors in the prevailing context of ongoing conflict, lawlessness and impunity.

Military and political objectives

123. In many attacks involving rape and other forms of sexual violence, these acts are linked to military and political objectives intended to pressure and expel the civilian population from the area. Acts include attacks on villages, the burning of homes, killings and looting of property, and the abduction of women and girls with the purpose of rape and sexual violence. In this context, sexual violence involves repeated multiple incidents of rape and gang rape by groups of armed men, accompanied by torture and extremely violent beatings. There is a clear intention to inflict severe pain and suffering, which is targeted and directed at both individual victims and the broader community, so as to punish them for being members of a particular ethnic group, and because they are perceived as being aligned to the opposing armed group. The attacks by SSPDF soldiers on Central Equatoria villages in early 2020, detailed above, is a case in point: Equatorians were targeted by SSPDF soldiers, who raped and sexually violated women and girls in an area where the perpetrators regarded all civilians as being supporters of the enemy who had recently attacked them in retaliation. Similarly, in Western Equatoria, an armed ethnic-Azande militia appeared to have used targeted sexual violence as a tactic to forcibly displace and relocate Balandia civilians.

Sexual slavery and servitude

124. Sexual slavery and related forms of servitude present another pattern of violence perpetrated by armed groups in order to pursue a variety of strategic and tactical purposes, including to build and sustain their forces, and to control local populations. Abducted women and girls commonly are forced to provide sexual services as slaves, and they are often also forced to take on domestic duties such as cooking, cleaning and washing clothes for soldiers. Captive women and girls may also be tasked with other additional functions such as searching for water and food, and carrying these and other camp supplies. They may also be coerced to act as spies to gain information of operational utility for their armed captors, and they may even be compelled to carry out atrocities themselves.

Crimes occurring in an enabling environment of impunity

125. Another pattern involves sexual violence perpetrated without military or political objectives as primary motivators. Such violence is often accompanied by other crimes such as theft, carried out in the context of lawlessness and impunity. Perpetrators act in the knowledge that the State institutions mandated to provide security and justice are absent, and that their crimes do not carry any consequences, least of all criminal accountability. All of the armed groups operating in these areas have been found to have committed crimes in this context, from State security forces through to insurgent groups, militias and organized cattle-rustling groups operating in conflict-affected areas.

Culture of entitlement and exploitation of women and girls

126. Gendered power relations and patriarchy reproduce sexual violence, in which rape is “nothing more or less than a conscious process of terrorisation by which women are kept in a state of fear and where rape and sexual violence are instrumentalized, including for maintaining the status

quo.”¹⁷³ Rape and sexual violence also assert the domination and power of men over women, which is deeply imbedded in patriarchal societal attitudes.

- 127.These patterns of rape and sexual violence perpetrated are underpinned by gender inequality and the low status held by women, leading to their commodification in South Sudanese society, and represent a violent expression by armed men in contexts of conflict and insecurity in which masculinity is shored up by rape and sexual violence. This is carried out in the full knowledge that impunity is pervasive, and justice and accountability for these crimes is extremely remote.
- 128.Female bodies are perceived as an entitlement, as territory to use, control and own and trade for benefit. Perpetrators include SSDPF soldiers and members of other armed groups who feel entitled to treat women as the spoils of war, fuelled by the non-payment of salaries, and the unwillingness of their leaders to support them by providing them with the resources necessary for their soldiers’ wellbeing. It also includes armed groups implicated in cattle-raiding, age-set clashes and other conflicts occurring within and between communities. The acceptance of this sense of entitlement is institutional, and takes place in the broader context of deeply patriarchal social and political beliefs and structures prevalent in the country.
- 129.The Commission has also identified that sexual violence perpetrated by groups of armed men, either soldiers or civilians, often serves as a reward for participation in the group that is linked to the notion of entitlement over female bodies, cementing hierarchies and camaraderie, which reinforce solidarity within the group. Rape and sexual violence are also used as methods of initiation or manipulation so that younger members become complicit in the groups’ crimes.
- 130.Rape and sexual violence are also instrumentalized to destroy the very fabric of communities, including to pursue strategies of ethnic-based displacement of civilians and to terrorize the population. This is reflected in the conflict at sub-national level in South Sudan, in a context where sexual violence is used in pursuit of military or political objectives and is linked to building and sustaining the military forces and their control over populations.
- 131.In the prevailing context of impunity, rape and sexual violence also reflect the breakdown in the social fabric compounded by systemic insecurity, linked to unending and cyclical violent conflict, which reinforce and exacerbate these trends.

V. Harms and impacts of conflict-related sexual violence

- 132.Survivors of conflict-related sexual violence experience a range of harms impacting on their health and lived experiences. Their experiences of conflict, and the adverse health and life consequences are not exclusively related to their experience of sexual violence. Conflict-related sexual violence usually takes place in the context of a range of other human rights violations or abuses; including witnessing family members and community members killed or being otherwise disconnected from them, having homes and property destroyed, being subjected to other acts of physical violence, and, commonly in South Sudan, being displaced from their homes and livelihoods.
- 133.The impact of sexual violence extends beyond direct victims, especially when armed campaigns are designed to terrorize communities, affecting family members and communities, including impacting on the integrity or cohesion of the family unit. Months or even years after the sexual violations, re-establishing livelihoods and ensuring access to basic needs are often prevailing struggles for women and girls in South Sudan, particularly but by no means only for those who have been displaced. The impacts of conflict-related sexual violence thereby need to be understood in this context, and not viewed in isolation from other experiences, even in a paper primarily focused on the direct impacts of the sexual violence.¹⁷⁴
- 134.The health and socio-economic impact of conflict-related sexual violence and the need for support services to survivors must be understood against the backdrop of the dire humanitarian crisis in

¹⁷³ See: Elizabeth A. Armstrong, Miriam Gleckman-Krut and Lanora Johnson, ‘Silence, Power and Inequality: An Intersectional Approach to Sexual Violence,’ *Annual Review of Sociology*, 2018, available at: <https://sites.lsa.umich.edu/elizabetharmstrong/wp-content/uploads/sites/218/2021/02/Armstrong-Silence-Power-Inequality.pdf> (accessed 10 March 2022).

¹⁷⁴ For related information shared by survivors and published previously by the Commission, see also A/HRC/46/CRP.2, paras. 160-162.

South Sudan which is of epic proportions, and has resulted in the largest refugee crisis in Africa.¹⁷⁵ More than 7 million people (over 60 per cent of the population) experienced acute food insecurity in 2021.¹⁷⁶ And with more than 70 per cent of the population requiring humanitarian assistance, the needs of survivors of conflict-related sexual violence intersect and overlap with the needs of other parts of the population, underscoring some of the difficulties of targeted service provision by humanitarian actors and to far a lesser extent Government agencies in this protracted humanitarian and human rights crisis, driven by conflict and extreme weather.¹⁷⁷

A. Health impacts

135. Access to medical care is practically non-existent for survivors given the prevalence of physical harm and trauma arising from sexual violence. The various One Stop Shop centres recently established appear to be a significant step toward addressing these gaps, but the scale of the violations and the limitations on resources means that for most women and girls access to these is limited, if it is available at all. Where care is available, survivors still face significant economic and social barriers to access it.¹⁷⁸

Physical health

136. Survivors of rape and other forms of sexual violence experience immediate and long-term physical injuries and face the prospect of being at risk of contracting sexually transmitted diseases. Clinicians supporting survivors informed the Commission that in most rape cases they also see signs of torture and a range of injuries and health conditions, physical and psychological, requiring support and management.¹⁷⁹ Incidents of rape and sexual violence perpetrated in the context of conflict in South Sudan, result in severe injuries and death in some instances because of the brutality, duration and severity of the rape and sexual violence. The injuries are exacerbated by the limited access to prompt or adequate medical attention.

137. Common impacts of sexual violence described to the Commission included genital and rectal injuries including traumatic tears and fistula, pelvic pain and dysfunction, and sexually transmitted infections, among others. A survivor of a gang rape said that she was penetrated and raped both in her vagina and anus while also being beaten all over her body, that she carries persistent pain requiring ongoing medication, and that surgery was required to address her haemorrhoids (the severity of which may have been aggravated by the anal rape).¹⁸⁰ According to one doctor, some women he has seen, who have been sexually assaulted using foreign objects, have found these cannot be removed, and so they remain lodged in their bodies, causing persistent pain and health complications.¹⁸¹

138. Other forms of injury sustained while being beaten in the context of a sexual assault are common and lasting, with effects including chronic back pain, pain involving muscular tears or bone fractures that have not fully or properly healed, misalignment of joints, and a range of other injuries including to eyes and ears linked to being hit in the face or head.¹⁸² Some rapes of pregnant women have led to miscarriage, pregnancy complications or infertility, which can be linked to related damage to the uterus or other gynaecological disorders.

139. Many women and girls also spoke of pregnancies arising from rape. While data is limited, certain service providers corroborated that this is a trend.¹⁸³ As noted in testimonies above, in many instances of rape the perpetrators had ejaculated into the victim, often resulting in unwanted

¹⁷⁵ According to the United Nations High Commissioner for Refugees, in "Update of UNHCR's Operations in the East and Horn of Africa, and the Great Lakes Region," 2 March 2021.

¹⁷⁶ See <https://reliefweb.int/sites/reliefweb.int/files/resources/WFP%20Situation%20Report%20%23296%20-%2029%20October%202021.pdf>.

¹⁷⁷ See A/HRC/49/78, paras. 48-54. See also UN OCHA, "Humanitarian Needs Overview 2022," 28 February 2022.

¹⁷⁸ For a detailed study, see United Nations Mission in South Sudan and Office of the High Commissioner for Human Rights, "Access to Health for Survivors of Conflict-Related Sexual Violence in South Sudan," May 2020.

¹⁷⁹ FGD-03

¹⁸⁰ 105072-105075

¹⁸¹ 105068-105071

¹⁸² FGD-03

¹⁸³ FGD-05

pregnancies which, as illustrated in the case-examples in this report, may also lead to abandonment and corresponding reduced livelihood options.¹⁸⁴ Concurrently, children born of rape face social stigma, in a cultural and traditional context that prizes ethnic purity, and where community members stigmatize women and girls who have been raped and sexually violated, particularly when the perpetrators are from a different ethnic group.

140. The risk of rape perpetrators passing on sexually transmitted infections is a fear frequently expressed by survivors of sexual violence, and the consequences this may have for the social and cultural relationships with their partners and communities in addition to direct physical health implications for them and their partners.¹⁸⁵ While data is limited, the transmission of sexually transmitted infections appears to be common during conflict-related rapes in South Sudan, based upon the Commission's documentation, and corroboration by medical professionals. Given that many survivors do not have access to, or do not seek, medical attention, they remain unaware of their status, including with regards to HIV. Apparently high rates of transmissions are not helped by a trend of post-rape medical interventions typically being administered late, if at all.¹⁸⁶ There are various reasons for this, underscored by the general lack of access to health care in the country.
141. The lack of consequences for perpetrators, and consequent impunity, enables the repetition of these crimes of rape and sexual violence by armed men who carry sexually transmitted infections. A woman who was a victim of a mass rape told the Commission that she could not convince the other victims to seek medical attention, because they feared that their husbands would leave them, and so did not want to draw attention to their situation.¹⁸⁷ Young women spoke to the Commission of how they had been expelled from their families and that their husbands had abandoned them after they had been returned by their rapists¹⁸⁸.

Psychological health

142. The psychological effects of sexual violence in the context of conflict tend to be compounded, given that violence of a sexual nature is rarely isolated from other traumatic experiences, including witnessing attacks and killings, having one's life disrupted by forced displacement, and often also caused by broken relationships with partners and social stigma in communities. The trauma of losing children in conflict, has also contributed to the loss of self-worth and meaning in life, which is also of significance to a parent.¹⁸⁹
143. In interviews with survivors of conflict-related sexual violence and service providers, the Commission noted the patterns of psychological trauma, such as acute stress, depression, anxiety, emotional numbing, sexual dysfunction and post-traumatic stress disorder (PTSD). Besides the incidents of sexual violence themselves, these patterns manifest as secondary social impacts.
144. Many survivors suffer from depression and despondency, particularly when they are in protracted and extremely difficult situations of displacement and separation from family members, home and land, and livelihoods, which have arisen around the same time as, and in the context of, the conflict or insecurity in which they experienced the sexual violence.¹⁹⁰
145. Survivors described to the Commission their experiences of trauma associated with having lost everything, and where in their prior lives they had some autonomy and previously owned assets to a situation whereby they are now living in complete destitution. Clinicians working with

¹⁸⁴ Confidential Meetings, undisclosed locations, February 2022.

¹⁸⁵ 105032-105036, 103726-103730, 103746 - 103750

¹⁸⁶ 105063-105067

¹⁸⁷ 104965-104970

¹⁸⁸ Confidential Meeting, undisclosed location, February 2022.

¹⁸⁹ 105076-105078

¹⁹⁰ This was discussed at length as a key issue at the Conference on Sustaining Transitional Justice in South Sudan, organized by the Commission in December 2021 and attended by a range of key stakeholders including ministers of the Government and representatives of the African Union and United Nations system. Many civil society participants working with survivors of highlighted the criticality of the issue and need for clear and robust policy approaches, immediately and in prompt transitional justice processes. For a summary see <https://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=27972&LangID=E> and for resolutions of the Conference see also https://www.ohchr.org/Documents/HRBodies/HRCouncil/CoHRSouthSudan/Summary_Resolutions_Conference_13-15_Dec_2021.pdf.

refugees told the Commission that many survivors of violence, including sexual violence, find it hard to lead meaningful lives without hope, particularly given the other difficult circumstances of their situation, and so many are resigned to have pitiful lives, with access to counselling and services to address their trauma being very rare.¹⁹¹

146. Several survivors of sexual violence recounted how trauma was a factor in deciding to flee their home village or town in South Sudan. As they sought refuge in neighbouring countries the trauma persists given the barriers to their return. This is particularly acute when they understand that armed men are still operative in those areas they have left in an environment of lawlessness. It is difficult to imagine a future back home when they risk further violations.¹⁹²

147. The psychological impact on survivors of sexual violence extends well beyond the individual victim to encompass families and communities and is evident long after the violation and even when some semblance of normalcy has been attained by a survivor. Many survivors spoke of how stress, anxiety and panic recur when they hear certain sounds associated with their experience, or how certain colours, smells and images work as triggers and take them back to the moments of violation. Another survivor shared how she did not like it when she sat in a gathering and people spoke at the same time with a lot of noise, she said it “disorganized” her, referring to how her thoughts and composure were scattered and it reminded her of the chaos present during the time of her experience.¹⁹³

148. For many survivors, the passage of time has not healed psychological wounds, it is difficult to forget the traumatic events, and they still experience suicidal thoughts.¹⁹⁴ Clinicians and service providers for displaced persons confirmed that PTSD is a phenomenon for survivors of sexual violence particularly in cases where they do not report their experience and thereby guarantee no access to requisite forms of support.¹⁹⁵ The Commission was told of severe mental health challenges, including cases of depression and suicidal thoughts, but importantly it must be noted these are not limited to victims of sexual violence, and often are linked also to the displacement experience.¹⁹⁶ Many survivors spoke of the onset of stress related illnesses following their experiences and loss of basic functionality because of high blood pressure, thyroid conditions, panic attacks, nightmares and other conditions.

Obstacles to accessing health care and psychosocial support

149. South Sudan lacks the infrastructure and basic services needed to support the large number of survivors of sexual and gender-based violence and conflict-related sexual violence. Survivors of conflict-related sexual violence in South Sudan require health care and psychosocial support in a context where health services and outcomes are already amongst the worst in the world, including in times of normality in urban centres, let alone in conflict settings or displacement camps. Many humanitarian agencies are overburdened by the humanitarian needs of survivors and are chronically and increasingly underfunded. This is also due to the failure of the Government to invest in basic services and support for populations in need. It chooses not to realign State spending and resources towards essential services and infrastructure, and ignores rampant corruption and theft of national revenues.¹⁹⁷ The presence of adequate health facilities is thereby extremely rare and, where they exist and are known of, persons in need must travel vast distances to access services. The Commission noted many examples of women not receiving any care for this reason.¹⁹⁸

150. Timely and adequate medical treatment is rarely on offer for survivors of sexual violence, as clinicians and service providers who offer critical support lack the numbers or resources to provide support at anywhere close to the scale necessary.

¹⁹¹ FGD-03, 105063-105067

¹⁹² 105072-105075, 105079-105082, 105076-105078

¹⁹³ FGD-03.

¹⁹⁴ FGD-07, 104827-104832

¹⁹⁵ 105068-105071

¹⁹⁶ FGD-05

¹⁹⁷For detailed findings of the Commission on this issue, see <https://www.ohchr.org/Documents/HRBodies/HRCouncil/CoHRSouthSudan/A-HRC-48-CRP.3.pdf>

¹⁹⁸ 105017-105020, FGD-03, 104859-104864

151. While medication can address some harms and control lasting conditions, and diagnosis and treatment has significantly improved the quality of life for those who can access these,¹⁹⁹ most victims will not and do not have access to such services, and so live with severely compromised health because of conditions that could be otherwise managed. Care options are often available only for those who arrive in displacement camps, and even then, the extent of care can be limited due to resourcing and other social factors.²⁰⁰
152. Professional counselling support in particular is rarely on offer for those in need. Psychiatric and psychological needs are vast in a country with very few practising professionals, and the availability of services is highly unequal depending on locations. Language and cultural barriers are further impediments to accessing any form of support, as has been noted by service providers.²⁰¹ Rehabilitation activities and Peer counselling initiatives could be other efficient and effective options, say some clinicians.
153. Where services are available, the living conditions and life prospects influenced by other factors such as the ongoing insecurity and lack of livelihoods in their places of origin and the daily struggle to get adequate food and water in many displacement settings can drag on the efficacy of psychosocial interventions. A survivor of multiple instances of displacement and sexual violations, living in a protracted refugee situation, told the commission that she obtained medical and counselling support facilitated through an NGO, which has in part addressed her trauma, but she says that her pain continues given she has no available means to properly support her children.²⁰²
154. Access to services in displacement and refugee camps, is facilitated by the presence of humanitarian agencies and medical providers. Nevertheless, barriers to seeking support still exist including a lack of awareness of its utility, its availability, the ability and agency of individuals to take the time to seek out help, and cultural barriers such as not wanting to discuss taboo or otherwise sensitive issues.
155. The Commission noted that even where services are available many women do not report sexual violence perpetrated against them, or they do not present to clinics in a manner which is timely enough to obtain emergency support. Following their experience of assault, some victims may be incapacitated, physically and or mentally, and unable or unwilling to proactively seek medical attention.²⁰³ Victims also face social pressure not to attend medical facilities: they may be discouraged against this by other victims of the same incident, or discouraged by family members such as males in their families.
156. The Commission has noted that the reasons many women do not seek medical assistance arise from fear that it will lead to, or contribute to, public knowledge of the sexual violence, and that this could adversely impact on the women's livelihood and income-generating capacities, given the risk their husbands may abandon them, or that the prospects for dowry income may be reduced in the case of unmarried women. There is also an understandable distrust of authority, and fear that medical practitioners may not treat the consultations confidentially; this trust deficit may be exacerbated where South Sudanese health workers are perceived to be aligned to an ethnic, geographic-based or other identity group that is different to the victim.²⁰⁴ These scenarios illustrate the intersectionality of individual and group experiences of conflict-related sexual violence and the interplay with broader processes and structures in society that discriminate against and limit life outcomes for women and girls. These factors underscore that the limited availability of medical services is not the only dynamic that inhibits or prevents survivors from receiving the treatment necessary to address injuries and support their recovery.

B. Socio-economic impacts

157. Sexual violence perpetrated against women and girls, during raids on villages and settlements by armed men, are not isolated incidents but take place in the context of other crimes, such as targeted attacks on villages and settlements, arson, killings, looting and property destruction, all of which

¹⁹⁹ 104965-104970

²⁰⁰ 105056-105058, 105059-105062

²⁰¹ 105063-105067, FGD-05

²⁰² FGD-07

²⁰³ 105017-105020

²⁰⁴ 105037-105043

have devastating impacts on the survivors of sexual violence including on their the livelihoods.²⁰⁵ In South Sudan, women carry the burden of caring for family members including the elderly and children, as male family members are usually involved in fighting or have gone missing or have been injured or killed in the violence. Furthermore, many males are disabled, having lost limbs or sustained physical injuries as well as suffering debilitating mental health conditions.²⁰⁶ Attacks on women and girls occur while they travel outside settlements, and given the precarious situation of insecurity, this has a significant effect on livelihoods as well, for instance when there is robbery or injury. Displacement is often an outcome of such attacks, also drastically undermining the capacity of survivors to pursue independent livelihood strategies and to provide for their families. In displacement contexts, it is women who take on additional caring responsibilities for children who have been orphaned or otherwise separated from their family members as a result of the violence.²⁰⁷

158. The number of female-headed households in South Sudan has increased exponentially as a result of the conflict.²⁰⁸ The reasons for this are male family members, including husbands, fathers, brothers and boys participating in armed groups, being killed, abductions, forced recruitment, or separation during conflict under other involuntary circumstances. The abandonment of wives by their husbands following rape and sexual violence is another trend experienced by women and girls arising from the ongoing conflict. While it is not possible to quantify abandonment given the available data, nevertheless, the Commission documented numerous cases of husbands abandoning their wife following their wife's rape, linked to a variety of factors including attached social stigma or fear of contracting a sexually transmitted disease or related to conception of children through rape.²⁰⁹
159. Livelihood opportunities and income-generation capacity are relatively limited for women and girls in South Sudan, and so separation from their close male family members, who traditionally have greater income-generation potential, tends to significantly impact the family's access to financial resources including for school fees and basic needs. This can also devastate the family's ability to cope with shocks such as sudden illness.²¹⁰
160. The Commission was informed by service providers in a particular refugee setting that "survival sex" which is transactional, has also become prevalent in settlements where women heads' of households are struggling to maintain their families through providing shelter, food and access to healthcare and education for their children.²¹¹ In a focus group discussion the Commission held with service providers to the refugee community, the Commission was told about the high levels of transactional sex and teenage pregnancies among the refugee population. The increase has been linked to many girls and young women being orphaned and unaccompanied by parents or family members, who have no independent sources of income and are then forced into transactional sexual relationships which are not directly linked to the conflict, but are an outcome of it.²¹² The Commission also identified that many women entered into relationships or marriages with men from host communities, for various reasons, including for increased economic security.²¹³
161. An accompanying factor may be that conditions in both displacement and refugee camps have deteriorated, particularly since 2020 when already-stretched aid budgets recued as many donor governments scaled down funding linked to the COVID-19 pandemic, and given the ongoing absence of significant service provision by the State in South Sudan.
162. The internal displacement of women and girls, or relocation to refugee settings also leaves them vulnerable to sexual violence for several reasons. Women usually flee with children, the elderly and the sick, as well as with community members with disabilities, and lack the elements of protection which are associated with the presence of male family or community members. In addition, the lack of security within the camps places them at risk of sexual violations from other

²⁰⁵ 103731-103735, 103746 - 103750

²⁰⁶ Confidential Meeting, November 2021#1(08)

²⁰⁷ Confidential Meeting, November 2021#1

²⁰⁸ Indicatively, a recent household survey conducted by the United Nations High Commissioner for Refugees found that 54 percent of the refugee returnees interviewed were members of female-headed households. "UNHCR South Sudan: Refugee Returnee Household Survey (Oct - Dec 2021)," 31 December 2021.

²⁰⁹ FGD-05, 105063-105067, 102746-102750

²¹⁰ 104859-104864

²¹¹ FGD-04, FGD-05

²¹² FGD-05

²¹³ FGD-04, FGD-05

camp residents. The location of bathrooms and showers within camps is an important consideration for the protection of women and girls. A key risk factor exists when women and girls leave the relative safety of a camp to collect water and firewood, or to sell goods at a marketplace, and venture onto open roads and forests which also places them at risk even where they travel in groups with other women.

163. Women have largely been excluded from peace-building processes, as well as from stakeholder engagement and decision-making processes about their situation, including on the governance of displacement settlements and strategies on returning home.²¹⁴ This lack of participation has tangible impacts in how conflict resolution and peace building are viewed and planned by actors with authority and influence; for instance, many displaced women in the Tambura area reportedly want armed men who have been involved in violence to leave areas where they reside, in order to enable the women and their families to safely return home,²¹⁵ these views do not appear to have been accounted for in discussions where decisions are made on security arrangements.
164. Women's experiences of sexual violence in conflict, and personal knowledge of impunity and persistent insecurity, means that they often have the best vantage on whether or not displacement camp closures and return to their communities are viable options, or whether there are more feasible alternatives or not, and if so, the conditions that need to be in place for these processes to be safe and sustainable.
165. Tragically, women-led and women's rights organisations receive the least resources of all local agencies delivering humanitarian and related assistance in the country, according to the South Sudan Non-Government Organization Forum.²¹⁶ This means that women, particularly those from the country, also have a marginalised role in planning and programming interventions despite South Sudanese females constituting a large if not majority proportion of the intended recipients of such assistance.
166. Trauma from sexual violence in conflict, and living with the constant threat of violence arising from the conflict, results in women and girls living with insecurity and the constant threat of repetition of the violence given persistent impunity and instability. Displaced women and girls see few opportunities for them to safely return home or relocate from a displacement setting given issues of safety and the security challenges. Many survivors the Commission interacted with described their sense of dislocation arising from the physical loss of homes, their separation from villages and towns and communities as well as from South Sudan. Survivors further described their sense of non-belonging, and that their experience of sexual violence and being forced to leave their homes, leaves them totally disconnected from their places of origin and any future they had planned or imagined there. Numerous refugees told the Commission that they would not return to South Sudan because they would never feel safe.

VI. Impunity, accountability and transitional justice

A. Context

167. Mechanisms to address violence against women, gender discrimination and structural inequality are provided for in the African Charter on Human and Peoples' Rights (which South Sudan joined in 2013), the Maputo Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (which South Sudan signed in 2013), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) (which South Sudan joined in 2015), and the Optional Protocol to CEDAW (which South Sudan joined in 2015), as well treaties such as the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (which South Sudan joined in 2015) along with other international and regional instruments.
168. United Nations Security Council resolutions 1325 and 1820 call upon all parties to armed conflict to take special measures to protect women and girls from gender-based violence, particularly rape

²¹⁴ Confidential Meeting, November 2021#1(08)

²¹⁵ Confidential Meeting, November 2021#2(07)

²¹⁶ South Sudan NGO Forum, "UN Member State Virtual Briefing on the Humanitarian Situation in South Sudan," 6 May 2021, <https://reliefweb.int/report/south-sudan/un-member-state-virtual-briefing-humanitarian-situation-south-sudan-ngo-forum>

and other forms of sexual abuse, and all other forms of violence in situations of armed conflict.²¹⁷ These emphasise the responsibility of all Member States to end impunity for genocide, crimes against humanity and war crimes relating to acts of sexual violence. Resolution 1820 ‘calls upon Member States to comply with their obligations for prosecuting persons responsible for such acts, to ensure that all victims of sexual violence, particularly women and girls, have equal protection under the law and equal access to justice, and stresses the importance of ending impunity for such acts as part of a comprehensive approach to seeking sustainable peace, justice, truth, and national reconciliation.’

169. Conflict-related sexual violence in South Sudan is egregious in nature, widespread and extensive occurring in homes, fields, places of detention, military sites, and camps for refugees and displaced persons. It occurs at the height of conflict, during population displacement, and continues after conflict. Acts of sexual violence are committed during attacks on civilian centres, or during looting raids. Women and girls are often targeted with sexual violence whilst performing daily chores, such as collecting food, water and wood. Women and children have been abducted by armed groups and kept in sexual slavery, or forced into combat roles. Women and men in detention have been raped, subjected to sexual mutilation, humiliation and torture. For displaced women and children, even places of “refuge” may be extremely unsafe. Sexual violence also occurs within and around camps for refugees and displaced persons. Family violence, too, is prevalent in displacement and refugee settings, exacerbated by trauma, fractured community bonds, loss of livelihood and stress.
170. Impunity for sexual and gender-based violence against women and girls at a domestic level and in conflict is the core driver of these crimes, perpetrated without any consequences or accountability, thereby enabling and even encouraging the repetition of crimes. This situation is a manifestation of a patriarchal society, in which tradition and culture entrench the low status of women. It is also reflective of the absence of the State and the rule of law in many parts of the country. In situations of conflict, the impact of sexual violence is exacerbated for the reasons highlighted in this paper, which underscores the importance of the Revitalized Government taking seriously its responsibility to address impunity.
171. Any assessment of measures to address impunity and accountability for rape and sexual violence, necessarily involves a discussion of the existing judicial system and processes, responses from state actors in the security sector and traditional and customary processes, in place which can be accessed by victims as well as the effectiveness of witness protection measures given the heightened security concerns. In this context, a significant driver of impunity is the absence of the State and its security forces in promoting and protecting human rights. The Commission’s extensive documentation of conflict-related sexual violence demonstrates that in many conflict situations in the country, state security forces, including military and police, are absent and this enables armed actors to commit crimes in the full knowledge that there are no consequences for such crimes.
172. The Government has signed various commitments to address conflict-related sexual violence. In January 2021, the Joint Defence Board of South Sudan adopted an action plan for the armed forces on addressing conflict-related sexual violence, for the period January 2021 to December 2023.²¹⁸ It consolidates and reinforces the commitments made by the parties to the Revitalized Agreement, such as the Joint Communiqué on the Prevention of Conflict-Related Sexual Violence signed by the President in 2014, and the National Action Plan signed by authorities and the United Nations in 2016. The Joint Defence Board’s plan lists indicators against which progress can be measured. While the development and endorsement of the plan is to be welcomed, the plan must indeed translate into action, and as such needs be monitored to assess whether actions are taken toward delivering justice and whether political will for accountability exists.
173. The Commission also notes that the Government’s reporting to the Human Rights Council has indicated that orders have been issued to this effect, including through the distribution of a leaflet to commanders, and issuing a related standing order that rape and other forms of violence will be prosecuted.²¹⁹

²¹⁷ S/RES/1325, S/RES/1820

²¹⁸ The Republic of South Sudan Joint Defence Board (JDB), “Action plan for the armed forces on addressing conflict-related sexual violence in South Sudan,” January 2021.

²¹⁹ See A/HRC/WG.6/40/SSD/1, paras. 75 and 112.

174. Despite these initiatives, the Commission has found that members of the state security forces are also deeply implicated in the commission of sexual and gender-based violence including at command level. As of March 2022, there have been very few indications of significant progress having been made since January 2021 on accountability in terms of the Action plan.
175. The main judicial fora in which sexual violence is addressed in South Sudan, are: the formal state judicial system including the Special Court established to deal with sexual and gender-based violence, military courts martial, customary courts, and traditional dispute-resolution systems. In the course of its investigations and consultations with stakeholders throughout the country over several years, the Commission has noted that victims of conflict-related sexual are unable to access justice, and that this situation is aggravated by the absence of courts and supporting state structures as well as legal and social support, in many parts of the country. In addition, the mass displacement of civilians in which violations and abuses continue to take place also contributes to the underreporting, with the collection of data being almost non-existent.
176. Addressing impunity for conflict related sexual violence in South Sudan requires a commitment at the highest levels of government, which goes beyond messaging and the distribution of leaflets that perpetrators of sexual and gender-based violence will be held accountable irrespective of their position and rank in the society. It is at this level, that the Government of South Sudan has failed to demonstrate leadership in holding accountable alleged perpetrators at the highest level.
177. The appointment in 2020 of General Futuyo as Western Equatoria's Governor, despite his complicity in conflict related sexual violence, including the abduction, rape, torture and sexual slavery of more than 400 women and girls, was endorsed by the top leadership of the SPLM -IG and the SPLM/A-IO, and sends a clear message that such crimes are tolerated if you hold a high rank. Another high-profile case involves the Minister of Humanitarian Affairs, Peter Mayen Majongdit, whose portfolio includes the welfare of South Sudanese women and girls affected by conflict. In August 2021, the Minister assaulted his wife, only months after publicly disrupting a football match in which she was playing by storming and dragging her from the pitch, with members of his entourage firing gun shots.²²⁰ There has been no significant criminal or political consequence for his actions, and he has not even received a reprimand or public rebuke by other members of the Cabinet.²²¹ The actions and omissions involving top Government officials speak much louder than the words included in action plans and memoranda on such violence.

B. Accountability efforts

Judicial system in South Sudan

178. Courts in South Sudan are chronically under-resourced, as are the police and prosecutors as well as the prisons. The absence of effective State judicial infrastructure in most parts of the country, and this under-resourcing where institutions are present, in part contribute to human rights concerns within the judicial system.²²² Judges and police interviewed by the Commission noted that they had not been paid for several months and often found themselves having to pay for paper and the resources required to run the courts and police facilities.²²³
179. In 2020, the Government launched a specialised court to deal with sexual and gender based violence in Juba with support from international partners, with personnel trained to process gender-based violence crime cases, with three affiliated mobile units, some in locations where conflict-related sexual violence has occurred.²²⁴ Victims, service providers and judges told the Commission that these initiatives have been welcomed by the civilian populations as important steps toward enhancing access to justice.²²⁵ These nascent steps are an important demonstration of the State considering its duty to duly investigate, prosecute and punish perpetrators of sexual

²²⁰ "Women activists demand dismissal of Minister Peter Mayen," Radio Tamazuj, 10 August 2021. Note that the political party of which he was a member reportedly terminated his membership due to his violent conduct. See "Women are on their own in unequal South Sudan," New Frame, 14 December 2021.

²²¹ See A/HRC/49/78, para. 47.

²²² See earlier reports of the Commission, for example A/HRC/40/CRP.1 paras. 961-984.

²²³ Confidential Meetings, undisclosed dates in 2021 and 2022, undisclosed locations.

²²⁴ A/HRC/WG.6/40/SSD/, para. 46.

²²⁵ Confidential Meetings, Juba and Yei, February 2022.

violence, including in conflict-areas. At the same time, it must be recalled that these initiatives are still minuscule in terms of meeting the need and rising to what is required to provide accountability and deter the repetition of all forms of sexual violence in the country.

180. The formal judicial system requires financial investment, political support and technical support to ensure access to justice. Sustainability requires that the Government itself funds improvement measures through revenues generated by the Government rather than through a reliance on donors, which is unsustainable and inconsistent with the State assuming its obligations as the primary duty bearer.²²⁶ In the case of both the specialised court and the mobile courts, for example, government resources could be redirected from security apparatuses such as the National Security Services, and applied to processes that actually enhance security and access to justice for South Sudanese women and girls.
181. Special protection units of the police that investigate sexual and gender-based violence are operating in several locations, with financial and logistical support from the United Nations, often located alongside the “One Stop Centres” (see above). In addition to dealing with sexual and gender-based violence occurring in families and other community contexts at a domestic level, many of these special units have begun to deal with incidents of conflict-related sexual violence, including in areas such as Central Equatoria where conflict related sexual violence is endemic.
182. The Commission observed that these units, like police units, are drastically underfunded, with limited resources for providing safe spaces for interviews, detention facilities and transport arrangements for suspected perpetrators, or even the desks and materials necessary for record keeping. One police officer explained that their monthly salary cannot even be used to purchase a good chicken, and that the salary is frequently paid late if at all;²²⁷ this illustrates, the challenges police face in carrying out their duties. Furthermore, the lack of salaries for police means that, even in rare cases where they are specially trained in tackling sexual violence, there are few incentives for retention, and so many leave, with those police officers remaining behind lacking the knowledge and investigative skills to properly investigate sexual and gender-based violence let alone conflict related sexual violence.²²⁸
183. The Government should ensure that measures taken to address sexual and gender-based violence include special police units and related investigations and prosecutions dedicated to sexual and gender-based violence being drastically scaled up.
184. The Committee on the Elimination of Discrimination Against Women (CEDAW) in its concluding remarks to the South Sudanese Government has recommended that the Government ‘provide fair trial and due process safeguards in court proceedings, including the protection of women victims and witnesses from reprisals before the ordinary courts’.²²⁹

Military justice

185. In late 2020, in a significant development addressing accountability, a military court was established in Central Equatoria, which prosecuted 28 soldiers of the SSPDF for crimes, including rape and sexual violence, against civilian women. The ad hoc Court Martial was held in Yei between July and September 2020, and resulted in the conviction of 26 SSDPF soldiers and prison sentences for multiple crimes against civilians, including rape and causing grievous bodily harm.²³⁰ Several women survivors told the Commission, that they had been able to identify the perpetrators of rape against them in early 2020, and with support from male community leaders, filed a complaint with the local SSPDF commander, who then instituted proceedings against the perpetrators.
186. While the Court Martial in Yei is significant, and the military leadership is to be commended for instituting these prosecutions which secured successful convictions, the Commission has also

²²⁶ The Commission has previously highlighted how members of the Government prioritise the financing of military and security apparatuses and overlook the rampant theft of the country’s wealth and resources, thereby reneging on its obligation to ensure the realization of the human rights of its people. For detailed findings, see <https://www.ohchr.org/Documents/HRBodies/HRCouncil/CoHRSouthSudan/A-HRC-48-CRP.3.pdf>.

²²⁷ Confidential Meeting, November 2021#8

²²⁸ Confidential Meeting, undisclosed location, February 2022.

²²⁹ CEDAW/C/SSD/CO/1, para. 29.

²³⁰ See A/HRC/46/CRP.2, para. 148.

heard from stakeholders including victims and their representatives, that they fear reprisals and that there is great uncertainty as to whether the perpetrators are in custody or have been released and redeployed to other locations. Consequently, many other victims and survivors of similar crimes are fearful of reporting what happened to them and continue to be reluctant to do so.²³¹ Credible sources have informed the Commission that a number of convicted soldiers have since been released and have even been reintegrated into the SSPDF and permitted to carry a firearm,²³² although, the Government is on record stating that all convicted men were discharged from military service.²³³

187.In terms of reparations and compensation, the Commission confirmed that more than one year after the conclusion of proceedings, victims had still not received the compensation ordered by the court.²³⁴

“Women are discouraged to report cases, because the Government has not paid compensation which was ordered by the court martial, that was last year and victims are still waiting.”²³⁵

188.While military courts are recognised as not being appropriate and should not substitute for civil courts rendering justice for civilian victims, in the absence of a judicial process, victims, civil society groups and officials have welcomed the military process as an important step taken by the Government to deal with impunity for crimes of sexual violence, with potential scope for replication in other states beyond Central Equatoria.²³⁶ This partial acceptance of military courts is a recognition that it currently appears to be the only formal justice system in operation that has provided some form of accountability in relation to conflict-related sexual violence.²³⁷

189.These military proceedings stand out as rare instances of accountability, in a context of prevailing impunity and repetition of the same crimes, given the significant scale of rape and sexual violence perpetrated by SSPDF soldiers in Central Equatoria which is where the military trials took place.²³⁸

190.A court martial held in Bentiu, Unity in late 2020 experienced similar challenges and issues as those which emerged in the case tried in Yei.²³⁹ And while earlier military trials held from May 2017 to September 2018 had also resulted in the conviction and sentencing of ten soldiers for serious crimes against South Sudanese and foreign nationals, including rape and murder, during an attack on the Terrain Hotel in Juba in 2016, the court-ordered compensation to victims has not been enforced.²⁴⁰

Traditional or customary justice systems

191.The realities and practicalities of limited road infrastructure and a lack of State facilities in many parts of the country makes the administration of formal justice incredibly expensive and challenging. There is no effective presence of formal courts in many parts of South Sudan, and with the very minimal reach of mobile courts, customary courts end up dealing with cases of sexual violence, which are beyond their formal jurisdiction. However, the extent to which this occurs in conflict situations where there is great social upheaval including displacement is not fully clear and requires further research.

²³¹ Confidential Meeting, November 2021#3, Confidential Meeting, November 2021#4, 104837-104841

²³² Confidential Meetings, undisclosed locations, February 2022.

²³³ See A/HRC/WG.6/40/SSD/1, para 58

²³⁴ Confidential Meetings, undisclosed locations, November 2021 and February 2022. 104837–104841.

²³⁵ Confidential Meeting, undisclosed location, November 2021#4, Confidential Meeting, Yei, February 2022.

²³⁶ Confidential Meeting, undisclosed location, November 2021.

²³⁷ 104303-104307, 104256-104260, 104247-104251, 104261-104266, D124258-D124264.

²³⁸ Other steps by authorities to address attacks by armed forces on civilians including sexual violence have been limited, with the conduct of a State Investigative Committee formed in 2018 being particularly problematic for including certain SPLA soldiers in investigative activities into the very incident that they were involved in, including a site visit to the religious compound that was attacked. See A/HRC/49/78, paras. 801-805.

²³⁹ A/HRC/46/CRP.2, para. 148. See also David K. Deng, Transitional Justice Working Group (TJWG) South Sudan: Justice Landscape Assessment, p. 17.

²⁴⁰ See A/HRC/40/CRP.1, paras. 994-1004. The CEDAW Committee, in its 2020 concluding observations on South Sudan, noted its members were “further concerned about the evasive tactics used to avoid paying court-ordered compensation to victims, including in the care of the Terrain Hotel.” CEDAW/C/SSD/CO/1, para. 22.

192. Customary courts, like many of the State's laws and institutions are considered inherently patriarchal and biased against women and girls, as confirmed by CEDAW in their concluding observations on South Sudan.²⁴¹ Nevertheless, it is necessary to engage with these courts and support them, provided that their practices comply with human rights principles and standards. Given the lack of access to the formal judicial system, customary courts have assumed a greater importance in dealing with sexual and gender-based violence, and efforts must be made to improve the quality of justice they administer.

193. While these systems are commonly criticised as patriarchal with an inherent gender bias, and their practices are often inconsistent with human rights norms and rule of law principles,²⁴²—and indeed the Government has recognised the existence of harmful customary practices—in the absence of the formal justice system, South Sudan's customary justice systems are seen as an important, though deeply flawed, resource for administering justice for women and girls.²⁴³ Therefore, the trope that customary courts are discriminatory should be acknowledged but also understood in this context.

194. Customary justice systems also struggle to deal with new complexities such as the influx and supply of deadly weapons to cattle raiders, and civilian communities at sub-national level as well as youth militias. The situation is exacerbated by political elite contestation over resources such as oil and the redrawing of boundaries to accord with the demarcation of new states with new geographic boundaries. Local justice systems have been influenced by political and historical forces, adapting over time. Justice delivery in South Sudan is highly problematic and to a large degree ineffective at present in providing equitable and just outcomes, particularly in cases of sexual violence and in contexts of conflict, and yet all justice arrangements should remain on the table as fora with which to potentially engage to address the pervasive scourge of endemic violence.²⁴⁴

195. CEDAW in its concluding observations to the Government has noted that the Government needs to ensure that 'customary court decisions that are contrary to the rights guaranteed under the Convention can be appealed to the ordinary courts, and provide women with assistance to opt out of proceedings before customary courts or to appeal customary court decisions'.²⁴⁵

C. Barriers to reporting sexual violence in conflict

196. The Commission identified multiple barriers and disincentives for victims to report their experience of rape and sexual violence perpetrated against them in conflict as well as outside of conflict. The Commission notes that in conflict situations, sexual violence is not the only form of violence that is underreported or unreported to authorities, with killings and torture often also not reported. The underreporting of cases of sexual violence, is linked to gendered power relations and the accompanying shame and stigma related to rape and sexual violence once these violations are disclosed or become known, and the fear of victims that they will be cast out by their families, including by their husbands, and shunned by the community.

197. In addition, the fear of reprisals from perpetrators prevents survivors and victims from reporting or coming forward with their experiences. In most cases, perpetrators remain at large, and are not apprehended. Justice is thus not served, causing feelings of resentment by victims. In instances where victims are apprehended, challenges and lapses in the legal system result in delayed justice or no justice at all.

"They told me to keep quiet, and they would kill me if I talked about the incident to anyone, because they know where to find me."²⁴⁶

"I wish he and his friends could be arrested, so that they pay for what they did to me. I wish for justice. I believe that those men are doing the same thing they did to me to other women."

²⁴¹ Ibid.

²⁴² 102958-102962 and Confidential Meeting, Yambio, November 2021.

²⁴³ See for example A/HRC/WG.6/40/SSD/1, para. 59.

²⁴⁴ For further discussion of relationships and opportunities involving interaction between these systems, see for example International Commission of Jurists, "Indigenous and other traditional or customary justice systems: selected international sources," 29 November 2019.

²⁴⁵ CEDAW/C/SSD/CO/1

²⁴⁶ 104859-104864

It is possible that they are targeting women and girls daily, to subject them to sexual abuse. I did not report the case to the police, for fear of my safety.”²⁴⁷

“At the military barracks, they encouraged us to keep quiet, saying ‘do not report that incident to anyone else because if the perpetrators knew, they might come back and kill you all.’”²⁴⁸

198. Survivors have told the Commission that perpetrators walk freely in the community emboldened by the prevailing lack of accountability.²⁴⁹ In such situations, people are afraid to report to the authorities or even to the United Nations the crimes committed.²⁵⁰ Even when soldiers have been imprisoned, fear remains.

“Our only fear is that the soldiers might get released … I am also afraid that if they are not jailed, they will stalk us to kill us if we are not protected, especially my husband and children… these people have guns.”²⁵¹

199. Victims of crimes perpetrated by members of armed groups also confront security and protection concerns, particularly in conflict contexts. In Tambura for instance, discussed above, many of the members of youth militias who demobilized in 2021 have stayed in the areas where severe violence had taken place, including some residing in or close to communities where victims currently live or would like to return to. And other armed men, soldiers associated with the SSPDF or SPLM/A-IO, have moved to cantonments or training centres pending possible redeployment to the same areas in which many recently perpetrated a range of human rights violations. So, in this context, reporting of any crimes by victims carries serious risk, and the Commission has noted that police are not conducting investigations, not least because of the risks involved to them also.

“These boys have witnessed many atrocities, committed atrocities, and you released them to the community without any counselling. Many of these boys have killed people, have slaughtered, have abducted, have raped, and (it) all ends up with them going back to the communities or the training centre.”²⁵²

200. Shame and stigma attached to rape can affect the lived experiences and future life opportunities for women who are victims of it and other forms of sexual violence. Reporting may affect their marriage and child-bearing and livelihood opportunities, and they may also face pressure from family members concerned that transparency could affect the family’s wellbeing for adversely impacting on the dowry potential. The fear of being disconnected from one’s existing and potential social and family network also keeps survivors and victims from reporting or coming forward with their experiences.

“I did not want people to know what happened to me, because I was ashamed.”²⁵³

“I never reported the case to any authorities out of fear, and I did not want people to know what happened to me, because I was ashamed.”²⁵⁴

“Women who are raped do not want to report also because of fear of stigma, and fear of losing their husbands. Some people do not report because they fear the way the community will treat them. In our community, a woman who is raped is regarded as someone who is damaged. It is not easy to report a rape case. So, if the cases are here within our community… I have not heard about them.”²⁵⁵

“Many victims of rape are suffering in silence and do not report what has happened to them. Some people do not report because they fear that the community will look down on them, others fear how they might be treated by family members, especially husbands their husbands, and the young girls fear that they might not get married.”²⁵⁶

201. For South Sudanese in refugee situations, there are even fewer avenues to pursue prosecution or redress or other forms of justice, if any. For this reason, it is essential in the design and

²⁴⁷ 105002-105016

²⁴⁸ 103726-103730

²⁴⁹ Confidential Meeting, November 2021#6(10). Confidential Meeting, November 2021#7(6). 104847-104854(27).

²⁵⁰ Confidential Meeting, November 2021#12(15).

²⁵¹ 103741-103745

²⁵² 104847-104854

²⁵³ 105017-105020

²⁵⁴ 105017-105020

²⁵⁵ 104952-104956

²⁵⁶ 104837-104841

establishment of transitional justice processes to include outreach to, and substantive engagement with, refugee populations in order that they can participate in justice processes, particularly truth-telling initiatives and reparations schemes.

D. Transitional justice

- 202.The implementation of Chapter V of the 2018 Revitalized Peace Agreement has been a consistent demand by South Sudanese civil society, victims and survivor support groups as well as human rights defenders over the last five years, so as to address the legacy and persistence of conflict-related sexual violence against women and girls in South Sudan.²⁵⁷
- 203.Chapter V of the Revitalized Agreement provides a comprehensive and holistic framework for transitional justice, including the establishment of: the Commission for Truth, Reconciliation and Healing; the Hybrid Court for South Sudan; and the Compensation and Reparation Authority as well as the associated fund. These transitional justice measures are designed to address truth accountability and the legacies of historical injustice and widespread human rights violations and abuses committed in the context of conflict in South Sudan and complementary and mutually reinforcing in building sustainable peace. The Commission has consistently emphasized the need for the Government to accelerate the establishment of each institution and to do so concurrently, including by initiating the legislative process with the African Union to establish the Court and to ensure the establishment of the two other mechanisms by providing the necessary resources and carrying out inclusive consultation processes on the Chapter V mechanisms.²⁵⁸ The implementation of these measures is significantly delayed, and requires acceleration.
- 204.The implementation of the transitional justice measures, set out under Chapter V, provides the Government of South Sudan and civil society with the opportunity for national consultations that are participatory and inclusive in regard to the design of these mechanisms, timelines and operationalization. It is also an opportunity for the United Nations, the African Union and the international community to take meaningful steps toward addressing the legacy and drivers of conflict-related sexual violence in the country.
- 205.The United Nations and African Union have over the last two decades extensively documented best practices and lessons learnt in addressing sexual and gender-based violence including conflict-related sexual violence. The Government of South Sudan, can benefit from technical support the UN and AU, which includes accessing regional and global best practices. Technical support however, must be matched and conditional upon the Government of South Sudan demonstrating genuine political will to tackle conflict-related sexual violence. That includes making more substantive and timely progress on implementing Chapter V and establishing the transitional justice mechanisms prescribed by the Agreement. Without political will, the efficacy of technical support remains limited, and in any case is best accompanied by setting benchmarks which are timebound, and the ongoing monitoring of progress and challenges, so support can be duly directed.
- 206.Political will to implement the Agreement needs to be reflected in relation to Chapter II and Chapter IV of the Revitalized Agreement, which relate to security arrangements, and resources and economic management respectively. In this regard, the unification of forces and commitments to clarify the command structure of the forces are crucial outstanding obligations. National resources should also be used to provide for the basic needs of soldiers as this has great potential to remove some of the key drivers and incentives for predatory and violent behaviour by soldiers who live in squalid conditions in military camps, who target nearby civilians.
- 207.Transitional justice measures must respond to the needs of survivors of conflict-related sexual violence who face persistent challenges in addressing the violations they have suffered and their present health and livelihood needs including the needs of the families they support, particularly in situations where they have been physically and or socially uprooted from their communities as

²⁵⁷ See “Transitional justice and accountability: a roadmap for sustainable peace in South Sudan,” Section V - Key considerations in implementation of Chapter V of the Revitalized Peace Agreement, October 2020, A/HRC/45/CRP.4. See also A/75/174.

²⁵⁸ See A/HRC/49/78, paras 82-86. As noted above, the Commission in December 2021 hosted a high-level Conference to sustain momentum on the implementation of transitional justice processes, an outcome of which was resolutions by participants to, inter alia, address blockages, including by improving cooperation between the Government of South Sudan and the African Union to establish the Hybrid Court.

a result of conflict and the related experience of sexual violence. Measures should also take into account the distinct challenges encountered by men and boys, who have also been survivors of sexual violence, including through the development of specialized strategies and mechanisms dedicated to supporting disclosure, access to rehabilitation, and inclusion in transitional justice processes.

208. While establishing the Special Reconstruction Fund envisaged in Chapter III of the Revitalized Agreement is critical to address the immediate needs of survivors and secure early dividends, it should not distract from or replace the Government's obligations to provide holistic and comprehensive reparation to address sexual violence and mitigate its impacts more broadly. Implementing the transitional justice envisioned in Chapter V, provides the State with the tools to combat the drivers of violence while also addressing its impact and prevention.

VII. Conclusions and recommendations

Conclusions

209. Widespread and pervasive, conflict-related sexual violence against women and girls in South Sudan takes place in the context of persistent conflict and insecurity, drastic gender inequity, and prevailing impunity, which exacerbate its prevalence and contribute to its normalization.
210. Conflict-related sexual violence in South Sudan's conflicts takes many forms: rape; gang rape and mass rape; abductions and sexual slavery; sexual torture, beatings and cruel and inhuman treatment; being forced to witness sexual violence; forced unprotected sex and unwanted pregnancies; and other forms of violence. Survivors can experience a range of physical and mental harms from their traumatic injuries. Often these are not addressed due to the lack of access to timely and appropriate services, including medical care, let alone psychological support. This, as well as social stigma and associated issues, can be destructive to families and communities, while also impacting on socio-economic status, particularly when accompanied by displacement.
211. Such brutal violence and injury take place in a context of pervasive poverty and extreme gender inequality, reflected in high rates of sexual and gender-based violence outside of conflict, a lack of women participation in political and public life, high rates of girl children being subjected to early or forced marriage, the lack of access by women and girls to livelihoods, and poor health outcomes that rank amongst the lowest for women and girls globally.
212. The experiences of women and girls subjected to sexual violence in conflict cannot be isolated from wider political violence, which typically involves brutal violations and abuses perpetrated by armed men against civilians, including killings, abductions, torture and forced displacement. Violations and abuses are manifested in a continuum of cycles of violence, that has followed similar patterns of perpetration regardless of location or the armed actors involved. Perpetrators include government forces and armed men belonging to armed groups, who perpetrate these acts in the full knowledge that impunity for human rights violations and abuses of this nature is practically guaranteed.
213. Armed actors have used sexual violence against women and girls for deliberate military or political objectives, to punish members of a whole geographic or ethnic community for their perceived association with the enemy, or to forcibly displace them from areas. Sexual violence is also used to carry out politically-motivated revenge and retaliatory attacks. In the context of abductions, women and girls have been forced by armed actors into sexual slavery, and other forms of servitude. In situations of prevailing insecurity and impunity, armed men have also perpetrated rapes and other forms of violence without military or political objectives, in the knowledge that that their crimes will go unpunished.
214. In some conflict contexts, sexual violence may serve to promote male bonding between armed men who through co-perpetration reinforce group solidarity, reinforcing coercive power relationships and the sense of entitlement over female bodies, which perpetrators believe are for them to use, control or own. Thereby, sexual violence can serve as an incentive for the recruitment and retention of young men into militia groups and armed forces.
215. Conflict-related sexual violence in South Sudan has been instrumentalised to destroy the very fabric that binds communities, and as a strategy to displace, terrorise and humiliate civilian populations. This sexual violence is linked to the political and ethnic divisions at the heart of these

conflicts. Sexual violence is used to humiliate and force opponents to leave a given territory, and thereby plays a critical role as one of the instruments of ethnic displacement. Women and girls are perceived in this conflict to be the biological bearers of a given culture and ethnic group. Perpetrators of sexual violence deliberately seek to destroy perceived enemy groups, through forced pregnancies, and by impairing the procreative abilities of their victims.²⁵⁹

216. While various sectors of the Government and civil society have spearheaded and promoted several policy frameworks that seek to foster gender equality and raise the status of women in South Sudan, disappointingly, the ongoing conflict has severely set back and delayed these efforts, as have delays in implementing the Revitalised Agreement.²⁶⁰ Historical and contemporary patriarchal, cultural and legal practices and frameworks have created an environment which in sexual violence flourishes.
217. The Government of South Sudan has not demonstrated the necessary political will to address sexual violence in conflict, nor is it working enough to end impunity in accordance with its domestic and international obligations. Impunity has been exacerbated by the Government's failure to ensure security sector reform, including the integration of the armed forces, as well as its failure to agree on the ratio of commanders, and the lack of provision of basic necessities to the armed forces. By allowing armed forces to set up camp near civilians, the Government has encouraged predatory behaviour against the civilian population; this is a key driver of the current sexual violence against women. With the requisite political will, the Government could enforce a policy of accountability for these violations and abuses through punishing perpetrators of sexual violence but it has persistently failed to do so.
218. Despite signing several declarations and endorsing different action-plans to address the scourge of conflict-related sexual violence against women and girls, senior government and military leaders have failed to condemn acts of such violence against women and girls as documented by the Commission, or to hold perpetrators accountable for such heinous crimes. Instead, the Government has promoted or retained perpetrators, as is the case with political and military leaders in Western Equatoria, consequently failing to affirm that such crimes must be punished.
219. However, measures set out in the Revitalised Peace Agreement, if implemented, provide the tools to address this situation. These include measures in: Chapter II on the security sector, Chapter IV on financial management, and Chapter V on transitional justice processes. The failure on the part of the Revitalised Government to implement these Chapters constitutes a lost opportunity to address the causes and consequences of sexual and gender-based violence, by resolving conflict, reforming the armed forces whose members are engaged in such violence, and funding the support services for victims. Without these steps, conflict and insecurity across the country will deepen, an atmosphere of impunity and lawlessness will prevail, and sexual violence will persist.
220. Advances in the implementation of accountability mechanisms for sexual violence in conflict remain ad hoc in nature and are woefully insufficient. Military courts martial established to prosecute identified military personnel have been rare and have tended to prosecute ordinary soldiers rather than commanders. While the establishment of mobile courts is to be lauded, the failure by the Government and the political leadership to hold accountable high-ranking perpetrators in the military for sexual violence undermines these initiatives and renders the various action plans rather meaningless.
221. Furthermore, impunity for crimes of sexual and gender-based violence committed by high-ranking officials contributes to creating an environment in which sexual violence proliferates. Therefore, while nascent judicial processes addressing cases of sexual violence in conflict are to be welcomed and recognized, they must be viewed in the context of their limitations and challenges related to these processes – which include military courts and mobile courts, both of whose contributions must be scaled up to strengthen the capacity of the judicial system to handle these cases.
222. Victims still have very few incentives and opportunities to pursue justice. They confront a range of obstacles to reporting sexual violence particularly in conflict-affected contexts. In addition, social stigma and abandonment by partners, as well as death threats from perpetrators, contribute to underreporting of conflict-related sexual violence. The courage of brave women and girls and

²⁵⁹ This perspective is reinforced by United Nations Security Council resolution 1820 on women, peace and security, which states makes the point that wartime sexual violence is “a tactic of war” used to “humiliate, dominate, instil fear in, disperse and/or forcibly relocate civilian members of a community or ethnic group.” S/RES/1820

²⁶⁰ For example, amendment No. 6 of the Transitional Constitution was guaranteed through the Revitalized Agreement and the National Action Plan on UNSCR 1325.

the organizations that support their quest for justice is a vindication of the desire for justice and accountability. Reparations including assistance for their immediate needs are urgently required.

223. Decades of conflict have resulted in hundreds of thousands of victims of sexual violence and conflict related sexual violence. Tragically, the impact of these violations has far-reaching consequences for women and girls, including unwanted pregnancies and children born as a result of rape. These women and girls also face serious physical and psychological consequences, physical disability, stigma and exclusion. Addressing the consequences of conflict-related sexual violence in isolation from the larger context of violence that women and girls face limits appropriate responses. While One Stop Centres and a network of social workers exist in various states, they are too few to deal with the vast needs. The requisite medical, psychosocial and economic support for survivors demands robust and deliberate investment on the part of the Government.
224. The onus rests on the Government of South Sudan to take decisive and transformative measures to ensure prevention of, and protection against, conflict-related sexual violence, and gender-based violence, and to provide remedies for the victims and survivors in a challenging context of heightened insecurity. If key provisions of the Revitalised Agreement on security arrangements and the integration of forces had been implemented, this could have helped to reduce incidents of sexual predation, by removing armed forces from the proximity of civilian populations. Implementation of transitional justice measures would have helped to secure the safety and security of women and girls, by taking steps towards the pursuit of justice and accountability for conflict-related sexual violence.

Recommendations

225. The Commission recommends that the Government should:

- (a) Commit publicly to a ‘zero tolerance policy’ towards sexual and gender-based violence perpetrated in and outside of conflict and to removing senior officials implicated in sexual violence, including Cabinet ministers, senior government officials and Governors from office. The Government should ensure that perpetrators are held accountable and that victims are assisted, including with legal representation, in accordance with their rights.
- (b) Strengthen the judicial system, in order to implement Article 2.1.10.2 of the Revitalised Agreement to prevent sexual and gender-based violence against women and girls and combat impunity for perpetrators of such violence, particularly members of the South Sudan People’s Defence Forces (SSPDF) and other security sector actors.
- (c) Immediately implement the 2014 Joint Communiqué, signed by the President of South Sudan and the United Nations, on addressing conflict-related sexual violence and commit to providing clear orders to security personnel, prohibiting sexual violence. In addition, the Government should strengthen and reinforce the military justice system and provide appropriate training for military personnel.
- (d) Cooperate with any credible effort to hold to account the perpetrators of serious violations and abuses of international human rights law and violations of international law, including crimes under national and international law.
- (e) Address additional drivers of predatory behavior by members of security forces and other armed actors, including by ensuring forces have their basic needs met and are not stationed adjacent to civilian residences.
- (f) Implement CEDAW’s general recommendations No. 33 (2015) on women’s access to justice and No. 35 (2017) on gender-based violence against women, that the Government should adopt and implement standard operating procedures for the prevention of, protection against and response to gender-based violence, to ensure access to justice for victims of conflict-related sexual violence, and access to shelters and medical support, including medical assistance and psychosocial support particularly emergency contraception and post-exposure prophylaxis.
- (g) Facilitate the unrestricted access of the United Nations, and monitors of the Ceasefire and Transitional Security Arrangements Monitoring and Verification Mechanism (CTSAMVM) and humanitarian partners to all government and opposition cantonment sites and military bases where abducted civilians, including women and girls, might be

held. Ensure the immediate release of any abducted women and girls and that they are provided with immediate medical and psychological support, as well as long-term livelihood support and comprehensive reparations in line with international human rights standards.

- (h) Urgently attend to the delays in implementing the Revitalised Agreement, particularly by taking steps to immediately implement the outstanding provisions of:
 - i. Chapter II, particularly on security arrangements, which has significant implications for the physical safety and security of the civilian population especially women and girls. More specifically move and relocate arms and armed forces and personnel to locations away from civilians.
 - ii. Chapter IV, to improve management of the economy and the equitable distribution of resources and finances, including by dedicating them to health services and rule of law institutions to address the health impacts and drivers of human rights violations and abuses in conflict.
 - iii. Chapter V, by finalizing the process for the adoption of the Memorandum of Understanding with the African Union to establish the Hybrid Court for South Sudan, including by establishing a forum to address the impasse between the African Union and the Government of South Sudan, as was identified as a next step in December 2021 at the conference hosted by the Commission. Also, by strengthening national capacity for the collection and preservation of evidence, including by setting up a database and collecting forensic data to facilitate the work of domestic courts and the transitional justice mechanisms envisaged in Chapter V of the Revitalised Agreement.
- (i) Develop specific indicators setting out milestones to be achieved and assessed in terms of progress for the realization of the gender provisions contained in the Revitalised Agreement and other normative and policy frameworks designed to address gender inequality and ensure prevention, protection, reparation and redress for sexual and gender-based violence. This should include benchmarks to determine the prevalence of sexual and gender-based violence, accountability for sexual and gender-based violence and ensuring that a central repository is established for the collection of data relevant to conflict related sexual violence.
- (j) Ensure that the following elements are taken into account in the design, planning and implementation of the transitional justice mechanisms set out in Chapter V of the Revitalized Agreement, given the pervasiveness of harm and overall consequences for victims of conflict-related sexual violence and their families:
 - i. Ensure that a gender-sensitive and inclusive approach is integrated into the design of the transitional justice mechanisms including national consultations, legislation and processes of implementation;
 - ii. Encourage and promote women's meaningful inclusion and participation in transitional justice processes, including by going beyond simply numerical representation, in ensuring that women are accorded opportunities and spaces to openly express their views and concerns;
 - iii. Ensure the participation of survivor support groups, women's organizations, and human rights defenders, civil society and faith-based actors that can offer sustained support to survivors of sexual violence during and after transitional justice processes, particularly in conflict-affected areas, and including through a country wide discussion on how to counter stigma;
 - iv. Sensitize, engage and collaborate with traditional justice mechanisms to support and complement transitional justice processes, including to address discriminatory practices and offer protection for affected victims; and,
 - v. Incorporate urgent and interim reparation and rehabilitation measures to address the high levels of psychological trauma and the survivors' urgent health socio-economic needs.
- (k) Establish a committee made up of representatives from the Ministry of Gender, Child and Social Welfare, the United Nations Entity for Gender Equality and the Empowerment of

Women (UN-Women), UNMISS, the Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict, the Commission on Human Rights in South Sudan, experts on sexual violence, and representatives of South Sudanese civil society to address accountability for conflict-related sexual violence. The Committee should be mandated to advise on the role to be played by domestic and military courts in the prosecution of conflict-related sexual violence and on a coherent, comprehensive and gender-sensitive investigative and prosecutorial strategy.

- (l) Ensure that military discipline is upheld alongside the principle of command responsibility and that personnel are vetted, taking into account past violations of international human rights and humanitarian law; ensure also that personnel have enough resources to be self-sufficient and are discouraged from engaging in predatory behaviour; and remove military personnel from close proximity to communities.
- (m) Ensure the timely investigation of all allegations of serious violations of international human rights and humanitarian law and of serious crimes under national law committed by the South Sudan People's Defence Forces, the National Security Service, other State security forces, NAS and other armed groups.
- (n) Sufficiently resource and systematically build the capacity of the judiciary, law enforcement officials, and religious and traditional leaders, as well as women themselves, particularly rural women, on women's rights and gender-sensitive adjudication, including through training and retaining officials with specialized knowledge.
- (o) Provide fair trial and due process safeguards in court proceedings, including protection of women victims and witnesses from reprisals.
- (p) Ensure that military court and customary court decisions that are contrary to equality and fair trial rights can be appealed to the ordinary courts and provide women with assistance to opt out of proceedings before customary courts or to appeal customary court decisions.
- (q) Ensure compensation and other forms of reparations ordered by courts are provided.
- (r) Prioritize the adoption of an anti-gender-based-violence bill, and ensure that the Minister of Gender Affairs establishes a system for the systematic collection of disaggregated data on the incidence and prevalence of gender-based violence, by sex, age and relationship between the victims and the perpetrator including in relation to intersecting forms of discrimination against women and girls such as disability;
- (s) Amend the Penal Code to specifically criminalize marital rape, base the definition of rape on the absence of consent and ensure that legal remedies are available to women and girls;
- (t) Ensure the establishment of shelters and victim support services, which are adequately funded, accessible and inclusive, that staff are trained and that the quality of services is regularly monitored;
- (u) Build the capacity of the judiciary, prosecutors, the police and other law enforcement officers to systematically investigate and prosecute all cases of gender-based violence, incorporating gender-sensitive procedures; providing appropriate remedies to victims;
- (v) Ensure that all harmful practices against women and girls are criminalized, and prosecuted and that perpetrators of such practices are held accountable;
- (w) Adopt a comprehensive strategy, with time-bound targets, including monitoring and evaluation, to eliminate discriminatory stereotypes concerning the roles and responsibilities of women and men in the family and in society, and link it to the implementation of the General Education Act of 2012, with a view to promoting gender equality through education;
- (x) Expand public education programmes, in collaboration with civil society organizations and the media, on the negative impact of harmful practices on the enjoyment by women and girls of their rights, targeting traditional and religious leaders and communities in rural and remote areas.
- (y) Provide systematic capacity-building on women's equal rights in marriage and family relations and upon their dissolution, as well as on women's equal inheritance rights, for

judiciary and traditional justice system actors, including the custodians of customary law, and women and girls themselves, especially in rural and remote areas.

- (z) Ensure access to justice and effective remedies for women who have been dispossessed of housing, land and property in divorce, inheritance and widowhood disputes, and provide legal aid and support programmes to the women concerned.
- (aa) Ensure that family members who have been separated through abduction, especially women and children taken during conflicts, are reunited with their families and provided with access to social integration programmes, and that transitional justice processes are in place at the community level to help societies deal with trauma and accept the reintegration of these community members.
- (bb) Expedite the finalization and adoption of an inclusive and comprehensive family law, with the engagement of women's civil society groups and traditional and religious leaders, establishing the minimum age of marriage at 18 years for both women and men, prohibiting the harmful practices of "bride price" and polygamy, and ensuring equal rights of women and men to inheritance and as testators, heirs or beneficiaries, including in Muslim communities.
- (cc) Ratify the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the Maputo Protocol).

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

- a. Order, clearly and publicly, all troops and allied militias to comply fully with international human rights law and international humanitarian law, in particular by prohibiting rape and all forms of sexual violence.
- b. Prevent and end unlawful killings, arbitrary detentions, acts of torture, enforced disappearances, conflict-related sexual violence and looting. Cooperate with any credible effort to hold to account the perpetrators of serious violations and abuses of international human rights law and violations of international law, including crimes under national and international law.
- c. Address additional drivers of predatory behavior by members, including by ensuring forces are not stationed adjacent to civilian residences.

227. The Commission recommends that the African Union and the Intergovernmental Authority on Development (IGAD):

- a. Recalling the findings of the Final Report of the AU Commission of Inquiry and its comprehensive findings on sexual violence in the context of conflict, the AU should use its good offices to urge the parties to the conflict to uphold and adhere to the Revitalized Agreement, and in particular the provisions that guarantee the safety and security of civilians with a special focus on sexual violence in the context of conflict.
- b. Develop specific benchmarks that both the AU and IGAD are able to undertake through the use of technical expertise on gender and sexual violence.
- c. Convene a high-level dialogue with political and security personnel specifically on sexual violence in South Sudan in the context of conflict, making use of the AU Kinshasa Declaration²⁶¹ emerging from the convening at the level of Heads of State in November 2021 on Positive Masculinity in response to violence against women and gender-based violence.
- d. Urge the Government of South Sudan to ratify, implement and make use of regional and normative frameworks on gender equality such as the Maputo Protocol and make use of various continental and regional instruments and policy documents such as the African Commission on Human and Peoples' Rights (ACHPR), the Special Rapporteur on the Rights of Women in Africa, the ACHPR Study on Human Rights and Conflict, and the African Union Transitional Justice Policy (AUTJP).

²⁶¹ AU Kinshasa Declaration and Call for Action of the African Union Heads of State on Positive Masculinity in Leadership to End Violence against Women and Girls in Africa, November 2021.

- e. Facilitate and support South Sudan state officials and civil society in regional initiatives, and support cross country learning and exchange on gender equality and addressing sexual violence.

228.The Commission recommends that Members States and development partners:

- a. Support initiatives taken by the Government of South Sudan to address conflict-related sexual violence including the full implementation of the Revitalized Agreement, in order to provide a sound basis and conducive environment for addressing the persistent conflict and insecurity in which conflict- related sexual violence thrives.
- b. Support civil society initiatives for the documentation of human rights violations and abuses in South Sudan, including conflict-related sexual violence, to inform ongoing public reporting
- c. Support initiatives to document incidents of conflict related sexual violence against men and boys and members of the LGBTIIQ+ A communities and collect disaggregated data;
- d. Support efforts to address conflict-related sexual violence and to increase the meaningful participation of women in political and public life, including the initiatives of UNMISS.

229.The Commission recommends that the United Nations Mission in South Sudan:

- a. Continue to support national justice institutions to investigate and prosecute serious crimes, ensuring that witnesses and victims receive appropriate protection and support.
 - b. Continue and enhance support for the establishment of One Stop Centres throughout South Sudan, including in remote areas to enhance psychosocial, medical, and legal support services to victims of sexual and gender-based violence including in conflict.
 - c. Support the strengthening of referral pathways through the establishment of local alert networks in South Sudan to enhance quick information sharing on cases.
 - d. Support the establishment of safe houses for individuals in imminent danger of harm, to be supported by partners where the Government is not able to provide protection.
 - e. Promote and enhance the establishment of legal service provider networks for victims.
 - f. Strengthen the synergy between national and subnational protection clusters working on sexual violence issues, enhance quick response as well as effective coordination of all activities relating to such cases.
 - g. Adopt a common strategy which promotes a common response from the United Nations Country Team and other relevant partners working on conflict-related sexual violence and on sexual and gender-based violence.
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