

Advance unedited version

Distr.: General
29 February 2024

Original: English

**Human Rights Council
Fifty-fifth session**

26 February–5 April 2024

Agenda item 2

**Annual report of the United Nations High Commissioner
for Human Rights and reports of the Office of the
High Commissioner and the Secretary-General**

**Report of the Commission on Human Rights in
South Sudan*, ****

Summary

In the present report, submitted pursuant to Human Rights Council resolution 52/1, the Commission on Human Rights in South Sudan provides an overview of the human rights situation in South Sudan, updates the Council on critical developments that occurred in 2023, and identifies key challenges, opportunities and early warnings for the coming period.

* The present report was submitted to the conference services for processing after the deadline so as to include the most recent information.

** Annex to the report is circulated as received, in the language of submission only.

I. Introduction

1. As South Sudan prepares to end its fragile political transition and to hold its first elections in December 2024, armed conflict and gross human rights violations persist. Millions of people have been displaced, deprived, traumatised, and continue to live in fear. The transformative promises of the 2018 Revitalised Agreement on the Resolution of the Conflict in the Republic of South Sudan remain unfulfilled. This report details a range of human rights violations, abuses, and related crimes, including systematic political repression and economic predation by political elites. Women continue to endure pervasive discrimination, inequality, sexual violence and sexual slavery. Children suffer egregious violations, arising from the ongoing insurgency and resurgent subnational violence, fuelled by local and national elites.

2. While elections can be moments of great societal opportunity, they also bring potential danger, as electoral grievances may trigger new violence, or compound existing conflicts, in an already fragile situation. Guaranteeing political and civic space for electoral competition and the participation of citizens is necessary, but must be underpinned by a permanent constitution, the establishment of rule of law institutions, including an independent judiciary, and credible security arrangements, especially the unification and deployment of security forces. This is required by the Revitalised Agreement but have been inordinately delayed. The Government must also renew peace overtures towards insurgents, who remain outside the transition process.

3. Pervasive violations have deep roots, requiring structural responses: inclusive and accountable governance, resilient and effective institutions, and the promotion of peaceful co-existence among South Sudan's diverse peoples. Beyond establishing institutions and systems, visionary leadership is needed for addressing the acute fractures and violence, including the scourge of abductions, that blight South Sudan's communities, particularly women and children. The persistent failure to hold perpetrators accountable betrays victims, demoralises citizens, and deepens impunity, perpetuating further violations and abuses.

4. Preparations for elections, while necessary, must not distract from nation- and state-building endeavours, nor from transformative transitional justice processes that address impunity, promote reconciliation, respond to the needs of victims, and lay foundations for stability. Leadership across the political spectrum must therefore renew their political cooperation and commitment to the establishment, and resourcing, of the Commission for Truth Reconciliation and Healing, the Compensation and Reparation Authority, the Hybrid Court for South Sudan, to be established under Chapter V of the Revitalized Agreement, alongside a functional, independent, national security and justice system deployed throughout the country that can deliver accountability. Otherwise, deterrence capacity will remain deficient, and the endless cycle of violence and impunity will continue unabated.

II. Mandate, membership and methodology

5. The Human Rights Council in 2016 established the Commission on Human Rights in South Sudan in its resolution 31/20, for a period of one year. Since then, the Commission's mandate has been extended annually each year. Most recently, on 3 April 2023 in resolution 52/1, the Council requested it to continue to monitor and report on the situation of human rights in South Sudan, to make recommendations to prevent further deterioration of the situation, and to report and provide guidance on transitional justice.

6. The Commission is also mandated to determine and report the facts and circumstances of, to collect and preserve evidence of, and to clarify responsibility for alleged gross violations and abuses of human rights and related crimes, including sexual and gender-based violence, with a view to ending impunity and providing accountability. The Council requested it to make such information available to transitional justice mechanisms, including those to be established under the Revitalized Agreement.

7. The current members of the Commission, appointed by the President of the Council, are Yasmin Sooka (Chair), Barney Afako and Carlos Castresana Fernández. From 12 to 17 February 2024, the Commission visited South Sudan to engage with citizens and

stakeholders, and government officials at the highest levels. They are supported by a Secretariat based in Juba, South Sudan.

8. In 2023, the Commission conducted eight missions within South Sudan, and further missions outside the country. It met victims and survivors, witnesses, internally displaced persons, refugees, government officials, justice sector actors, members of civil society and media, and other stakeholders. It collected 105 witness statements, conducted 253 meetings and focus group discussions, and gathered records and evidence, which are preserved in the Commission's confidential archives.

9. The Commission has adopted a 'reasonable grounds to believe' standard of proof in its reporting. The Commission has conducted its work, including the identification of alleged crimes, based on international human rights law, international humanitarian law, the domestic law of South Sudan, and relevant criminal law, including the protection of sources and witnesses.

10. The Commission has focused on incidents and developments which occurred from January to December 2023, monitoring trends and patterns. The report is not exhaustive; rather, themes and incidents have been selected for their significance, to illustrate the state of human rights in the country. It may be accompanied by further conference room papers published during the 54th and 55th sessions of the Council.¹ An advance draft was provided to the Government to respond to the findings.

11. The Commission extends its gratitude to the Government of South Sudan for the cooperation extended to the Commission and its Secretariat. The Commission is also grateful for the cooperation received from the African Union and from governments in the region, and for the logistical and related assistance of the United Nations Mission in South Sudan (UNMISS). The Commission thanks all who shared their experiences, expertise or analysis, without whom the Commission's work would neither be possible nor meaningful.

III. Political, security and legal developments

12. As it enters the final year of transition, South Sudan's future remains extremely precarious as the structural foundations to address governance, the economy and the human rights situation are yet to be established. A 2022 Roadmap extended the Revitalized Agreement, postponed elections to December 2024, and identified outstanding tasks and commitments. However, political competition, obstructions and delays have endangered the prospects for a credible transition and the protection of human rights. Furthermore, negotiations between the Government and armed opposition groups under the 'Rome Talks,' facilitated by Sant'Egidio, stalled, and efforts to revive talks continue.

13. The ruling Sudan People's Liberation Movement–In Government (SPLM-IG) exerted its political dominance across all areas, and continued its contestation with the SPLM/Army–In Opposition (SPLM-IO). Competition for power, influence and control amongst politicians and the security forces undermines peace.

14. Although in February 2023, the President and First Vice President reportedly agreed to remove the National Security Services' authority to arrest without warrant – powers persistently abused resulting in human rights violations – this was not reflected in amendments tabled in parliament.² In December 2023, draft bills were tabled with legislators to establish the Truth Commission and the Reparations Authority. No legislation was initiated to establish the Hybrid Court.

15. In June 2023, South Sudan joined the Maputo Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa. Earlier in February 2023, the Government announced accession to core United Nations human rights treaties; accession instruments were deposited with the treaty collection on 5 February 2024.

¹ A/HRC/54/CRP.6.

² A/HRC/54/CRP.6, para. 122.

16. In November 2023, Upper Nile State welcomed the first ever deployment of ‘necessary unified forces’ – the new national army drawn from Revitalized Agreement signatories.³ Their chain of command and ultimate deployment sites were unclear. Plans to deploy these forces to Tonga on the White Nile River raised concerns about their interactions with SPLM/A-IO and Agwelek forces, who fought heavy battles there in late 2022.⁴ In May 2023, Agwelek commander Johnson Olony, arrived in Juba and discussed integrating his forces with the Government. Yet, the majority of SPLM/A-IO soldiers have not graduated into the necessary unified forces and, overall, have been marginalized. Dissension and limited cooperation between SPLM/A-IO and SPLM-IG hampers prospects of an effective unified protection force, and creates fractures in the armed forces.

17. In March 2023, the President unilaterally dismissed the SPLM/A-IO Defence Minister and appointed her Interior Minister in September 2023. Targeted high-level defections orchestrated by SPLM-IG, particularly in Unity State, further eroded SPLM/A-IO militarily, risking mass violence and gross human rights violations, including in Leer, where signatories to the Revitalized Agreement parties continued to clash after 2018.

18. SPLM-IG commenced its campaigning and membership registration drives across the country. In early July, President Kiir attended a rally in the Western Bahr el Ghazal State capital of Wau, which was seen as SPLM-IG’s launch of electioneering. Senior SPLM members in attendance included the Chief Justice of the Supreme Court, wearing party colours. By contrast, other political parties faced significant restrictions, including SPLM/A-IO, whose leader, the First Vice President, continued to be denied permission to leave Juba. SPLM/A-IO administered areas were effectively a no-go for SPLM activities.

19. Many opposition legislators boycotted the September 2023 vote in the Transitional National Legislative Assembly on the National Elections Act, citing the late addition of a provision empowering the President to appoint five percent of the legislature.⁵ On 4 November, the Political Parties Council, National Constitutional Review Commission, and National Elections Commission were reconstituted. SPLM/A-IO complained of underrepresentation and exclusion from senior positions in the National Elections Commission, delaying the swearing-in to 8 January 2024.

20. The National Elections Commission will need to appoint state commissioners, while the National Constitutional Review Commission must conduct extensive and inclusive public consultations, establish a committee to prepare a draft constitution, and support a national conference and adoption of a final text. Time is extremely limited; the elections are to be based on the new constitutional provisions.

21. The Election Security Committee, established by the National Police Service in June 2023, does not include the National Security Services. Judicial and administrative mechanisms for arbitrating electoral disputes are critical for fair polls and should be promoted by the National Elections Commission and the Political Parties Council.

22. The conflict that broke out in Khartoum in April 2023, and spread across Sudan, has put at risk the infrastructure, including the pipelines for South Sudan’s oil exports, which represent its economic lifeline. Half a million people, most of them returning nationals, fled to South Sudan, increasing resource and humanitarian pressures on a population and system already at breaking point. Increased instability along border areas is a concern. Sudan’s crisis, and accompanying mass displacement, atrocity crimes, and destruction offer a cautionary message of the consequences of violent competition, military fracture, and persistent failures to build a plural and democratic society.

³ Revitalized Agreement, 2.2.1.

⁴ A/HRC/52/CRP.3, paras. 160-183.

⁵ A/HRC/54/CRP.6, para. 47.

IV. Subnational conflict

Central Equatoria

23. On 2 February 2023, at least 27 civilians were massacred in Kajo-Keji, Central Equatoria State, following violence and hostilities between Equatorians and heavily armed Dinka Bor cattle keepers moving large herds of cattle into the Equatorias.⁶ The herds are major assets belonging to wealthy well-connected individuals.

24. Armed herders led dawn attacks. A survivor recalled an attacker declaring that everyone would be slaughtered.⁷ A farmer saw assailants shoot dead three men sitting outside her home.⁸ A woman witnessed her husband marched to the road and shot dead with his other wife.⁹ The Commission documented group executions where victims were forced to the ground and shot.¹⁰ A survivor played dead while lying soaked in others' blood. When an attacker called for a knife to silence the wounded, he arose and fled, dodging bullets.¹¹ Armed men raped women as part of the attacks.¹²

25. Around 20,000 people were displaced.¹³ South Sudan Red Cross reported four of its volunteers were killed.¹⁴ A survivor recounted collecting the dead with other residents.¹⁵ The next day, the Pope arrived in Juba. Authorities vigorously censored media coverage of the massacre, yet images of mass graves appeared online, and condemnations followed.¹⁶

26. Witnesses primarily identified attackers as members of a nearby cattle camp, speaking Dinka and Arabic, carrying assault rifles and wearing *jellabiya*.¹⁷ Residents noted that the cattle keepers are highly militarized and enjoy close relations with local soldiers from the South Sudan Peoples Defence Forces (SSPDF).¹⁸ Witnesses said some wore green under *jellabiya*, possibly military uniform.¹⁹ Consistent testimonies indicate soldiers participated in or supported the attacks.²⁰

27. In the Equatorias, cattle-herding, and illegal timber and minerals extraction activities, are accompanied by heavily armed actors. The damage to land and agriculture, and the violence and insecurity they generate fuels Equatorian grievances. On 7 February, the President requested local authorities to address the perennial cattle issues and called for investigations and accountability.²¹ This and successive similar decrees remain unenforced.

Jonglei and Greater Pibor

28. Throughout 2023, the Commission recorded attacks by Murle men and boys against civilians in multiple counties of Jonglei State. It interviewed refugee survivors in Ethiopia, and reviewed other reports of rapes, killings, abductions and property destruction.²² Many abuses took place during cattle-raiding, escalated by guns. Refugees cited cyclical violence as a key barrier to their return home.²³

⁶ <https://peacekeeping.un.org/en/unmiss-strongly-condemns-deadly-violence-kajo-keji-central-equatoria-state>

⁷ R2910796.

⁸ R2910796.

⁹ R6917140.

¹⁰ R3186828, R4132159, R2075878, R7345000.

¹¹ R4530282.

¹² R3043220, R9329281.

¹³ Protection Cluster, "Kajo-Keji County/Central Equatoria State Protection Response," February 2023.

¹⁴ South Sudan Red Cross statement, 3 February 2023.

¹⁵ R4387595.

¹⁶ A/HRC/54/CRP.6, para. 84.

¹⁷ Long loose-fitting garment.

¹⁸ R5818167, R5208897.

¹⁹ R4204387, R2600155, R3670882, R6692840, R1232500.

²⁰ R4172798, R4632750, R3650243, R9390333.

²¹ Press statement, 7 February 2023.

²² R6394922, R9028466.

²³ R8157620, R3699714, R6505923.

29. In late 2022, thousands of Lou Nuer and Dinka Bor men and boys had mobilised. In the last week of December, they attacked Gumuruk and Lekuangle payams of Greater Pibor.²⁴ Murle communities also suffered attacks. In January 2023 hundreds of Murle women and children were forcibly taken to locations throughout Jonglei State

30. Gumuruk residents identified attackers as Nuer and Dinka wearing civilian clothes and green uniforms carrying spears, ammunition, and assault rifles²⁵. Contamination of water supplies, cattle-raiding, and property destruction were reported.²⁶ Murle men resisted with arms. One man said he was shot and had seen all his brothers die.²⁷ Other men and older boys ran for safety or to rescue cattle.²⁸ Most women and other children fled to scrubland and waterways.²⁹ Grasses and bushes were set ablaze, forcing out people from hiding.³⁰ Tall boys were reportedly shot as they emerged.³¹ A girl saw her mother stabbed and a brother shot dead, and was corralled into a group of women, girls, young boys and babies, a pattern of the violence.³² Their subsequent experiences of abduction are detailed below.

31. The mass mobilization to attack Murle communities was well-planned. State, area, and national authorities, and United Nations entities, were aware of this. Effective measures to prevent the attacks, bolster protection, or disrupt planners of attacks were not taken. On 26 December 2022, only after the attacks commenced, did Jonglei authorities call on the national government to intervene.³³ SSDPF soldiers in Gumuruk had not been reinforced and on 27 December they withdrew after being overwhelmed, incurring a reported 16 fatalities.³⁴

32. In September and October 2023, SSPDF deployed helicopters to Pochalla Town in Greater Pibor, including at least one gunship, during armed clashes with Anyuack youth. In June, the newly appointed County Commissioner was killed while attempting to establish an office in Pochalla, illustrating violent contestation for administrative control. Tensions increased following the deployment of a new SSPDF area commander. On 17 September, soldiers under his command killed his predecessor as area commander, an Anyuack from Pochalla. In retaliation, Anyuack youth mobilized and attacked the SSPDF barracks. Numerous Anyuack SSPDF soldiers reportedly joined the youth, and clashes ensued for weeks.³⁵ Humanitarians promptly evacuated, and more than 10,000 residents fled, some into Ethiopia.³⁶ Local authorities reported damage to civilian buildings from bombardment.³⁷ The SSPDF Headquarters spokesperson said air support was a necessary defensive measure.³⁸

33. Violence had subsided by late October, after high-level discussions in Juba. Some SSPDF soldiers were withdrawn, while National Security Services were deployed to the area. The SSPDF area commander was replaced, as demanded by Anyuack groups. On 22 November, the chiefs of SSPDF and military intelligence visited Pochalla with the National Security Services Director General.³⁹ The engagements and measures in this SPLM-IG area stand in contrast to inadequate responses to violence elsewhere in Greater Pibor.

Unity

34. On 7 October, Lieutenant General Simon Maguek Gai, SPLM/A-IO's top commander in Unity State, defected at SPLM headquarters in Juba, in the presence of Governor

²⁴ These Murle areas were devastated by similar attacks throughout 2020. A/HRC/46/CRP.2, paras. 91—115.

²⁵ R8084977, R9371676, R7177542, R4404229, R1215420, R7034690, R1252116, R4984663, R9407926.

²⁶ R3874087. S/2023/294, para. 95.

²⁷ R5650713.

²⁸ R7736335, R9436121, R6729646.

²⁹ R9806048, R7139110, R4465159, R1340096, R8102507.

³⁰ R4406473, R5596862.

³¹ R7508022.

³² R2919898.

³³ Jonglei State Information Ministry, 26 December 2022.

³⁴ CTSAMVM report 2023/05, para. 9.

³⁵ S/2023/922, para. 59.

³⁶ OCHA, "Humanitarian Snapshot: South Sudan: September 2023."

³⁷ <https://radiotamazuj.org/en/news/article/pochalla-women-children-struggle-for-basic-necessities-amidst-conflict>.

³⁸ Facebook posts, Lul Ruai Koang, 18 and 19 September 2023.

³⁹ South Sudan Broadcasting Corporation (SSBC), 22 November 2023.

Monytuil.⁴⁰ The next week, Maguek travelled to Leer – the birthplace of SPLM/A-IO leader Riek Machar – and held rallies with the SPLM-IG County Commissioner. The State broadcaster reported that Maguek was leading a ‘peace delegation’ sent by the President, and broadcast an interview where Maguek stated that the President had asked him to organize forces in Leer.⁴¹ In neighbouring Koch, defectors coordinated with the County Commissioner to mobilize government-aligned forces.⁴² Dozens of SPLM/A-IO soldiers and civilians were detained for refusing to defect to Maguek or join local militia.⁴³

35. Amidst rising tensions, on 28 November, SSPDF forces under Maguek attacked the SPLM/A-IO position in Kagai, around four kilometres from Leer Town. Thousands of residents fled the area. Significant escalation was prevented by high-level government and military interventions. By late December, Maguek had redeployed north to Bentiu.

36. Maguek’s activities deepened the insecurity and trauma of communities still reeling from years of devastating cyclical attacks. It escalated disputes over revenue sharing from Adok, a river port in Leer under SPLM/A-IO control, but in the administrative area of an SPLM-IG County Commissioner. Contestation over the lucrative port is a significant conflict driver. In 2022, after seizing the sole SPLM/A-IO cantonment in Koch County, government-aligned militias briefly captured Adok after carrying out widespread attacks against civilians in Leer. The Commission documented these crimes identifying key officials complicit and bearing responsibility.⁴⁴ They remain in office, deepening impunity. The SPLM-IG’s persistent quest for territorial control in Leer presents a grave risk of atrocity crimes.

Warrap, Unity, and violence affecting Abyei

37. Twic Dinka and Bul Nuer militias, from Warrap and Unity states, launched attacks during 2023 within the Abyei Administrative Area, whose final status has not yet been determined between South Sudan and Sudan. Conflict flared in 2022, primarily between Twic Dinka from Warrap State, and Abyei’s Ngok Dinka groups, centred on economic control of Agok and Aneet in southern Abyei. Throughout 2023 and into 2024, high casualties were inflicted in attacks and retaliatory attacks involving Ngok Dinka, Twic Dinka and Bul Nuer. An estimated 27 people were killed on 21 November, and a senior Abyei administrator was killed on 31 December 2023.⁴⁵ The United Nations Interim Security Force for Abyei has struggled to contain the violence. On 27 January 2024, attackers killed a peacekeeper and several civilians at the United Nations peacekeeping base in Agok where civilians had sought protection.

V. Sexual and gender-based violence

38. Widespread sexual and gender-based violence against women and girls is a national crisis, as serious crimes are perpetrated with impunity, including by State officials. A plethora of policies, actions plans and laws adopted by government have not been implemented. Government commitments to address women’s underrepresentation in positions of political authority have not been met. Gender inequity in access to education further compounds women’s inequality and disadvantage, entrenching their low social status. The violence meted out on the bodies of women and girls reflects the prevailing social, political and economic context. The absence of security and protection for women and girls, their exclusion from the national agenda-setting, and continued brutal sexual and gender-based crimes have shattered the lives of individuals and families. The severe impediments on women’s ability to participate in public life means their needs and perspectives are not integrated into decision making, and directly links with the poor development outcomes for them including in maternal health and education, constraining the nation’s development.

⁴⁰ SSBC, 8 October 2023.

⁴¹ SSBC, 15 October 2023.

⁴² R3450295, R3185940.

⁴³ R3787637, R5191278, R9722385.2.

⁴⁴ A/HRC/49/52/CRP.3, paras. 38—115.

⁴⁵ UNISFA statements, 21 November and 31 December 2023.

39. The Commission interviewed survivors of sexual violence in Bentiu, where a crowded camp hosts around 100,000 people displaced by violence and flooding linked to climate change.⁴⁶ This figure has not significantly changed since the signing of the Revitalized Agreement. With impunity, women and girls continue to be subjected to rape and sexual violence, often while undertaking livelihood activities outside the camp.⁴⁷ Protection measures remain inadequate.⁴⁸ Multiple testimonies detailed rapes in 2023 by SSPDF and SPLM/A-IO soldiers.⁴⁹ In each case the victim was outside the camp fetching firewood, burning charcoal, or foraging for food to supplement income and food assistance, which significantly decreased in 2023.⁵⁰ Many survivors presented blunt force trauma injuries from severe beatings. One victim said that perpetrators debated whether to kill her to avoid possible identification.⁵¹ Women's mental trauma from the rape and sexual violence is compounded by the knowledge that their lives are on a knife-edge, dependent on the will of the perpetrator. Most victims do not report the crimes for fear of retaliation and stigma. Underreporting is illustrated by the anomaly that during August to November 2023, the Commission identified more rapes by soldiers than were reported to the 'one stop' centre in Bentiu.⁵² Survivors indicated that they suffered multiple incidents of rape and sexual violence in the past. Most interviewees come from southern Unity State, where widespread sexual violence is a feature of systematic attacks on civilians. Individuals responsible remain in public office.⁵³

40. At multiple health clinics at 'one-stop' centres, the Commission identified the use of 'rape kits' to collect bodily fluids from victims of crime. Because forensics capabilities and storage facilities do not exist, even in Juba, samples are soon disposed of and lost as evidence for criminal cases.⁵⁴ An unintentional effect of this invasive procedure is to retraumatise survivors, who already face multiple barriers to medical assistance and justice.⁵⁵ Some medical centres require survivors to file a criminal complaint, which can include an expensive 'age assessment' to support trials, that rarely take-off.⁵⁶ Practices in the judicial management of rape cases also vary, with criminal charges often referred to customary courts. While a judge in Bahr el Ghazal said rape offences must be tried in regular courts, in the Equatorias a prosecutor said customary courts handle such cases unless the victim is under eight years.⁵⁷ In Unity, a service provider said cases are referred to customary courts given the lack of formal options; the Commission received information that victims had approached customary courts after a mobile court did not hear their cases.⁵⁸ Customary courts often impose financial penalties, which rarely go to victims; compensation is instead paid to their families. Victims being compelled to marry the perpetrator appears to be commonplace, compounding the violation.

41. Unintended pregnancies, disease, and injury to their reproductive organs creates a continuing cycle of harm, particularly for any children born from the sexual violence of security forces on all sides. Evidence shows that children born out of rape are marginalised within their communities, and are a constant reminder of the conflict, and what went wrong.

42. Numerous laws, action plans and policies contain remedial measures. These include the Maputo Protocol, ratified in 2023, and the Joint Communiqué on the Prevention of Conflict-Related Sexual Violence signed between South Sudan and the United Nations in 2014. A related 2021 action plan for armed forces expired at the end of December 2023. These have not translated into substantive changes for women, as governance structures do

⁴⁶ See also A/HRC/40/CRP.1, paras. 447—469 and A/HRC/49/CRP.4, paras. 89—106.

⁴⁷ A/HRC/40/CRP.1, paras. 443—469. A/HRC/49/CRP.4, paras. 91—106.

⁴⁸ R9466525.

⁴⁹ R5346022, R6020667, R2379054, R2649535, R3627245.

⁵⁰ R1839434.

⁵¹ R1005415, R7452206.

⁵² R5731473, R3194440, R6531984, R9065725, R8989556.

⁵³ A/HRC/52.CRP.3, paras. 38-115.

⁵⁴ R4515263, R9879996, R9065725, R3112708.

⁵⁵ A/HRC/49CRP.4, paras. 196—201.

⁵⁶ R7091185, R1379073.

⁵⁷ R2178637, R2400924.

⁵⁸ R9304155, R2535472.

not exist and are incapable of protecting women and girls. Most related laws, plans and policies designate an outsized role to the under-resourced Ministry for Gender, Child and Social Welfare. Ministry officials in multiple states detailed their limitations in implementing this mandate, and identified knowledge, expertise, capacity and resourcing constraints. A director general explained that many staff lack adequate skills and trainings, while qualified candidates are dissuaded by low and irregular pay.⁵⁹ A state minister said that no resources are available for protection activities.⁶⁰ The absence or weakness of courts, and difficulties of coordinating with political leaders, government institutions and armed groups were cited.⁶¹ The development of a national database to facilitate referral pathways for victims of sexual and gender based violence has stalled, reportedly for lack of funding.⁶² In the 2023-24 national budget, one percent is allocated for the Ministry to share with five other institutions. Its limited resources and coordination with other institutions have previously been identified by the Commission and human rights treaty bodies.⁶³ Thus, political failures to prioritize protecting the human rights of women and children violate the State's human rights obligations, resulting in the majority of the population living in an unacceptable human rights situation.

43. Women and girls in South Sudan are under siege, and lament that no one and nowhere is safe. Rape and other sexual violence destabilize society, fraying community and familial bonds, as women who maintain these bonds are targeted. Persistent sexual violence shatters any belief in the capacity of society to protect women.

VI. Abductions of women and children

44. The Commission previously described the extreme violence to which women and children abducted in conflict situations are subjected.⁶⁴ Abductions are gross human rights violations, and in armed conflict constitute grave breaches of international humanitarian law amounting to war crimes. Predictably, women and girls are targeted for economic and sexual and other exploitation, with abductions occurring in the broader context of their commodification, in which their lives are traded for cattle or money, which in some instances amount to trafficking.

45. Jonglei and Greater Pibor have a long history of abductions during cattle-raiding and revenge attacks, reflecting a complex mix of harmful cultural practices,⁶⁵ grievances, lawlessness, deprivation and economics. Patterns include mass attacks on the Murle by combined groups of Lou Nuer and Dinka Bor, while Murle abduct Lou Nuer children in smaller scale but more frequent attacks.

46. In January 2023, Lou Nuer and Dinka Bor attackers marched-off hundreds of Murle women and children at gunpoint, alongside cattle. Survivors were forced to walk up to 400 kilometres, often barefoot.⁶⁶ They were severely beaten and deprived of food, water and rest.⁶⁷ Women carried babies and small children; some were forced to carry luggage and water.⁶⁸ A daughter recounted her mother disappearing on the march, fearing being killed.⁶⁹ An adolescent mother was separated from her child, who remains missing.⁷⁰ A mother recalled her agonizing decision to escape without her child.⁷¹ Scores of abductees were killed

⁵⁹ R2844643.

⁶⁰ R2133696.

⁶¹ R4564596.

⁶² R7602211.

⁶³ A/HRC/49/CRP.4, para. 225(k), A/HRC/52/CRP.3, para. 226. CEDAW/C/SSD/CO/1, para. 17. CRC/C/SSD/CO/1, paras. 10—12. A/HRC/53/28/Add.2, para. 34.

⁶⁴ A/HRC/49/CRP.4, paras. 51—57.

⁶⁵ Including the Murle practice of abducting children from neighboring communities, then integrating them into families. A/HRC/49/CRP.4.

⁶⁶ R4038407, R7686117, R5560594, R4855234, R4218589, R7762189, R7182573, R9043407.

⁶⁷ R2294311, R2152205, R7442038.

⁶⁸ R4055163, R1672475.

⁶⁹ R9969079.

⁷⁰ R8836088.

⁷¹ R6146102.

trying to escape.⁷² Many family members, including mothers and children, were separated as abductors dispersed them in north and west directions.⁷³ Survivors interviewed had been forcibly displaced and trafficked to locations throughout Jonglei State, including Akobo, Bor South, Nyirol, Old Fangak and Uror counties (see map, below). Reports of abductees in other counties could not be verified.⁷⁴ Many remain missing.

47. In the Jonglei State capital, Bor, Murle women told the Commission they were taken to a market area, where they witnessed abductors being paid cash in exchange for their release.⁷⁵ Senior government officials in Bor confirmed their involvement in ‘negotiations’ but denied that money was exchanged.⁷⁶ A survivor identified a senior official being present while authorities negotiated payments with her abductors.⁷⁷ From mid-January, authorities oversaw a series of special flights transporting released abductees to Pibor Town. One mother who took a flight said her infant daughter is still missing, after her abductor refused to accept a payment for her release, and authorities failed to intervene.⁷⁸

48. Numerous survivors were held for months as forced wives of abductors. All interviewees had successfully escaped yet many left children, relatives and neighbours behind. They were treated like cattle and goods, most being subjected to rapes and sexual exploitation, beatings, death threats, forced labour and other forms of ill treatment.⁷⁹ A 12 year old said the abductor’s family treated her as a slave.⁸⁰ A young woman bears scars from being whipped with a rope for refusing sex.⁸¹ An adolescent mother was beaten close to death and her infant daughter taken during her escape.⁸² Most interviewees were helped to travel to Pibor after approaching police, soldiers or administrators in their area of captivity. Word had spread about government efforts to release captives. Yet many women said authorities did not help, even when the location of captives became known. Instead, victims and their families were advised to pay money to abductors. A Murle man in Pibor said that his wife’s abductor shared her photo with authorities, who advised him to make a payment he cannot afford. His wife and children remain hostage.⁸³ Another Gumuruk father paid for release of his young son, who authorities then transported to Pibor.⁸⁴ His wife and two daughters remained captive. Mothers who left children behind are visibly traumatized, carrying guilt, not knowing their child’s fate. A young woman, abducted with her son during 2020 violence, approached authorities in 2023 for help; yet she has no money for the release of the boy she left behind.⁸⁵ A senior government official in Pibor suggested that abductors hold children hostage as a tactic to entice escaped women back, consistent with the Commission’s observations.⁸⁶

49. These abductions were inherently gendered: women, girls and young boys were taken, while men and older boys were killed, with women above childbearing age killed or left behind. Authorities’ decision to facilitate payments for abductees – mostly women and girls – occurs in the context of their exploitation.

50. The intensifying scale of abductions is widely attributed to weapons proliferation and more frequent mass mobilization.⁸⁷ Authorities failed to prevent attacks, or hold perpetrators accountable for past abuses, consistently claiming security forces lack capacity.⁸⁸ Yet in these

⁷² R7414601.
⁷³ R6283540, R2279039, R6321390, R1800166, R5046946, R2344223, R9792781, R8963343, R2049707.
⁷⁴ R9722264.
⁷⁵ R5645545, R6281540, R7729561.
⁷⁶ R8295510.
⁷⁷ R4354043.
⁷⁸ R5232451.
⁷⁹ R7973142, R3336045, R1128229, R3346633, R5387586.
⁸⁰ R3961306.
⁸¹ R2095325.
⁸² R9221726.
⁸³ R9436797.
⁸⁴ R4387771.
⁸⁵ R9721023.
⁸⁶ R3855628.
⁸⁷ R2717695, R4161698, R2017627.
⁸⁸ R5548743. A/HRC/54/CRP.6, paras. 75, 83.

areas, activists are zealously policed, and forces have intervened when politically expedient (see above). Previous initiatives to address conflicts, such as the high-level committee established by the President in June 2020 to examine violence in Jonglei and Greater Pibor, have not been followed up with concrete steps to prevent recurrence.⁸⁹

51. When authorities pay abductors, or advise families to do so, this involves corruption. Encouraging and facilitating ransoms amounts to criminal collusion, promotes impunity, and risks incentivizing or prolonging abductions. Similar dynamics have contributed to preventing the release of Shilluks abducted from Upper Nile to northern Jonglei State in late 2022.⁹⁰ Overall, authorities were passive in preventing and punishing the perpetration of abductions, and limited in efforts to locate and rescue those missing or held hostage. This prolongs captivity and exploitation, and may imply complicity in international crimes such as enslavement, deprivation of liberty, sexual slavery and other inhuman acts, possibly amounting to crimes against humanity.

VII. Rights of children

52. The Commission and other human rights mechanisms have detailed the State's failures to implement its treaty and domestic commitments on the rights of the child.⁹¹ These failures have had devastating impacts on children and society.

53. Children suffer disproportionately from precarious health and humanitarian conditions, and constitute most of the population requiring assistance. One in 10 children under five dies, and 1.65 million experience acute malnutrition, mostly in areas affected by conflict.⁹² Health outcomes are infinitely worse for girls, often linked to rape and sexual violence, early marriage and high early pregnancy rates.⁹³ Doctors and health officials across the country described an over-reliance on international donors, and missing infrastructure, basic supplies and salaries.⁹⁴ Rural women detailed needless infant and maternal deaths from lack of healthcare.⁹⁵ In 2023, health ministry staff and the national doctor's union appealed for increased government funding. When the national budget passed in August, the health allocation had reduced, to three percent.

54. Few South Sudanese children enjoy the right to education.⁹⁶ UNICEF estimates enrolment rates at 37.6 percent in primary and 5.2 percent in secondary schools.⁹⁷ In February 2023, President Kiir directed ministries to ensure free access to primary and secondary education. Although free access to primary education is required by national law, the budget allocation for education is low, and mostly goes toward higher education, which is accessible to few.⁹⁸ Moreover, allocated funds often never reach schools; the policy on free education is not matched by resources (see below).⁹⁹ Yet educators collecting fees to supplement low and irregular incomes faced prosecution, and teachers were detained or fired for demanding salary arrears.

55. Underrepresentation of girls in education reflects the low social status of women. A cultural preference to invest in boys sees many poor families choosing to pay for boys' rather than girls' schooling. Some families fear that an educated girl may refuse early marriage.¹⁰⁰ Economic dimensions are at play; in some areas girls are 'booked' for a husband from birth,

⁸⁹ A/HRC/46/53, para. 39.

⁹⁰ A/HRC/54/CRP.6, para. 83. A/HRC/52/CRP.3, paras. 173-182.

⁹¹ A/HRC/40/CRP.1, paras. 573-578.

⁹² A/HRC/40/CRP.1, para. 574. UNIGME, "Levels & Trends in Child Mortality," 2023, page 57. IPC, "Acute food insecurity and malnutrition analysis," November 2023.

⁹³ CRC/C/SSD/CO/1, para. 48.

⁹⁴ R2611891, R8728832, R3100104.

⁹⁵ R3916571.

⁹⁶ A/HRC/40/CRP.1, paras. 537-572.

⁹⁷ UNICEF, "South Sudan Country Programme 2023-25," January 2023, page 14.

⁹⁸ Analysis of 2021-2024 national budget allocations and 2021-2023 expenditure.

⁹⁹ The 2020 National Action Plan for Children identifies under-resourcing as a major impediment to implementing the 2008 Child Act.

¹⁰⁰ R6906332, R4660647.

effectively becoming a commodity for exchange in adolescence.¹⁰¹ This may explain reports that in Greater Pibor only one girl was enrolled in secondary school matriculation in 2023.¹⁰² In some areas, customary mechanisms adjudicating homicides ordered that a girl relative of the perpetrator be forced to marry a member of the victim's family.¹⁰³

56. The Commission observed the ongoing forced recruitment and use of children by armed forces and groups during 2023.¹⁰⁴ In Bentiu displacement camp, where both SSPDF and SPLM/A-IO operate, boys were recruited on the false pretence of being deserters. A boy described being detained by soldiers and held until his father paid the soldiers – in effect, extortion.¹⁰⁵ Child recruitment also persists in Western Equatoria, despite efforts to demobilize children in armed forces.¹⁰⁶ Their reintegration is obstructed by challenges the Commission has previously identified.¹⁰⁷ Support capacities are constrained by scarce resources, reportedly reflecting limited political will.¹⁰⁸ The military continued to use schools in parts of the country, in violation of the State's commitments. None of the commanders and public officials the Commission has identified as responsible for grave violations against children have been disciplined or punished.¹⁰⁹

57. South Sudanese children remain extremely vulnerable to exploitation in many contexts. This includes in areas of mining operations, where child labour appears prevalent, in prisons where children are incarcerated with adults, in refugee and displacement settings, and upon abduction (see above).¹¹⁰ In a series of incidents, children were maimed or injured by unexploded ordnances, highlighting additional vulnerabilities linked to armed conflict.¹¹¹ These issues illustrate the weakness or absence of the State's child protection systems.

VIII. South Sudanese refugees and internally displaced persons

58. South Sudan has generated the most refugees in Africa, with more than 2.2 million refugees in neighbouring countries.¹¹² This figure has not changed significantly over the last five years, with the number of refugees returning being matched by those still fleeing.¹¹³ An additional two million people remain internally displaced. A worsening humanitarian situation persists, with 9.4 million people needing assistance in 2023.¹¹⁴ Nearly half of South Sudan's population are at risk of acute food insecurity.¹¹⁵ Since April 2023, conflict in Sudan has seen half a million people fleeing to South Sudan; mostly South Sudanese residing in Sudan. This has further strained a humanitarian system already dealing with global funding cuts, severely limited national infrastructure, and ongoing attacks on aid workers and aid distributions by armed militia and groups.

59. In February 2023, President Kiir called on refugees to return, promising this would top the Government's agenda heading toward elections.¹¹⁶ However, the Special Reconstruction Fund envisaged in the Agreement to support return and reintegration has also not been established. The 2023-24 national budget allocated 0.005 percent to this, far short

¹⁰¹ R9939470, R9076635, R4319631, R9291737.

¹⁰² <https://www.eyeradio.org/only-one-female-to-sit-for-secondary-leaving-exams-in-pibor/>.

¹⁰³ R7856861, R9132083.

¹⁰⁴ M100379, R9384985, R6465327, R2617928, R9032514, R1506252, R9368091, R7004472, R9432010, R1298719, R2022604, R3900013, R7584876.

¹⁰⁵ R8086923.

¹⁰⁶ R1868858, R8369136.

¹⁰⁷ R2879521, R4769162, R1364192, R1995851. A/HRC/52/CRP.3, paras. 223–234.

¹⁰⁸ R2242226, R8195901.

¹⁰⁹ A/HRC/52/CRP.3, para. 229.

¹¹⁰ R4876467, R9372816, R6962059, R7271347, R2943097. CRC/C/SSD/CO/1, para. 60. A/HRC/53/28/Add.2, para. 38.

¹¹¹ R5738902, R3592920, R3886830, R1578404.

¹¹² <https://www.unocha.org/publications/report/south-sudan/south-sudan-humanitarian-snapshot-december-2023>

¹¹³ UNHCR reports nearly one million refugees returning in this period, while reporting overall figures are mostly unchanged.

¹¹⁴ OCHA, op. cit.

¹¹⁵ Ibid. IPC, 2023, op. cit.

¹¹⁶ <https://apnews.com/article/south-sudan-government-0a628370837c8450e682395ea0bc5a52>.

of the required sum.¹¹⁷ On 6 September, the interim chair of the Reconstituted Joint Monitoring and Evaluation Commission called on the Government to take the first steps in establishing the fund.¹¹⁸ At the same time, the top United Nations humanitarian official in the country appealed to the Government to invest in services, given the aid sector's inability to cover significant gaps.¹¹⁹

60. The Commission met South Sudanese refugees in the Democratic Republic of Congo, Ethiopia, Kenya and Uganda. Most remain traumatized from previous violations and abuses they suffered in South Sudan between 2013 and 2023. A rape survivor in the Democratic Republic of Congo said he never wants to return after a soldier shattered his dignity.¹²⁰ A man born in a camp in Uganda returned to build a life in South Sudan but fled after receiving death threats for his human rights advocacy.¹²¹ In Ethiopia, a Shilluk interviewee lives apart from her husband in Malakal, to protect their children from insecurity and deprivation.¹²² An Equatorian woman taken captive by the National Salvation Front after returning from a refugee camp said she would not face this risk again.¹²³ Numerous witnesses had returned from refugee camps to South Sudan, only to flee again after experiencing or witnessing horrific violence.¹²⁴

61. In refugee camps, residents identified decreasing food assistance as a major problem, particularly where restrictions on livelihood activities contribute to aid dependency.¹²⁵ Varying access to healthcare and education are among other challenges reported in camps.¹²⁶ Yet all interviewees perceived conditions as worse in their places of origin, citing unchecked militarization, violence and internal displacement in the Equatorias and Greater Upper Nile.

62. In both camp and urban settings, refugees expressed feelings of being forgotten or excluded in political processes, including planned elections. Individuals involved in political activities said they do not feel safe in their host countries, citing the pervasive extraterritorial operations of the National Security Services.¹²⁷ Overwhelmingly, refugees told the Commission they cannot return without seeing sustainable peace, and demand justice.

63. On 9 October 2023, the Minister of Humanitarian Affairs and Disaster Management addressed a United Nations forum in Geneva and requested international financial assistance for displaced persons to return home.¹²⁸ The same day, the United Nations Special Rapporteur on the human rights of internally displaced persons was to land in Juba, but the Government cancelled her visit, citing issues with reports of the United Nations, including that of the Commission.¹²⁹ Without a coherent government commitment to stabilization, demonstrated through political and financial investments, refugees and internally displaced persons are unlikely to return home.

IX. Accountability and transitional justice

64. Many South Sudanese link the ongoing conflict and insecurity to weak or absent justice institutions, including the failure to affect governance and economic reforms, and adopt transitional justice measures. The Commission's past reports demonstrate in detail how

¹¹⁷ Documents on file. This appears far less than 20% of the USD 100m commitment made under Article 3.2.7 of the Revitalized Agreement.

¹¹⁸ <https://cityreviewss.com/rjmec-tells-government-to-form-special-reconstruction-fund-board/>.

¹¹⁹ <https://www.unocha.org/publications/report/south-sudan/humanitarian-agencies-south-sudan-forced-reduce-aid-amidst-funding-crisis-and-aggravated-humanitarian-situation>.

¹²⁰ R8926744.

¹²¹ R5453586.

¹²² R4203962.

¹²³ R3205466.

¹²⁴ R3351482, R4677383, R4754675, R4207580, R2403973, R6972823(3), R4227779(4).

¹²⁵ R8432285, R1867430.

¹²⁶ R4482557, R4267289, R2234558(1), R9931405(7), R6733253(8), R1258365(2).

¹²⁷ A/HRC/54/CRP.6, paras. 149–177.

¹²⁸ <https://www.eyeradio.org/south-sudan-urges-international-community-to-lend-hand-to-returnees-refugees>.

¹²⁹ <https://www.ohchr.org/en/media-advisories/2023/10/south-sudan-visit-un-expert-postponed>.

impunity fuels cyclical violence and human rights violations.¹³⁰ Still, there have been few concrete steps towards developing functioning justice processes and institutions.

Administration of justice

65. The justice system has severe jurisdictional, security and capacity impediments.¹³¹ The Constitutional Court envisaged in the Revitalised Agreement has not been established. Justice sector actors identified the neglect of courts as a major manifestation of dysfunctionality in the criminal justice system. In the fiscal year 2022-23, the judiciary received less than one percent of the national budget; police and prison services received around three percent.¹³² No State funding appears to be allocated for the establishment of transitional justice institutions.

66. South Sudan's largest state, Jonglei, hosts only one high court judge; the Greater Pibor Administrative Area has none – these areas have the highest rates of abductions.¹³³ Unity and Upper Nile states have had no high court judges for several years, making prosecutions of serious crimes virtually impossible.¹³⁴ In other states, a handful of judges largely confine themselves to urban centres.¹³⁵ Recruitment and retention of state-level judges and prosecutors are hindered by poor court and housing facilities, security risks, and low and irregular salaries.¹³⁶ Absenteeism results, with some state-level jurists residing in Juba.¹³⁷ Many areas rely on mobile courts constituted by judges from other areas. While an important provisional measure, mobile courts are limited by constraints facing local investigators, and are unsustainable as they rely on international resources and support. A Unity State Minister noted that no mobile court adjudicated there in 2023, calling for permanent courts to be prioritised.¹³⁸

67. Police and prosecutors reported severe limitations in staffing, equipment, offices and capacities – hampering effective investigations.¹³⁹ Case backlogs are significant, trapping high numbers of people in pre-trial detention, and causing prison overcrowding, without effective options for appeals.¹⁴⁰ Sickness is rife in prisons due to a lack of basic sanitation and related infrastructure. A state prison official complained that authorities had not connected the prison to utilities.¹⁴¹ Dehumanising prison conditions and lengthy pretrial detention must be addressed by functioning courts, to prevent systematic violations of fair trial rights, and other human rights violations.

68. Most communities depend on customary justice mechanisms, which are perceived as more accessible than regular courts.¹⁴² Under the 2009 Local Government Act, 'traditional authorities' can adjudicate criminal offences with a 'customary interface.'¹⁴³ However, interpretations and practice vary significantly, particularly regarding the crime of rape (see above). Like regular courts, customary courts routinely fail to uphold core human rights standards.

69. Jurists at the highest levels noted persistent executive and military interference.¹⁴⁴ In Unity State, investigations and the establishment of permanent courts have been blocked by the Governor, who is implicated in serious crimes.¹⁴⁵ In Western Bahr el Ghazal, an SPLM/A-

¹³⁰ A/HRC/52/CRP.3.

¹³¹ See A/HRC/37/CRP.2, paras. 665-681 and A/HRC/52/CRP.3, paras. 304—315.

¹³² Documents on file.

¹³³ R8518262.

¹³⁴ R1884828, R3451657, R6865199. A/HRC/52/CRP.3, paras. 306—315.

¹³⁵ R1328530, R3019867, R3637091, R2717155.

¹³⁶ R8663097.

¹³⁷ R1419414, R1523340, R2428939.

¹³⁸ R5946697.

¹³⁹ R8043046, R6541569, R1973666, R1249550.

¹⁴⁰ R7581936.

¹⁴¹ R9863877.

¹⁴² R6017197, R8166014, R4597923, R6384349. A/HRC/49/CRP.4, paras. 191—195. A/HRC/52/CRP.3, para. 363.

¹⁴³ 2009 Local Government Act, section 98(2).

¹⁴⁴ R5773999.

¹⁴⁵ R6089873, R3683670, R9732438. A/HRC/52/CRP.3, paras. 144-149.

IO commander, who was party to proceedings, shot at customary adjudicators, illustrating the security risks they face.¹⁴⁶ Across the country, police and prosecutors were threatened or attacked while investigating SSPDF soldiers.¹⁴⁷ The challenges in the country's military courts remain unaddressed.¹⁴⁸ The establishment in 2019 of a National Security Services tribunal has not led to visible improvements in the conduct of its officers, who operate without any judicial oversight.¹⁴⁹

70. In an election environment, these limitations affect the ability to judicially challenge electoral conduct or results, and may compromise the credibility of outcomes. The participation of the most senior judge in political party campaign activities accentuates concerns (see above).

Investigation committees

71. The President has established several investigation committees in response to human rights violations. A committee was mandated in September 2022 to examine incidents in Unity State's Mayom County, where the Commission found that the Governor bears responsibility for extrajudicial killings.¹⁵⁰ Although committee members visited the State capital in 2023, they did not travel to Mayom because the SPLM-IG area authorities would not guarantee their security.¹⁵¹ As of February 2024, their report was still awaited. An investigation committee into atrocities in Leer County travelled to southern Unity State in March 2023, but no public report or judicial outcomes have emerged. Another committee investigated violence in Rualbet, Warrap State in 2022. It presented prosecutorial recommendations to the President in January 2023, but no prosecutions appeared to have been initiated.¹⁵² In each of these situations, the Commission identified senior government and military officials implicated in serious crimes, who remain in public office.¹⁵³

Transitional justice

72. In a country carrying inter-generational trauma and experiencing ongoing violence, dealing with the past and building sustainable peace requires a comprehensive and holistic transitional justice process. Chapter V of the Revitalized Agreement establishes this by providing for the Truth Commission, a Compensation and Reparation Authority, and the Hybrid Court, in accordance with international and regional norms and standards.¹⁵⁴ None of these institutions have yet been established.

73. In October 2023, the Cabinet approved draft legislation for the Truth Commission and the Reparation Authority. The bills went through a first reading by legislators in February 2024, after being drafted by the Ministry of Justice and Constitutional Affairs following public consultations from May to June 2022, and a high-level government-facilitated conference in May 2023.¹⁵⁵ However, the report of the consultations has not been made public, nor have the bills. Civil society groups have complained of being sidelined, and called for legislators to hold public hearings and permit amendments to the bills to reflect citizens' views. The exclusion of refugees from consultations, barring one instance, remains unresolved. The woefully slow progress, and incompleteness, in adopting transitional justice legislation remains a concern.¹⁵⁶

74. The process of establishing the Hybrid Court has stalled while the Government continues sending mixed signals on its establishment. At the third Transitional Justice

¹⁴⁶ R2176358.

¹⁴⁷ R8705081, R3258068, R3131243.

¹⁴⁸ A/HRC/52/CRP.3, paras. 336–362.

¹⁴⁹ A/HRC/46/CRP.2, paras. 41–48. A/HRC/53/CRP.6, paras. 36 and 112.

¹⁵⁰ A/HRC/52/CRP.3, para. 149.

¹⁵¹ R5880092, R6842539.

¹⁵² The Commission requested information from the Government, in 2022 and 2023. M-100422.

¹⁵³ A/HRC/52/CRP.3

¹⁵⁴ See 2019 African Union Transition Justice Policy, 2023 UN Guidance Note of the Secretary General on Transitional Justice.

¹⁵⁵ UNDP, "Conference Report: Transitional Justice Mechanisms in South Sudan", May 2023. A/HRC/54/CRP.6, paras. 184–86.

¹⁵⁶ See A/HRC/52/CRP.3, paras. 370-373, 378-382.

Conference convened by the Commission in February 2023, the Government and African Union committed to adopt ‘broad guidelines’ for the Court’s establishment. At the government conference in May 2023, the President and First Vice President maintained their readiness to progress once guidelines were received from the African Union, but a proposal to deprioritise the Court was then adopted at that same conference. Engagements by the African Union in 2023 failed to yield positive outcomes. In November, the African Union Peace and Security Council reiterated its call for collaboration with the Government to establish the Court. Progress is obstructed by an expedient stalemate regarding who acts first in implementing the broad guidelines. Resistance to establishing the Court undermines the comprehensive holistic vision for transitional justice, denies justice and healing to victims, perpetuates impunity for atrocity crimes.

75. An important step towards accountability for historical violations was taken in Sweden in September 2023, in a trial related to events in Unity State between 1997 and 2003. After several years of investigations, Ian Lundin and Alexander Schneider, former executives of Lundin Energy AB, were charged in Stockholm, on the basis of universal jurisdiction.¹⁵⁷ The charges relate to aiding and abetting war crimes committed by armed forces of Sudan and southern militias supporting oil extraction activities. South Sudanese victims are participating in the proceedings.

76. In Spain, criminal proceedings were also initiated under similar principles before a Criminal Court, in relation to the unlawful arrest and subsequent rendition in 2019 of four men, who were sent from Juba to Equatorial Guinea, where they were tried for treason and sentenced to lengthy imprisonment.¹⁵⁸ One man died in prison from ill-treatment. Spanish prosecutors have indicted several high-ranking officials of the Government of Equatorial Guinea in relation to these crimes. No investigations of South Sudanese officials have been initiated in Spain or South Sudan.

77. No investigations or proceedings have been brought against South Sudanese officials for their part in the abduction and subsequent rendition of several South Sudanese citizens from neighbouring countries in recent years (see below).

X. Political economy

78. Authorities have continued to divert revenues in key areas – oil production, taxation, loans from international financial institutions and humanitarian assistance – to prioritise narrow partisan elite interests, inflicting immeasurable harm upon the people of South Sudan. Underfunding of core government services severely undermines the State’s capacity to protect and fulfil human rights. Chapter IV of the Revitalized Agreement seeks to address the economic drivers of conflict, but its remedial measures remain unimplemented.

79. The consequences are strikingly visible in the dire condition of basic infrastructure, health, and education services, and reflected in the country’s bottom ranking in global human development indicators.¹⁵⁹ A weak and dysfunctional justice system contributes to insecurity, legal uncertainty and related impunity. Yet, South Sudan derives significant revenues from oil exports. State resources for the progressive realization of human rights are diverted to corruption, conflict, political objectives and economic mismanagement.

80. Underfunding of services is evident in the flawed national budget process, which nonetheless depicts skewed spending priorities. In the fiscal years 2021-22 and 2022-23, the Ministry of General Education and Instruction was allocated USD 200m,¹⁶⁰ while the Ministry of Presidential Affairs was allocated USD 56.5m. However, General Education received just 28 percent of its budget allocation; while Presidential Affairs received almost

¹⁵⁷ <https://www.domstol.se/nyheter/2023/08/trial-commences-in-case-regarding-complicity-in-grave-war-crimes-in-sudan/>.

¹⁵⁸ Two were Spanish nationals and two were Equatoguinean. A/HRC/52/CRP.5, para. 174.

¹⁵⁹ <https://hdr.undp.org/data-center/human-development-index>.

¹⁶⁰ Conversion from South Sudanese Pounds official exchange rate at time budgets passed.

700 percent, amounting to six times more than education. This highlights imbalance and diversion of funds from service provision to centres of political power.

81. Officials admitted that significant budget allocations never reach schools, exacerbating the heavy reliance on international donors.¹⁶¹ With most of the national education budget going toward higher education, funding for primary education is further depleted by the corrupt disbursements system, whereby payments pass through multiple government offices, largely transferred in cash. Theft and diversion along the way results in less money reaching end users. State governments are also required to finance education, yet diversion of their budgets is also widespread. A widespread corrupt practice is of governors diverting Personal Income Tax collections. Given that humanitarians pay most of these taxes, this also amounts to aid diversion.

82. Resources are also diverted through the practice of moving revenues ‘off-budget’ through direct transfers. One of the largest recipients of direct transfers is the ‘Oil for Roads’ program, which is overseen in the Presidency. In the 2021-22 and 2022-23 fiscal years, the Government paid no less than USD 1.2b to Benjamin Bol Mel, a senior SPLM official, ostensibly for roads construction.¹⁶² A Senior Special Envoy to the President for Special Programs, Bol Mel and construction companies he owns are subject to United States Government sanctions. Based on the Commission’s analysis of funds disbursed against roads constructed, South Sudan is charged three to five times more than the market rate for road construction costs in East Africa. Moving money off-budget releases funds to finance discretionary spending, but reduces resources available for the national budget.

XI. Civic and political space

83. In October 2023 the Commission described the systemic and structural impediments to civic and political space, and the persistence of human rights violations against journalists and members of civil society.¹⁶³ The repression of civic and political space reflects the Government’s intolerance to critical voices and public scrutiny, an aversion to dissent and debate among key leaders, and a readiness to use coercion and violence to maintain power.

84. The SPLM party wields outsized influence on media content, through editorial control of State media, denial of access to information for independent publishers, a comprehensive regime of censorship implemented by the National Security Services, and arbitrary bureaucratic restrictions imposed by the Media Authority. Journalists report widespread self-censorship. Media based abroad face State-backed cyberattacks and website blocking. This repression undermines democracy and violates freedoms of expression and information.

85. Civil society actors face pervasive restrictions and unlawful surveillance on legitimate activities. The National Security Services impose prior authorisation requirements for holding gatherings and events. This arbitrary policy facilitates corruption and is not judicially reviewable. Security officers routinely monitor approved activities and intervene to control discussions. Unauthorized activities are shut down and organizers and hosts face reprisals. Surveillance and tedious approvals procedures are designed to stifle civic space; they violate multiple rights including freedoms of association and assembly.

86. Violent attacks on journalists and civil society members, including high-profile arbitrary detentions and attempted killing, have a chilling effect on civic and political activities. Digital surveillance, website and social media hacking, phone tapping and other digital attacks targeted journalists and activists in 2023. The National Security Services are implicated in such attacks alongside other entities including the National Communications Authority.

¹⁶¹ R7200004, R9494605, R6378232.

¹⁶² Petroleum, and Finance and Planning, ministries data, on file.

¹⁶³ Detailed findings and referencing: “Entrenched repression: systemic curtailment of the democratic and civic space in South Sudan,” A/HRC/46/CRP.6, https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/cohrsouthsudan/A_HRC_54_CRP.6_0.pdf.

87. South Sudanese in neighbouring countries face ongoing intimidation and surveillance from National Security Services. Victims in Kenya and Uganda said the renditioning of government critic Morris Mabior from Nairobi to Juba in February 2023 greatly added to their security concerns. Kenyan police officers participated in Mabior's detention before his illegal transfer to South Sudan, where he remained arbitrarily detained in January 2024.¹⁶⁴

88. In November 2023, a 'Civil Society Resolution on the Transitional Process in South Sudan' urging authorities to protect and expand civic and political space.¹⁶⁵ It attracted nearly 100 signatories, reflecting the diversity and plurality of the country's populations.

XII. Conclusions

89. **As South Sudan's transition nears completion, the risk of further mass violence and accompanying gross human rights violations remains ever-present. Patterns of violence, violations and entrenched impunity continue to blight the lives of an extremely vulnerable population. The already-dire humanitarian situation will deteriorate further.**

90. **The processes under the Revitalized Agreement provide for sustainable peace and human rights protections, yet its essential obligations remain outstanding or incomplete. These include the adoption of a permanent constitution, the unification of armed forces, and the establishment of transitional justice institutions. The country's first elections face severe political and logistical challenges, and the post-election legal framework remains uncertain.**

91. **Nation and state-building efforts have faltered, while predation and repression have been entrenched. Even as insurgency persists, subnational conflict and violence instigated by political and military elites is devastating. The violence is characterized by serious violations and abuses, including attacks on settlements and displacements, and egregious violations particularly against women and girls. Abductions have become a troubling exploitative enterprise; victims must be released, and perpetrators punished, not rewarded.**

92. **South Sudan cannot prosper or be truly free unless violence against women and girls ends, and the social fabric restored. Women and girls must be accorded dignity, respect, and substantive equality in law, policy and practices. This requires urgent societal changes, political commitment at all levels, and immediate interventions to prevent and punish abusers.**

93. **South Sudanese children are routinely denied access to health and education entitlements, going hungry, stunting their development and damaging their childhoods, with adverse impacts on the country's future. Lack of progress in key development indicators reveals diversion and mismanagement of resources, to the detriment of citizens' economic and social rights and other aspirations.**

94. **Impunity enables violations and atrocity; it requires structural solutions including a functioning justice system that deters and punishes crimes while delivering redress for victims. Political failures to implement transitional justice measures, ensure an independent and effective justice system, or deal with the root causes and drivers of conflict, violations and crimes, compound impunity. Security forces should be reoriented towards protecting civilians; and members who perpetrate crimes must be suspended, prosecuted, and expelled from the forces. In contrast to the impunity in the country, two cases before foreign Courts under universal jurisdiction have made**

¹⁶⁴ R6047490.

¹⁶⁵ In November 2023, in Dar-es-Salaam, Tanzania, civil society representatives also established a Civil Society Reference Group on the Transitional Process in South Sudan, to engage State actors and other stakeholders on key priorities, and to promote inclusive and people-centred civic transitional justice, elections, security, judicial and other reforms. Resolutions available at: https://drive.google.com/file/d/1JsPOzATbgn8tZd4ifcixd_Y9yKvoIBHy/view?usp=sharing (accessed February 2024).

significant advances towards establishing accountability for crimes committed in the territory of South Sudan.

95. Constitution-making and electoral processes provide new opportunities for visionary leadership, yet these require open democratic space to enable credible outcomes and avoid generating further grievances. Curtailment of media and civil society, and intolerance of political opposition, particularly challengers to SPLM-IG, is inimical to democracy. Measures to ensure the freedom, fairness, and security of elections and other participatory democratic processes are essential, failing which, new grievances, fresh conflict and further violations may emerge.

96. Long-term stability and prosperity requires addressing the drivers and structural causes of violence, including violent political contestation, a winner-takes-all approach, identity politics, ethnic mobilisation, sexual and gender-based violence, pervasive impunity, economic predation and corruption. Sustainable peace and human rights protection in South Sudan will remain elusive unless the Revitalized Agreement is implemented, and the State abides by its international human rights law obligations.

XIII. Recommendations

97. To the Government of South Sudan:

(a) Urgently implement core aspects of the Revitalized Agreement, particularly:

(i) Cooperate and advance the resolution of conflict and peace aspirations by the signatories.

(ii) Chapter I: guarantee democratic space to enable credible elections, including security arrangements for safe participation; establish effective administrative and judicial mechanisms for resolving electoral disputes.

(iii) Chapter II: accelerate and ensure the deployments, resourcing and payment of necessary unified forces, while moving armed forces away from civilians, except for their protection.

(iv) Chapter III: establish and resource the Special Reconstruction Fund to support safe and voluntary return of internally displaced persons and refugees; fund humanitarian activities, coordinating with the United Nations.

(v) Chapter IV: strengthen economic management and provide resources to core governance functions including socio-economic rights services; address corruption and revenue diversion; ensure budget processes are participatory, transparent and accountable.

(vi) Chapter V: establish and operationalise the Truth Commission, Reparations Authority, as well as the Hybrid Court; ensure that members selected through a transparent process are appropriately qualified and are not implicated in human rights violations; ensure transparency and participation, making public relevant bills; develop witness protection protocols in collaboration with stakeholders including victim-survivors groups, and sensitise the public to such processes; establish early warning and protection measures; and facilitate processes at community-level to promote reconciliation processes to overcome grievances and foster plurality.

(vii) Chapter VI: ensure funding and human rights protections for gender-equitable participation in the constitution-making process; and ensure the Permanent Constitution includes critical measures for rule of law, human rights protections, and an independent human rights commission.

(b) Address impunity:

(i) Dismiss or suspend public officials, security personnel and others complicit in sexual violence and serious crimes, including those identified by the

Commission; initiate transparent criminal investigations and proceedings; and publish the reports of investigation committees.

(ii) End illegal renditions, including by investigating the removal of four men to Equatorial Guinea in 2019, and the rendition of Morris Mabior to South Sudan in 2023: publish the findings, institute relevant proceedings, ensure institutional reforms.

(iii) Commit to ensuring no blanket amnesties for serious crimes under international law.

(iv) Allocate sufficient resources for functional and effective rule of law and justice institutions, including for investigations, prosecutions; ensure the independence and impartiality of rule of law institutions, including gender-balance and ethnic diversity.

(v) Address legislative and institutional gaps that foster impunity.

(c) Prioritize the protection of women and girls:

(i) Guarantee and protect the substantive equality of women and girls in society.

(ii) Prioritize prevention, holding perpetrators of sexual and gender-based crimes accountable.

(iii) Allocate sufficient resources to the Ministry of Gender, Child and Social Welfare to undertake for the coordination and implementation of State commitments to address sexual and gender-based violence.

(iv) Implement commitments to increase the representation of women in decision-making positions at all levels.

(d) Prioritize the rights of children:

(i) Ensure and fulfil the rights of children to health, food and education, including through funding.

(ii) End recruitment and use of children in armed forces and groups; and resource activities of the Disarmament, Demobilization and Reintegration Commission.

(iii) Comply with national and international laws providing for rights of children, including to prevent and punish grave violations against children in conflict.

(iv) Take immediate measures to release abducted children, and women.

(e) Protect civil and political rights:

(i) End attacks and arbitrary restrictions on the media, civil society, and political activities, and prosecute perpetrators of related crimes.

(ii) Amend the National Security Services Act in line with the International Covenant on Civil and Political and Rights; require the Services (and the Media Authority) to immediately end all forms of censorship and related cyberattacks; and end extra-territorial operations including renditions.

(iii) Establish the independent Press Complaints Council.

(f) Address subnational conflict and related violations:

(i) Stop instigating or tolerating political or communal violence, or encouraging defections; utilise peaceful means to mediate political differences within the Government.

(ii) Protect civilians from violations and abuses; deploy impartial and unified security forces to flashpoints; hold accountable those responsible for fomenting violence and committing serious crimes.

98. **To all armed forces and non-State armed groups:**
- (a) **End attacks on civilians.**
 - (b) **Cease forced recruitment, especially of children; release all children associated with armed forces and groups; support their sustainable reintegration.**
 - (c) **Hold responsible commanders and individuals accountable for crimes.**
99. **To the African Union and Inter-Governmental Authority on Development:**
- (a) **Unlock the stalemate with the Government of South Sudan over the establishment of the Hybrid Court; expeditiously advance preliminary processes, including developing guidelines and appointing the Prosecutor and senior officials.**
 - (b) **Develop early warning systems for joint monitoring, reporting and investigations to address heightened risks of violence before, during and after elections.**
 - (c) **Support the Government's initiatives to address sexual violence in conflict, and provide technical expertise to support prevention.**
 - (d) **Engage Member States to address the laundering of South Sudan's money within the region.**
100. **To United Nations Member States and international partners:**
- (a) **Assist South Sudan to take measures to address all violence, especially widespread conflict-related sexual violence against women and girls.**
 - (b) **Encourage the Government to ensure civic space for participation and abandon repression; and cease facilitating such violations, including extraordinary renditions.**
 - (c) **Support civil society and victim-survivors groups to ensure their effective and secure participation in transitional processes, in accordance with international and regional norms and standards.**
101. **To the United Nations system:**
- (a) **Provide opportune protection to civilians, including from subnational violence, and effective humanitarian assistance, while continuing to encourage the Government to fulfil its human rights duties in these areas.**
 - (b) **Continue critical support including for strengthening rule of law and justice institutions in South Sudan.**

Annex

