



REPUBLIC OF SOUTH SUDAN  
MINISTRY OF FOREIGN AFFAIRS AND INTERNATIONAL COOPERATION

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9<sup>th</sup> March, 2016

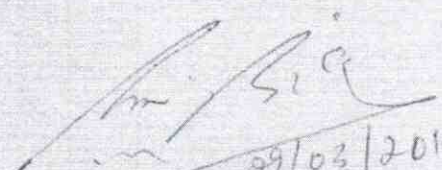
H.E. The Commissioner  
Office of the High Commission for Human Rights

**Subject: Report of the Office of the United Nations High Commissioner for Human Rights Assessment Mission to Improve Human Rights, Accountability, Reconciliation and Capacity in South Sudan**

Excellency,

I have the honour to forward herewith the response of my Government to the Report of the Office of the United Nations High Commissioner for Human Rights Assessment Mission to Improve Human Rights, Accountability, Reconciliation and Capacity in South Sudan.

I urge your esteemed office to consider my Government's response. Please, accept Your Excellency, the assurances of my highest consideration.

  
29/03/2016  
**Dr. Barnaba Marial Benjamin (MP)**  
**Ministry of Foreign Affairs and International Cooperation**



Cc:

- H.E. The President
- Hon. Minister, Ministry of Cabinet Affairs
- Hon. Minister of Justice
- File



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# Republic of South Sudan

**Response of the Government of the Republic of South Sudan on  
the Report of the Office of the High Commissioner for Human  
Right Assessment Mission to Improve Human Rights,  
Accountability, Reconciliation and Capacity in South Sudan**

(A/HRC/31/49)

BMB

Juba, 2016

## **Response of the Government of the Republic of South Sudan on the Report of the Office of the High Commissioner for Human Right Assessment Mission to Improve Human Rights, Accountability, Reconciliation and Capacity in South Sudan (a/HRC/31/49)**

The Government of the Republic of South Sudan acknowledges receipt of the Report of the Assessment Mission (AM) by the Office of the High Commissioner for Human Rights (OHCHR) under Resolution 29/13/July, 2013; which mandates the High Commissioner to present a report of the assessment at its 31<sup>st</sup> Session of the Human Rights Council.

On the basis of Resolution 29/13, the Government formed a National Technical Committee (NTC) to coordinate, facilitate and assist the work of the Assessment Mission. The NTC cooperated with the Assessment Mission by providing the requested information. Moreover, the NTC volunteered to accompany and assist the AM in carrying out its mission but the offer was turned down. It is, therefore, not true that the government did not cooperate.

After perusal of the report, The Government of the Republic of South Sudan makes the following response:

### **1. Response to allegation of killings of civilians:**

The government is mandated to maintain the territorial integrity and protection of the citizens and their properties from any negative forces. This is realized through the SPLA, which is the National Army, and other organised forces mandated to carry out their duties in accordance with the national constitution and the relevant laws regulating the rules of engagement. Any violation of these laws by any member of the SPLA or Organized Forces is punishable by the respective laws.

The government has no militia in any other part of the country, including Unity State, and has <sup>no</sup> policy to use civilians to fight amongst themselves.

The allegation in paragraph 15 of the report states that “an estimated 10,553 civilian deaths; 7,165 of which were due to violence as well as 829 deaths from drowning, 890 persons abducted and 1, 243 person missing”.

According to our records, on the 18<sup>th</sup> August, 2015; 337 people were killed following rebel attack on the town of Bentiu. Again on the 30<sup>th</sup> October, 2015, 230 people were killed in Bentiu as a result of another rebel attack. All these who got killed were amongst the combatants, from both the government as well as the rebel side with the exception of the Commissioner of Rubkona who was a civilian.

It is worth mentioning that at the time of the two attacks, the civilian population in Bentiu was in the PoC site of UNMISS. Therefore, the figure provided in the report is misleading and incorrect.

## **2. Response to allegation sexual and gender-based violence**

The allegations made on sexual and gender-based violence committed against 1300 civilian cases of rapes between April and September 2015 by the so-called the “Protection Cluster” in South Sudan cannot be independently verified. The body referred to as Protection Cluster is not even known to the Government of South Sudan.

The report in paragraph 35 further alleges that some women who came out from the Protection of Civilian (PoC) Site in Malakal were raped while gathering food and firewood. The area described where the alleged rape occurred is by the riverside and it is under the patrol of the UNMISS. It is, therefore, the responsibility of UNMISS in accordance with the Status of Forces Agreement (SoFA). After all, the people who ran to PoC was because of fear for their lives.

All other allegations made in paragraphs 37, 38, 39, 40 and 41 regarding sexual violence, the victims have not reported abduction of women and killings to the government. It is to be acknowledged that the SPLA, the SPLM/A-IO and other criminals use the same uniform. Unless the culprits are physically apprehended, it is impossible to determine whether it is the SPLA, rebels or other armed criminals committed the crime.

## **3. Response to allegation of recruitment and use of children in hostilities:**

The Government has no policy that encourages the recruitment of children in armed conflicts. The SPLA Law prohibits recruitment of anybody below 18 years old. For

this reason, a "Child Protection Unit" has been established in the SPLA. It is worth mentioning that the SPLA Child Protection Unit in collaboration with UNMISS and UNICEF identified 3000 children from the South Sudan Democratic Army (SSDA-Cobra Faction) were screened, registered, demobilized and reunified with their families. South Sudan has taken steps to accede to Optional Protocols to the Convention of the Right of the Child on the involvement of children in armed conflicts and taken measures in August 2013, the SPLA issued general order prohibiting recruitment and use of children.

The order also prescribes disciplinary and administrative penalties for any SPLA member in violation. In June 2014, the government signed recommitment agreement to end and prevent grave violations against child, in particular recruitment and use of children in the army.

#### **4. Response to allegation of destruction and looting of civilian property**

The former Unity State was one of the war zones repeatedly contested by the Government and the SPLM/A-IO in particular Bentiu, Mayom, Leer and Koch. The rest of former Unity State areas were under the control of the SPLM/A-IO. Moreover, civilian structures which we understand to be huts and temporary shelters, are basically made of local materials which easily catch fire, especially during battles.

Movement of civilians along with their livestock during the crisis depends on loyalty to the Government or the SPLM/A-IO.

For example, when areas of Bentiu, Mayom, Leer and Koch changed hands, civilians loyal to the government moved in with their herds for protection and safety to government-controlled areas. On the other hand, when the SPLM/A-IO takes control of those areas, civilians loyal to them also move in with their livestock. Under such circumstances, it is difficult to establish which livestock have been looted.

The Government had already investigated the allegations made in the Report in paragraphs 48 and 49 about the destruction and looting of private and public properties in Mundri and Wonduruba areas, some of the SPLA officers who were found involved in the incident were arrested, investigated and sentenced before the Military Tribunal with full media coverage.

The current situation in Yambio in the former Western Equatoria State is a rebellion incited by the former governor of Western Equatoria State, Col. Joseph Bangasi Bakasoro and his former State Minister of Information, Mr. Charles Barnaba Kisanaga who recently claimed to be members of the SPLM/A-IO operating clandestinely in former Western Equatoria.

Although those used to be known as "Arrow Boys" took up arms to fight the LRA which is wanted by the international community, they started their rebellion by attacking American Marines position in Nzara, convoys carrying humanitarian assistance, rape civilians and loots their properties. More recently they attacked a Church in the area and raped some nuns working at the Church. Their activities have caused serious displacement of civilians and obstructed delivery of humanitarian assistance in the area. As a result, the government has to deploy organised forces to maintain law and order.

## **5. Response to allegation of violation of freedom of opinion and expression and of assembly**

The National Security Service (NSS) arrested some of the journalists for violation of national laws endangering national security. The three journalists mentioned including Joseph Afandi have been released on bail.

In case of Dr. Luka Biang Deng, the University of Juba is an independent academic institution which employees national and non-nationals, like Dr. Luka Biang Deng who is a citizen of the Republic of the Sudan. The termination of service is based on the terms of contract. Therefore, The President cannot order the University to dismiss any of its staff including Dr. Luka Biang Deng.

With regard to paragraph 53 that 'the President of Republic of South Sudan has made a statement threatening to kill journalists' was out of context and was disreputed by the Press Secretary in the Office of the President on the 19<sup>th</sup> August, 2015. What the President said was that 'South Sudan is a country which was liberated by blood of people. This country has killed more than 2.5 million in the struggle. I, therefore, urge

you the journalist to report accurately, especially those of you who are nation journalists’.

## 6. Response to allegation of starvation of civilians

In paragraph 56 of the Report, it is mentioned that there are numerous incidents of crop burning, cattle raiding, looting and destruction of food stores. First and foremost, there is no starvation in the Republic of South but there is food gap and the government is currently working with humanitarian organisations such as the International Committee of Red Cross (ICRC) and the World Food Programme (WFP) to assist 2.8 million people affected by the current crisis.

To address the food gap in the country, the government has taken drastic measures and opens its borders with the neighbouring countries of Sudan, Ethiopia, Kenya and Uganda to airlift humanitarian assistances to hard accessible and affected areas.

Based on the above actions taken by the government, these demonstrate that there is no “scorched earth” policy as mentioned in the Report.

## Conclusion

The allegations of “gross human rights violation, serious violation of humanitarian laws, killing, rape and other sexual and gender-based violence, arbitrary arrest and detention, abduction and violation of child rights, including recruitment and use of the child in hostilities” made against the government have been responded to by the Government in the previous Human Rights Council Sessions. Therefore, it can be deduced from the Report rendered by the Assessment Mission that they relied heavily on previous reports by UNMISS Human Rights Division.

The conclusion drawn from the satellite images and used in the Report cannot be a basis of labeling the government to have committed the level of destruction, looting, pillaging of civilian properties as described because the parties to the conflict are using the same military uniform.

The report of the Investigation Committee for Human Rights Abuses, December, 2013 was overtaken by the Final Report of the African Union Commission of Inquiry on South Sudan (AUCISS) which was an independent body. Moreover, the credibility

*PHR*

and neutrality of this Investigation Committee was doubted by the international community.

As part of accountability, in January, 2016, the Government established a Joint Court for trial of offences committed by members of SPLA and other Organised Forces. This court has already tried four cases of human rights violations committed against civilians and their properties. On the other hand, recently, the Military Tribunal has also persecuted members of the SPLA involved in looting and other human rights violations in areas such as former Western and Central Equatoria States. These actions indicate that the government is committed to bring those members of the Organised Forces who abuse human rights to justice. This also proves that the government does not condone impunity, widespread terror, killings, arbitrary detention and other forms of human rights violations as alleged in the Report.

### **Steps Taken by the Government to Implement Peace Agreement**

Despite the fact that the leader of the SPLM/A-IO has not arrived Juba as expected under the Agreement, so that the Translational Government of National Unity is formed (TGoNU), the government has taken steps in implementation of the Agreement on the Resolution of the Conflict in the Republic of South Sudan (ARCRSS) as follows:

- a. Observation of Permanent Ceasefire.
- b. Redeployment of the SPLA and other organised forces 25 km outside Juba.
- c. Agreed on allocation of ministerial portfolios for the formation of the TGoNU as provided in the ARCRSS.
- d. Agreed on the composition of the membership of the Joint Monitoring and Evaluation Commission (JMEC) and Membership of the National Constitutional Amendment Committee (NCAC).
- e. Operationalization of the Ceasefire and Translational Security Arrangement Monitoring Mechanism (CTSAMM).
- f. Appointed 50 members of SPLM/A-IO to the National Legislative Assembly.
- g. Received the SPLM/A-IO Advance Team and Formers Detainees to Juba since 22<sup>nd</sup> December, 2015.

*Asif*



- h. Appointed Dr. Riek Machar Teny the leader of the SPLM/A-IO as First-Vice President and James Wani Igga as the Vice-President in accordance with the Agreement.
- i. Awaits arrival of 1,370 members of the SPLM/A-IO which shall be part of the Joint Integrated Police.
- j. The site for accommodation of the bodyguards of the First Vice President has been identified and the UNMISS and the other International Partners are providing facilities including boreholes.
- k. The permanent accommodation of the First Vice President is being prepared. However, upon his arrival, hotel accommodation will be arranged.
- l. The Vice President has vacated his office for the First Vice President and has been relocated to another location.

### **Way Forward**

1. The Government believes that the current mechanisms in South Sudan which include UNIMSS which mandate includes investigation and reporting human rights violations, JMEC, Hybrid Court for South Sudan (HCSS), CTSAMM, Commission for Truth, Reconciliation and Healing (CTRH), Commission of Reparation Authority (CRA), NCAC among others are enough for the purpose of human rights investigation and reporting, implementation of the ARCRSS and reformation of institutions.
2. Therefore, the proposal to appoint a Special Rapporteur will be counterproductive because it will create unnecessary bureaucracy and duplication of the ongoing efforts. Instead, what the government needs is support to implement ARCRSS and resources for institutional reforms and capacity building.
3. Also as part of its obligations, the Government is preparing Universal Periodic Review Report (UPR) to be submitted to the Human Rights Council in October, 2016.

**End**

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