

## **Renewing the mandate of the Commission on Human Rights in South Sudan and addressing the need for accountability for past and on-going crimes under international law and human rights violations in South Sudan**

Letter addressed to the Permanent Representatives of member and observer States of the United Nations Human Rights Council

23 February 2017

Excellencies,

We, the undersigned South Sudanese, regional and international non-governmental organisations, write to urge your delegation to renew and strengthen the mandate and capacity of the UN Commission on Human Rights in South Sudan (the Commission) to address the continued lack of accountability for severe, widespread and on-going crimes under international law and human rights violations and abuses, many of which amount to war crimes and crimes against humanity, during the upcoming 34<sup>th</sup> session of the UN Human Rights Council (UN HRC).

Since July 2016, the political, humanitarian and human rights situation in South Sudan has deteriorated. The return of Riek Machar to Juba in April 2016 was the starting point for the implementation of the August 2015 Agreement on the Resolution of the Conflict in the Republic of South Sudan (ARCSS). However, an outbreak of fighting in July 2016, which culminated in the flight of then First Vice-President Riek Machar from Juba and eventually from South Sudan, seriously jeopardised the implementation of the ARCSS and its transitional justice components.

During the July 2016 clashes between government and opposition forces in the capital Juba, the Sudan Peoples' Liberation Army (SPLA) and opposition soldiers [killed and raped civilians](#) and extensively looted civilian property. Since then, the security situation in the country has continued to deteriorate, [including in the Equatoria region](#), forcing hundreds of thousands to flee. According to the UN Office for the Coordination of Humanitarian Affairs (OCHA), as of December 2016, there were over [3.3 million South Sudanese civilians displaced internally or to neighbouring countries](#).

During the UN HRC's 26<sup>th</sup> Special Session on South Sudan, Yasmin Sooka, Chair of the Commission on Human Rights in South Sudan [stated that](#) "all of the early warning signals for mass atrocities in South Sudan are there." The Commission highlighted the importance of bringing perpetrators to justice in order to curb these on-going violations.

Yet, the African Union and the Government of South Sudan have yet to make significant progress in establishing the Hybrid Court for South Sudan (HCSS), provided for in Chapter V of the ARCSS. According to news reports, Minister of Information Michael Makuei Lueth recently [publicly opposed](#) the establishment of the three transitional justice mechanisms included in the ARCSS: the Commission for

Truth Reconciliation and Healing, the Hybrid Court for South Sudan, and the Compensation and Reparation Authority.

Once established, and provided its structure and institutional framework ensures the Court can conduct fair, effective trials, it will constitute a crucial tool for ensuring justice, truth and reparation for serious crimes under international law committed in South Sudan. This will help to end the pervasive culture of impunity in the country. While the HCSS cannot in and of itself resolve the ongoing conflict, we believe it can contribute to breaking, or reversing, the cycle of violence and revenge. It can contribute to peace in the short- and long-term by increasing the opportunity to deter additional human rights violations and address the underlying grievances that drive violence. Conversely, a lack of progress towards the establishment of the HCSS could embolden perpetrators and encourage victims to take justice into their own hands through acts of violent revenge.

In June 2015, the UN HRC adopted resolution [A/HRC/31/20](#) mandating the Commission to monitor and report on the situation in South Sudan and provide guidance on transitional justice, accountability, reconciliation and healing, as appropriate, and make recommendations on technical assistance to the government to support these areas. The 26th Special Session of the UN HRC on South Sudan did not result in any substantial changes to the mandate, instead renewing it pending the publication of the Commission's report in March 2017.

Pending the establishment of the HCSS, investigating on-going crimes under international law and human rights violations remains a priority to ensure collection and preservation of evidence and successful prosecutions. We believe the Commission could contribute in supporting the process of transitional justice, and take significant steps towards investigating and documenting human rights violations and preserving evidence in parallel or pending the establishment of the HCSS.

After a joint consultative meeting on South Sudan on January 29, 2017 on the margins of the African Union 28<sup>th</sup> Ordinary Summit of the Heads of State and Government in Addis Ababa, the Intergovernmental Authority on Development (IGAD), the AU and the UN “reaffirmed their commitment and determination to further enhance their cooperation in support of the South Sudan peace process.”

Our organisations consider that the UN HRC should take meaningful action at the 34<sup>th</sup> Session to enhance the Commission’s role and enable it to support the achievement of justice, truth and reparation for the victims of the grave human rights situation in South Sudan, thereby creating conditions for sustainable peace

The UN HRC should adopt a resolution during its 34<sup>th</sup> session to:

- Renew and strengthen the mandate of the Commission to include the conduct of independent investigations into violations of international human rights and humanitarian law, the collection and preservation of evidence and the identification of alleged perpetrators, with a particular focus on sexual and gender-based crimes and attacks or reprisals against human rights defenders;
- Urge the Government of South Sudan to allow and facilitate access to all locations and persons of interest to the Commission;
- Request that the report of the Commission be transmitted to the AU Commission in order to support and inform future investigations of the Hybrid Court for South Sudan and the UN Security Council for consideration and further action;
- Request that the report of the Commission be transmitted to the AU Commission in order to support and inform future investigations of the Hybrid Court for South Sudan and the UN Security Council for consideration and further action;
- Urge the AU to take immediate steps to establish the HCSS as recommended by the AU Commission of Inquiry on South Sudan and provided for in the 2015 peace agreement;
- Urge that all states encourage further concrete action to prevent a further escalation of violence and conflict, and deter and address on-going violations of international human rights and humanitarian law at the UN Security Council.

We thank you for your attention to these pressing issues.

Sincerely,

**African Centre for Democracy and Human Rights Studies (The Gambia)**  
**Amnesty International**  
**Article 19**  
**Association for Human Rights in Ethiopia**  
**Cairo Institute for Human Rights Studies**  
**Center for Civilians in Conflict**  
**Centre for Peace and Reconciliation (South Sudan)**  
**CIVICUS**  
**Community Empowerment for Progress Organization (South Sudan)**  
**DefendDefenders (East and Horn of Africa Human Rights Defenders Project)**  
**Dialogue and Research Initiative (South Sudan)**  
**DITSHWANELO - The Botswana Centre for Human Rights**  
**End Impunity Organization (South Sudan)**  
**FIDH (International Federation for Human Rights)**  
**FORSC: Forum for Strengthening of Civil society (Burundi)**  
**Global Centre for the Responsibility to Protect**  
**Human Rights Development Organization (South Sudan)**  
**Human Rights Institute of South Africa**  
**Human Rights Watch**  
**Institute for Rights of Women (South Sudan)**  
**International Commission of Jurists**  
**International Refugee Rights Initiative**  
**International Service for Human Rights**  
**International Youth for Africa (South Sudan)**  
**National coalition of Human Rights Defenders - Uganda**  
**Nile Centre for Human Rights (South Sudan)**  
**Nuer Women for Peace and Development (South Sudan)**  
**Pan African Human Rights Defenders Network**  
**Reporters Without Borders (RSF)**  
**Réseau des Citoyens Probes (Burundi)**  
**Réseau des Défenseurs des Droits Humains en Afrique Centrale (Cameroun)**  
**South Sudan Human Rights Defenders' Network**  
**South Sudan Human Rights Society for Advocacy**  
**South Sudan Law Society**  
**Transitional Justice Working Group (South Sudan)**  
**West African Human Rights Defenders Network (Togo)**  
**Women Monthly Forum (South Sudan)**  
**World Organisation Against Torture (OMCT)**

\*\*\*

FIDH is an international human rights NGO federating 178 organizations from close to 120 countries. Since 1922, FIDH has been defending all civil, political, economic, social and cultural rights as set out in the Universal Declaration for Human Rights. FIDH's headquarters are in Paris and the organization has offices in Abidjan, Bamako, Brussels, Conakry, Geneva, The Hague, New-York, Pretoria and Tunis.