

African Union concludes war crimes and crimes against humanity were committed in South Sudan

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(Paris, Pretoria) In its final report, the African Union (AU) Commission of Inquiry on the situation in South Sudan concluded that war crimes and crimes against humanity had been committed since the conflict erupted in December 2013 and recommends the establishment of accountability mechanisms. While the AU Commission is convening today a meeting in Addis Ababa to identify the practical steps to be taken in support of the South Sudanese peace agreement, FIDH reiterates its call upon the AU to ensure that justice and reparation for victims of atrocities form an integral part of the peace process.

“The African Union inquiry report reveals the scale and gravity of crimes committed since the conflict erupted in South Sudan. It shows how civilians were left at the mercy of parties in conflict and became targets of atrocities. The AU now bears the responsibility to ensure that those responsible are held accountable, that victims get justice and reparation and that a credible and effective reconciliation process is on track.”

Karim Lahidji, FIDH President

In its report, the Commission of Inquiry reveals how “civilians bore the brunt of the atrocities and [how] the conflict played out primarily amongst the civilian population and civilian targets”. Civilians were targets of murder, torture, cruel, inhumane and other degrading treatment, rape and other sexual and gender-based crimes, forced conscription of children, incitement to violence, looting and destruction of property. The Commission, which gathered evidence in Juba, Bor, Bentiu and Malakal, concluded that most of these violations amounted to war crimes. The report further reveals that atrocities were widespread, carried out systematically across the country and that some of them responded to an organisational policy, both on the part of the government and opposition forces. Such elements constitute reasonable grounds to believe that crimes against humanity were also perpetrated. The report does not come to the conclusion that any crime of genocide was committed but it clearly shows how some crimes were perpetrated along ethnic grounds.

“Victims and witnesses revealed to the Commission the extreme cruelty and brutality of the massive and systematic attacks committed since the eruption of the conflict, including against those who sought refuge in churches, mosques, hospitals and other places of protection. Those who felt confident in narrating the heinous crimes they suffered can not be left today without access to credible remedies.”

Sheila Muwanga Nabachwa, FIDH Vice President

The Commission attributes responsibility for such crimes to governmental (and allied) forces and SPLM/IO fighters and indicates that it has “identified possible alleged perpetrators that might bear the greatest

responsibility” whose names are compiled in a confidential list transmitted to the African Union. It appears from the Commission’s report that those interrogated during its investigations insisted on the importance of accountability, considering that decades of impunity may have exacerbated recent atrocities. Pointing out the expressed lack of “confidence in national judicial and political system to deliver accountability particularly in relation to top political and military leaders, and the current capacity of the national criminal justice systems” the Commission recommends the creation of an “ad hoc African legal mechanism under the aegis of the African Union [...] to bring those who bear the greatest responsibility at the highest level of account” and recommends that such a mechanism includes South Sudanese judges and lawyers. The Commission further recommends the establishment of a Truth and Reconciliation Commission.

“The Commission of Inquiry collected evidence of serious crimes, gathered testimonies from various stakeholders and identified those allegedly responsible. Such information is crucial and should not remain in the AU’s drawers. We expect the suggested accountability mechanisms will constitute the basis of a roadmap towards justice and long lasting peace and security in South Sudan.”

Arnold Tsunga, a lawyer who took part in FIDH's last mission in South Sudan

The Commission of Inquiry recommends “that consideration should be given to sequencing of peace and justice with the result that certain aspects of justice allow for the establishment of basic conditions, including restoring stability in South Sudan and strengthening relevant institutions”. While FIDH has insisted on the importance of legal and institutional reforms in South Sudan, our organisation recalls that decades of impunity for past crimes have led to recent crimes thus preventing the country from establishing the rule of law and strengthening state institutions.

« Peace and justice should not be in opposition. Experiences from other countries have showed that justice and reparation for those who have suffered heinous crimes can not be avoided if societies are to reconstruct on the basis of the rule of law and trust amongst citizens. »

Drissa Traore, FIDH Vice President

Background

In its [last report on South Sudan](#), FIDH recommended the establishment of a special court system which would provide for South Sudanese and specially trained foreign investigators and judges to continue the investigations of the AU Commission of Inquiry and prosecute alleged perpetrators of international crimes. Our organisation also recommended the establishment of a Truth and Reconciliation Commission. In light with the Commission of Inquiry’s conclusions and recommendations, FIDH insists again on the need for accountability mechanisms to fully guarantee effective participation of victims into the proceedings and to provide concrete measures for their protection and the protection of witnesses. FIDH further insists on the need for such mechanisms to be fully supported and monitored by the international community to ensure that they are independent, impartial and that they have the material and human resources necessary to the conduct of their mission.