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Urgent Resolution on the Situation in South Sudan

*Presented by Foundation for human rights initiative (FHRI), Sudan Human Rights Organisation (SHRO),
Kenya Human Rights Commission (KHRC)*

FIDH, meeting on the occasion of its 39th Congress in Johannesburg, South Africa

Concerned by the security situation and political impasse prevailing in South Sudan, exacerbated by a continuing climate of mistrust amongst opposing parties ; and **Alerting** on the serious threats of an armed conflict resumption in the country ;

Dismayed by the fightings which occurred in the capital Juba, from 8 to 11 July 2016, leading to the death of nearly 300 people and to the forced displacement of about 80,000. **Strongly condemning** the human rights violations and abuses committed against civilians during and after the fightings, including reports indicating that some were prevented by Sudan People's Liberation Army (SPLA) soldiers from seeking refuge within UN bases ; **alarmed** in particular by reports of rapes of women and young girls and other forms of sexual and gender-based violence allegedly committed by soldiers in uniform and armed men in plain clothes, including outside the gates of United Nations Protection of Civilians (PoC) sites ;

Recalling the Agreement on the Resolution of the conflict in the Republic of South Sudan (ARCSS) concluded in August 2015 between the Government of South Sudan and the Sudan People's Liberation Movement in Opposition (SPLM-IO), whereby both parties agreed *inter alia* to declare a permanent ceasefire applying to all forces under their command, to form a Transitional Government of National Unity (TGoNU) and hold national elections, to guarantee the delivery of humanitarian assistance, to engage into economic and security sector reforms, and to establish transitional justice mechanisms, including a Hybrid Court for South Sudan (HCSS) and a Commission for Truth, Reconciliation and Healing (CTRH) ;

Deeply concerned by the fact that despite the conclusion of the ARCSS, and the subsequent creation of the TGoNU, parties and their affiliated militias have consistently violated the permanent ceasefire and have continued committing grave and widespread human rights violations and abuses against civilians in several parts of the country, including murders, sexual and gender-based violence and destruction of civilian property ;

Alerted by corroborated information indicating that both the Government of South Sudan and the SPLM/A in Opposition have continued to acquire arms and military equipment, including after the signing of the ARCSS, indicating that both parties may opt for a military rather than a political solution to their disagreements ;

Taking note of the United Nations Security Council's decision to deploy a regional force to South Sudan mandated to "*Promptly and effectively engage any actor that is credibly found to be preparing attacks, or engages in attacks, against United Nations protection of civilians sites, other United Nations premises, United Nations personnel, international and national humanitarian actors, or civilians*";

Concerned by the clampdown on journalists and human rights defenders, which has been on surge since the signing of the ARCSS and has prevented them from monitoring and reporting on the degrading human rights situation. **Condemning** the killing in 2015, of at least seven journalists, the arbitrary arrest and detention of at least ten human rights defenders since the formation of the TGoNU in April 2016 and the order of a number of newspapers to shut down ;

Recalling that following the outbreak of the conflict, in mid December 2013, between government forces, opposition forces and armed militias in South Sudan, civilians have been the targets of serious crimes, including murders, acts of torture, rape and other forms of sexual and gender based violence, enforced

disappearances, forced recruitment as child soldiers, forced displacement, destruction of property, that access to humanitarian assistance remained impeded, and that humanitarian personnel and assets have been repeatedly attacked ;

Recalling that the African Union Commission of Inquiry (CoI) on South Sudan concluded that such crimes amounted to war crimes and crimes against humanity ; **Recalling** that the CoI recommended the creation of accountability mechanisms, including a hybrid judicial mechanism to bring those who bear the greatest responsibility into account ; **further recalling** that such crimes are reprehensible under the Rome Statute of the International Criminal Court (ICC). **Concerned** by the absence of any meaningful process, by the South Sudanese authorities, to identify and hold into account those responsible for such crimes ;

Concerned by the dire humanitarian situation in South Sudan, which has worsened after the recent fightings. **Recalling** in particular that according to the United Nations High Commissioner for Refugees (UNHCR), as of August 7, 2016 about 933,506 civilians have sought refuge in neighbouring countries, including Ethiopia, Uganda, Sudan, Kenya, the Central African Republic and the Democratic Republic of Congo ; and that 1.61 million people remain internally displaced ;

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Urges opposing parties and their affiliated militias to :

- Abide by the permanent ceasefire provided for in the ARCSS ;
- Immediately cease all violations of international human rights and humanitarian law, including murders, enforced disappearances, sexual and gender-based violence, looting, destruction of property, recruitment of child soldiers ;
- Allow unrestricted, independent humanitarian access and human rights monitoring to provide humanitarian assistance to civilians affected by the conflict and protection to civilians in danger ;

Urges the Transitional Government of National Unity to :

- Guarantee the protection of civilians from violations of international human rights and humanitarian law ; Guarantee in particular the protection of internally displaced persons ;
- Create a conducive environment for humanitarian aid delivery, and ensure the safety and security of humanitarian workers ;
- Initiate prompt, impartial, independent and effective investigations into the allegations of violations of international human rights and humanitarian law and ensure that those responsible for those crimes are brought to justice, in compliance with international human rights and criminal law and standards ;
- Proceed to the prompt and effective establishment of the accountability mechanisms provided for in the ARCSS, including the Hybrid Court for South Sudan in compliance with international human rights and criminal law ;
- Ratify the Rome Statute of the International Criminal Court and consider making a declaration under article 12 (3) of the Statute granting the ICC jurisdiction over crimes that have occurred since the outbreak of the conflict in December 2013 ;
- Put an immediate end to the harassment, including judicial, against journalists and human rights defenders ; proceed to the immediate release of those arbitrarily detained ; initiate prompt, impartial, independent and effective investigations into the cases of those who have been killed and ensure that perpetrators are brought to justice, in compliance with international human rights law ;
- Immediately complete ratification of regional and international human rights treaties, including the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, the Protocol to the African Charter on the establishment of an African Court on Human and Peoples' Rights, and make the declaration under article 34.6 of this Protocol granting direct access to the Court to individuals and NGOs ; and the United Nations Convention against Torture ;

Calls upon the United Nations Security Council (UNSC) to :

- Support the prompt and effective establishment of the accountability mechanisms provided for in the ARCSS, including the Hybrid Court for South Sudan in compliance with international human rights and humanitarian law ;
- Consider adopting further targeted sanctions against individuals engaged in actions threatening the peace and security in South Sudan ;
- Take all necessary measures to ensure that the UNMISS effectively abide by its mandate to protect civilians ;
- Impose an arms embargo to halt the supply of weapons, ammunitions and other military equipment and technology, and the military assistance provided to individuals and groups responsible for perpetrating international crimes in South Sudan ;

Calls upon the African Union to :

- Support the prompt and effective establishment of the accountability mechanisms provided for in the ARCSS, including the Hybrid Court for South Sudan in compliance with international human rights and criminal law ;
- Consider adopting targeted sanctions against individuals engaged in actions threatening the peace and security in South Sudan ;
- Support the imposition of an arms embargo to halt the supply, sale, transfer, maintenance and operation of all of all weapons, ammunitions and other military equipment and technology, and the military assistance provided to individuals and groups responsible for perpetrating international crimes in South Sudan.

Calls upon the Intergovernmental Authority on Development Regional (IGAD) and the East African Community (EAC) to :

- Support the prompt and effective establishment of the accountability mechanisms provided for in the ARCSS, including the Hybrid Court for South Sudan in compliance with international human rights and criminal law.