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CIVILIANS IN CONFLICT**
RECOGNIZE. PREVENT. PROTECT. AMEND.

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“South Sudan’s Prospects for Peace and Security”

Chairman Smith, Ranking Member Bass, and members of the committee, I greatly appreciate the opportunity to testify today about South Sudan. I focus on South Sudan and Peacekeeping for the organization Center for Civilians in Conflict (CIVIC), which works to improve protection for civilians caught in conflicts around the world. Over the last year, I have interviewed several hundred civilians affected by the conflict in South Sudan, as well as officials from the U.N. peacekeeping mission, the Government of South Sudan, the opposition, and local civil society.

Two years of armed conflict in South Sudan have inflicted devastating harm on the civilian population. Government and opposition forces both often waged war through targeting civilians, frequently along ethnic lines. They have killed, injured, and raped civilians; burned villages; destroyed or damaged schools and health clinics; and looted property, including cattle, food, and humanitarian supplies. More than two million people have been forced to flee their homes, with about 186,000 still sheltering in U.N. compounds. At the end of my testimony, I have included the story of one woman I interviewed, to provide a sense of what people have gone through.

The much-delayed return of former Vice President Riek Machar would represent a notable step in the peace process, but just that—a first step, and one that does not in itself greatly reduce the risk of further violence and civilian harm. Over the last year, including after the signing of the peace agreement, fighting has spread to new parts of the country, often with government forces responsible for continuing patterns of abuses against civilians. In many locations, rising inter- and intra-communal tensions have also led to violence.

While the formation of the Transitional Government of National Unity is important, it will not inherently address what underlies much of the ongoing civilian harm, including deep divisions that have fueled violence in South Sudan. It will therefore be critical that the U.S. and other countries, including those in the region, remain engaged and apply pressure to ensure tangible progress in a number of crucial areas, such as security sector reform and accountability. An arms embargo and the establishment of the transitional justice mechanisms outlined under the August 2015 peace agreement are both critical starting points.

Key Roots of Ongoing Fighting and Tensions

In many parts of the country, armed actors continue to harm civilians deliberately. In regions previously untouched by the conflict, government soldiers have recently conducted anti-insurgency operations in which civilians and civilian property have been targeted. In other parts of the country, including Jonglei, Upper Nile, Lakes, and the Equatorias, violence affecting

civilians is linked to inter- or intra-communal disputes over issues of local political control, land boundaries, and land usage, such as between cattle herders and farmers.

While there are many underlying causes of violence and tension in South Sudan, we believe four are of particular importance:

- The hardening of inter- or intra-communal divisions as a result of the way the parties to the conflict mobilized and used ethnic- or tribal-based youth fighters;
- Inter-communal conflicts over land that have been exacerbated by the Government of South Sudan's recent redrawing of the country's map;
- The impunity with which fighting forces in South Sudan have long operated, with the most recent conflict another prime example; and
- The failure to professionalize and reform the country's army, the SPLA, in the pre- and post-independence period.

Throughout the conflict, both sides have relied upon youth fighters to supplement regular armed forces. These fighters have appeared at times to operate within formal chains of command, and at other times in parallel, though with license to target civilians and civilian property.

As one of the most prominent examples, the government and SPLA relied heavily on support of fighters from the Bul Nuer, a Nuer group from Mayom County, during the offensive in Unity State in 2015. A report we released in February shows how these fighters worked closely with the military in attacking other Nuer villages in areas previously controlled by the opposition—killing civilians, committing widespread rape, and burning down homes, crops, and even seeds for future harvests. They also engaged in widespread looting, stealing at least tens of thousands of heads of cattle. Human Rights Watch and the U.N. Office of the High Commissioner for Human Rights have reported similarly.¹ The White Army, a Nuer community self-defense group aligned with the SPLA-IO, committed similar abuses, primarily against Dinka civilians.

Inter-communal violence and cattle raiding are not new phenomena in South Sudan. But what happened during the recent conflict is of a different magnitude and nature. When youth fighters aligned with the SPLA or SPLA-IO attacked villages, they frequently treated all civilians, including women, children, and persons with disabilities, as legitimate targets. Many people we interviewed fled to the swamps, only to be hunted down again. Moreover, the scale of cattle raiding, in particular, has deprived many people of their most important livelihood and fundamentally altered the balance of resources between different tribes.

As a result of the mobilization and targeting along ethnic and tribal lines, the conflict has created and aggravated communal tensions. In many parts of the country, it has also damaged any sense of national identity. In interviews we have undertaken across the conflict-affected regions, civilians from both sides have stressed that, if the government does not handle the immediate post-conflict period well, the likelihood of revenge killings and communal violence is

¹ *Assessment mission by the Office of the United Nations High Commissioner for Human Rights to improve human rights, accountability, reconciliation and capacity in South Sudan: detailed findings*, UN Doc. A/HRC/31/CRP.6, March 10, 2016; Human Rights Watch, *"They Burned it All": Destruction of Villages, Killings, and Sexual Violence in Unity States South Sudan*, July 2015.

high. The risk is likely to grow further when people return home from displacement and confront a reality in which neighboring communities now control their wealth. Such violence would put civilians at risk of further harm and threaten to unravel the peace process.

Land is a second critical issue driving ongoing conflict and tension. In October 2015, President Salva Kiir passed a decree that redrew the map of South Sudan, creating 28 states where there had been 10. The government came under local and international criticism, culminating in a January 31 request from the Intergovernmental Authority on Development (IGAD) to suspend the decree's implementation. On the ground, however, the government has continued to move forward, including by appointing governors for the new states. The result has been to exacerbate local conflicts in certain parts of the country, including around Pibor and Pochalla in the former Jonglei State; and, most prominently, in the former Upper Nile State.

It is up to South Sudan to decide how it can most effectively be governed, including in the number of states. However, that needs to be done through an **inclusive process** that involves meaningful participation of all of the country's ethnic groups, without favoritism based on loyalty during the conflict. The failure to do so will very likely lead to further inter- and intra-communal violence that could undermine the short- and long-term prospects for peace. As a result, the U.S. should use its leverage to stop the government from continuing to implement the 28-state decree and to ensure, going forward, that any redrawing of the country's map occurs through a transparent and inclusive process.

Third, **the impunity with which armed groups operate will continue to put civilians, and the peace process more generally, at risk.** While the scale of civilian harm has diminished since late 2015, military operations in recent months, particularly in Western Equatoria and Western Bahr el Ghazal, have likewise failed to distinguish civilians from combatants, including through killings, the burning of villages, and the looting of civilian property. The military's tendency to adopt a heavy-handed approach—and to target civilians along ethnic lines—has sown fear and distrust among populations around the country and fueled the rise of local armed groups. There is little reason to expect things will change so long as there are no consequences for those who intentionally harm civilians.

Fourth, and finally, the splintering of the SPLA during the conflict has demonstrated that, despite considerable U.S. investment in the period after the Comprehensive Peace Agreement (CPA), **the military remains less a national institution than a collection of armed groups driven primarily by politico-ethnic concerns and loyalty to a specific commander.** Civilians who share the same grievances and objectives as an armed group are deemed to merit its protection; those on the other side are treated as legitimate targets. Minimizing civilian harm in South Sudan will therefore be as much about fostering a national identity within the military as it will be about training or equipment.

February 17-18 Violence in the Malakal U.N. Protection of Civilians (POC) Site

The continuing risk to civilians posed by inter-communal tensions, land conflict, and SPLA impunity was laid bare in a particularly egregious incident in mid-February. A U.N. base in Malakal, in which around 47,000 displaced persons were sheltered, became the site of violence

that left at least 30 people dead, more than 120 injured—many by gunshots—and around one-third of the camp in ashes. We released a report last week, based on field research in Malakal in March, which documents how the violence unfolded on February 17-18.² The incident also shows the **importance of improving the performance of the U.N. Mission in South Sudan (UNMISS)**, which will continue to have a critical role in protecting civilians from harm.

Prior to the violence, there had been rising inter-communal tensions inside the POC site. These were closely linked to the implementation of the decree creating 28 states, as ethnic Shilluk leaders believe that the redrawing of the country's map has taken some of their ancestral land and given it to a new state that will be controlled by the Dinka. Shilluk leaders I interviewed said there would be no peace in the part of the country formerly known as Upper Nile State so long as the current configuration of the 28 states moves forward.

Inter-communal violence erupted within Malakal POC on the night of February 17, pitting the Dinka against the Shilluk and Nuer. The situation deteriorated as firearms that had been smuggled into the camp, including guns and grenades, were used. By the morning of February 18, SPLA soldiers and Dinka fighters entered a cut in the camp's fencing that had been ripped open the day before. Once inside, they proceeded to shoot at and kill civilians and to systematically set ablaze Shilluk and Nuer parts of the camp. A satellite image annexed to the end of this testimony shows the scale of the destruction.

That SPLA soldiers would enter the POC site and take direct part in killing and burning is shocking. These soldiers have again sent the message to civilians that they cannot find refuge anywhere. Throughout the conflict, armed actors have also time and again shown utter disregard for UNMISS, including through frequent violations of the Status of Forces Agreement (SOFA). This incident was not the first attack on a POC site: in April 2014, armed Dinka men attacked the UNMISS base in Bor, killing around 50 people. While the government announced that it would undertake an investigation into the Malakal violence, there is scant reason to believe it will break from previous government investigations that have failed to lead to accountability or reform.

To be sure, UNMISS has played an important role in protecting civilians during the conflict, most notably in sheltering, at its peak, more than 200,000 civilians in six POC sites across the country. But the peacekeepers' response to the Malakal violence was inadequate. UNMISS could have taken quicker, more robust action to deter and deescalate at least some of the killing and destruction. Our report focuses on a number of areas of concern, including the Mission's response to early warning of increasing tensions; its management of camp security; its handling of perimeter breaches; and the willingness of particular UNMISS troop units to respond in accordance with their Chapter 7 mandate to protect civilians under threat of physical violence.

UNMISS POC sites, including the one in Malakal, are likely to shelter IDPs for the foreseeable future—as many civilians in South Sudan still do not feel it is safe to leave, and see the U.N. as their best protection option. It is therefore essential that the Mission learns from what happened in Malakal and addresses any security weaknesses. The U.N. has, encouragingly, established a Board of Inquiry. **We believe that it is critical that the U.N. make public at least a redacted**

² Center for Civilians in Conflict, *A Refuge in Flames: The February 17-18 Violence in Malakal POC*, April 22, 2016, <http://civiliansinconflict.org/resources/pub/violence-in-malakal-poc>.

version of the Board of Inquiry report. U.S. leadership on the Security Council will be crucial in making that happen. In addition, if the Board finds that specific units failed to intervene effectively and protect civilians within the camp, the U.N. Secretariat, with the support of Member States including the U.S., needs to ensure there is accountability.

Last year saw important momentum on peacekeeping reform efforts, with the U.S. providing key leadership. Malakal presents an important test case for whether those reform efforts are influencing decision-making, particularly around performance. Progress would strengthen the vital protection that the U.N., and UNMISS in particular, provide to civilians.

Arms Embargo, Transitional Justice Mechanisms, and Humanitarian Access

Even after the peace agreement's signing, the parties to the conflict have continued to target civilians. There is little reason to believe such abuses will cease simply because the Transitional Government is formed, particularly given that fighting has reached new parts of the country and the structures that initially gave rise to the conflict—including the politico-ethnic divisions, even within the army—have not been addressed. The conditions for further violence remain intact.

Imposing an arms embargo will help protect civilians from future targeting and reduce unlawful attacks. Heavy weapons like attack helicopters and amphibious vehicles have been linked directly to serious abuses against civilians. There are also indications that at least parts of the SPLA-IO continue to acquire arms.

U.S. leadership has unfortunately been lacking on this issue, despite express support for an arms embargo in February from Senegal, Angola, the United Kingdom, and France, among other Security Council members. A study last year in the *Journal of Conflict Resolution* examined internal armed conflicts in Africa and found that the threat of an arms embargo was actually associated with an increase in conflict violence, whereas the imposition of an arms embargo was associated with a reduction in violence.³ Yet the U.S. has pushed for technical rollovers of the existing sanctions regime, extending any decision about an arms embargo until June.

If the U.S. were to strongly support an arms embargo, it is likely that that position would prevail in the Security Council. In designing the arms embargo, the U.S. and other countries on the Security Council could think creatively, for example by linking a progressive lifting of the arms embargo to military professionalization and accountability measures that would demonstrate the government and military's commitment to reducing unlawful attacks and protecting civilians.

In addition to an arms embargo, **implementation of all of the transitional justice mechanisms outlined under the peace agreement is crucial.** In a report published in February, based on several months of research in South Sudan last fall, we examined civilian perspectives on the conflict and the peace process.⁴ Regardless of political or ethnic affiliation, people overwhelmingly identified three critical ingredients for ending cycles of violence:

³ Lisa Hultman & Dursun Peksen, "Successful or Counterproductive Coercion? The Effect of International Sanctions on Conflict Intensity," *Journal of Conflict Resolution*, September 2015.

⁴ Center for Civilians in Conflict, "*Those Who Could Not Run, Died*": *Civilian Perspectives on the Conflict in South Sudan*, February 26, 2016.

- **Criminal justice**, in order to hold accountable those who deliberately harmed civilians and to send a message that such targeting is no longer tolerated⁵;
- **A reconciliation process that addresses communal divisions and tensions**, in addition to the national dynamics that have spurred conflict; and
- **Assistance or compensation from the parties to the conflict** that responds to communities' urgent needs, including the reconstruction of homes, schools, and clinics destroyed during the conflict; the provision of seeds and other goods to help reestablish livelihoods; and efforts to return or replace stolen cattle.

These priorities map closely the peace agreement's three transitional justice mechanisms: the Hybrid Court for South Sudan; the Commission for Truth, Reconciliation, and Healing; and the Compensation and Reparations Authority. The ultimate success or failure of these institutions will play a decisive role in whether South Sudan falls back into conflict, or begins to address issues of impunity and inter-communal violence.

A core focus of U.S. engagement in South Sudan should be in monitoring and supporting progress for each of these transitional justice mechanisms. While leadership for the hybrid court rests with the African Union, for example, the U.S. should provide needed financial and technical assistance. Each institution responds to a specific, pressing need, and they therefore need to operate in parallel.

Finally, **the parties to the conflict need to immediately guarantee full humanitarian access.** It is simply inexcusable that, on top of targeting civilians, the parties to the conflict have consistently obstructed or undermined the delivery of urgent assistance, including food. Months after the signing of the peace agreement, parties are still routinely blocking humanitarian access to civilians in desperate need. Further violations should result in the U.S., either bilaterally or through the U.N. Security Council, imposing consequences against those who continue to display remarkably little interest in the security and well-being of the civilian population.

Conclusion

Mr. Chairman, I would like to again express my appreciation to this Subcommittee for holding this hearing at a critical moment for South Sudan. The U.S., and this Subcommittee in particular, has an essential role to play in helping South Sudan avoid a slide back into conflict—with the devastating consequences that would provoke.

The peace process has often focused on bringing back together President Kiir and former Vice President Machar, and the armies that have fought for them. U.S. leadership will be critical in ensuring the wider conflict dynamics are addressed. That process cannot wait.

⁵ In addition to our research, the South Sudan Law Society conducted a study in which 93 percent of respondents asserted the importance of prosecuting those responsible for crimes during the conflict. South Sudan Law Society, *Search for a New Beginning: Perceptions of Truth, Justice, Reconciliation and Healing in South Sudan*, June 2015, p. 37.

Annexes

REBECCA

a 29-year-old woman from Panyikang County in Upper Nile⁶

I was in [my] village... in Panyikang when the [war came], and I fled to Malakal. Little did I know that Malakal was going to be even worse. When the shootings started, together with my husband and children, we hid under the bed... The government soldiers came and were looking for Nuers; they killed all the Nuers they found. When the [armed opposition] attacked, they killed the Dinkas and other tribes.... The White Army killed my husband in cold blood in front of me and my children. I fell down and thought they would kill me too.... I have a disabled child who is five years old. An old woman came and picked me up [off the ground] and carried my child to UNMISS.... Had it not been for that woman who rescued me with my children, I would have been killed. I [still] don't know who buried my husband.

The population at the UNMISS [base] was increasing and there was no food; many women, when they didn't hear gun shots, thought it was safe to go home to grab what they left behind, in order to feed their children. Many of them never came back.

The UNMISS [POC site] in Malakal was a safe haven for me.... [UNMISS] used to patrol in their cars [before the conflict], but when the crisis became overwhelming, they all retreated to their base.... UNMISS [has been] very good, but they need to have more power to help.

The White Army of Riek Machar and the SPLA of Salva Kiir are both perpetrators.... When the White Army came, they asked for Dinka and from the tribal markings [they could identify you], same when the SPLA came for Nuer. You could only save yourself if you could speak the language of the perpetrator... [and] had no markings.

No one can ever report the White Army in the rebel-held areas, and no one can report the SPLA—they are above the law.... [O]ur dead relatives will never come back. But we need to know [those responsible]. Then we can decide to forgive them or send them to prison. I want to know why they killed innocent civilians, why did they kill our children.... The government must recognize our suffering [and] rebuild our homes. Once [our homes are rebuilt], our children [are back in] school, we have medicine, and the guns have stopped banging in my head, I will have [what I need].

I miss my home, even though [many] people [there] were killed. I want a police that is well trained to give us protection, and the army to move far away from my village.... There should be one army, the SPLA, and not an army for Salva or Riek.... All soldiers who are illiterate must either be demobilized or taken back to school.

⁶ This interview is from Center for Civilians in Conflict, *“Those Who Could Not Run, Died”*: Civilian Perspectives on the Conflict in South Sudan, February 26, 2016. Rebecca is not her real name.

Prior to incident (6 Feb 2016)



After incident (20 Feb 2016)



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Satellite imagery of Malakal POC before and after the February 17-18 violence, courtesy of the International Organization of Migration

<http://southsudan.iom.int/media-and-reports/other-reports/malakal-poc-satellite-image-destruction-21-feb-2016>