



HUMAN  
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WATCH

# SOUTH SUDAN'S NEW WAR

Abuses by Government and Opposition Forces



# **South Sudan's New War**

## **Abuses by Government and Opposition Forces**

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<b>Map of Juba, South Sudan .....</b>	<b>i</b>
<b>Summary .....</b>	<b>1</b>
<b>Recommendations.....</b>	<b>6</b>
To the Parties to the Conflict .....	6
To the Government of South Sudan .....	7
To Opposition Forces .....	8
To the United Nations Mission in South Sudan .....	8
To the United Nations Security Council.....	9
To Troop Contributing Countries.....	9
To the UN Human Rights Council .....	10
To the African Union Peace and Security Council .....	10
To the African Union Commission of Inquiry in South Sudan .....	10
To the Intergovernmental Authority on Development (IGAD) .....	11
To the United States, EU Member States, and Other Governments Supporting Peace Process ..	11
To the Government of Uganda.....	12
To UN Agencies and Nongovernmental Organizations Providing Humanitarian Assistance .....	12
<b>Methodology.....</b>	<b>14</b>
<b>I. Background.....</b>	<b>16</b>
<b>II. Killings in the Capital: the Juba Crisis .....</b>	<b>22</b>
Timeline: The Start of the Juba Crisis .....	22
Attacks on Nuer Civilians Including Unlawful Killings.....	29
Arrests, Unlawful Detentions, Ill-treatment and Torture of Detainees .....	42
<b>III. Terror in Bor Town: Unlawful Killings, Mass Displacement .....</b>	<b>46</b>
Attacks on Dinka by Defectors/Opposition Forces, December 19 – December 25, 2013.....	48
Attacks on Dinka Civilians by Opposition Forces, January 1 – January 18, 2014.....	50
Attacks on Nuer Civilians by Government Forces .....	53
Attack on Nuer IDPs at the UNMISS Compound on April 17, 2014 .....	54

<b>IV. Attacks on Civilians in Bentiu, Unity State .....</b>	<b>57</b>
Killings of Dinka in Unity State by Armed Nuer in Late December 2013 .....	58
Looting, Destruction, and Attacks on Civilians by Government Forces in January and February 2014.....	59
Attacks on Civilians by Government Forces in Other Parts of Unity State .....	63
Attacks on Civilians in Bentiu Town by Opposition Forces, Mid-April 2014 .....	65
<b>V. Attacks on Civilians in Malakal, Upper Nile State .....</b>	<b>69</b>
Attack on Civilians by Opposition Forces, January 2014 .....	70
Ethnic Targeting by Government Forces in January.....	71
Attack on Civilians by Opposition Forces, February 2014 .....	74
<b>VI. Protection of Civilians by the UN Mission in South Sudan .....</b>	<b>76</b>
Human Rights Reporting .....	79
Law and Order in the Camps .....	79
Support for UNMISS.....	80
<b>VII. Justice and Accountability .....</b>	<b>81</b>
Legal Standards Applicable in the Conflict .....	81
The Importance of Preventing Amnesties and Options for Providing Accountability.....	85
<b>Acknowledgments.....</b>	<b>92</b>

## Map of Juba, South Sudan







## Summary

*‘The leaders of the SPLA factions must address their own human rights problems and correct their own abuses or risk a continuation of the war on tribal or political grounds in the future, even if they win autonomy or separation.’*

–Human Rights Watch 1994 report ‘Civilian Destruction’

The first months of South Sudan’s new war were distinguished less by fierce battles between fighting forces than by horrific attacks on civilians often because of their ethnicity and presumed allegiances. In many cases fighting forces have retreated at the threat of attack by the other side, leaving civilians behind to bear the brunt.

Government and SPLA/M-in Opposition (the opposition) forces have, together with allied forces, since December 2013 committed extraordinary acts of cruelty that amount to war crimes and in some cases potential crimes against humanity. These forces have pillaged and destroyed civilian property including homes, humanitarian infrastructure like the cars and offices of aid agencies, and medical facilities, including key hospitals. Both sides have ruthlessly targeted places of refuge, including churches, hospitals, and UN bases.

This report documents abuses South Sudanese have endured since December 2013, demonstrating how targeted killings of civilians and mass pillage and destruction of civilian property lie at the heart of how parties to this conflict are fighting this war. The report is based on hundreds of interviews with victims of human rights abuses and witnesses, primarily in the towns of Juba, Bor, Bentiu, and Malakal. However, the abuses documented in this report represent only some of the horrors the people of South Sudan have witnessed since December 2013.

South Sudan’s death toll in this new war is unknown but thousands of civilians have been killed, homes and markets burned, and bodies left to be eaten by birds and dogs. Towns and large rural areas in Jonglei, Upper Nile and Unity states have emptied, with an estimated 1.5 million people fleeing their homes, afraid that they will be targeted and killed. The mass displacement, looting and destruction caused by the warring parties have



contributed to the emergency-level food shortages which now face 1.1 million people, many of them displaced civilians, with the prospect of famine looming on the horizon.

The political contest between two leaders, President Salva Kiir Mayardit, a Dinka, and the former Vice President Riek Machar, a Nuer, and those who have supported them and ongoing abuses perpetrated against civilians because of their ethnicity, has pitched the country's two largest ethnic groups against each other. Government rhetoric has attempted to underplay the ethnic dimension, but with little success: many communities believe that leaders, soldiers or armed civilians from the other ethnic group will continue to target and physically attack and politically undermine them.

A political dispute triggered the war wracking this young nation, but the speed at which it spread and the dominating pattern of ethnically motivated reprisal violence during attacks and occupations is in large part due to South Sudan's history of war, criminal violence and abuse without any form of accountability or meaningful inter-communal reconciliation. Serious crimes committed in violation of international law against Nuer and Dinka communities by fighters from both Nuer and Dinka-led rebel factions in Sudan's 1983-2005 civil war, ahead of Southern independence, were never addressed. Fear of repetition and anger over those crimes created conditions for the current conflict and the abuses being perpetrated in it. Without clear and meaningful efforts to end abuses and determination to ensure justice and accountability, and over the longer term, serious efforts to promote societal healing, South Sudan is likely to continue to witness more unlawful killings, massacres, and attacks on places of refuge.

South Sudan's new war began with gun battles in the capital Juba between Nuer soldiers and other government soldiers on the night of December 15, 2013 as months of escalating tensions between Riek Machar and Salva Kiir reached boiling point. A defining event in the conflict – a gruesome massacre of Nuer men in Juba by Dinka government security forces – took place within 24 hours of this first fighting. Many thousands of armed Nuer subsequently joined the Riek-led opposition principally to revenge the massacre and other killings in capital. Well-aware of this fury, the government has failed to admit the scale of the crimes committed or demonstrate political will to provide accountability. Instead President Salva Kiir and other authorities set up a confusing array of investigations, none of which have yielded a public report, hearing or prosecutions.

Tens of thousands of Nuer remain sheltering in United Nations Mission in South Sudan (UNMISS) bases across the country, too afraid to return home. Government security forces have continued to harass and attack Nuer around these bases. In April 2014 armed civilians killed over 50 people in an attack on Nuer taking shelter in a UN base in Bor. The government has not attempted to find or prosecute the culprits. Not only are government forces responsible for ethnic-based killings, but by failing to take action on many fronts South Sudan's government has effectively condoned attacks on Nuer civilians and on UN bases.

Opposition forces have also conducted brutal attacks in Bentiu, Malakal and Bor towns. In early January, opposition forces shot and killed remaining civilians in Bor over a two week period, looting and burning many homes. In Bentiu opposition forces were responsible for a horrific massacre in a mosque in April. In both Bentiu and Malakal, opposition forces attacked hospitals, killing patients and civilians who had taken refuge there. As far as Human Rights Watch has been able to ascertain, the opposition has not made any efforts to hold forces to account for these and other crimes.

Sudan's long civil war ended with a peace deal in 2005 that failed to provide for justice for serious crimes committed during that conflict. In subsequent years, South Sudanese leaders and the international community, including two UN missions, focused on increasing the reach of the new Southern government over documenting human rights violations, helping ensure justice for old or new abuses against civilians, national truth telling or meaningful inter-communal healing. The UN Mission in South Sudan (UNMISS), for example, did not publicly report on government abuses before the current conflict, despite collecting information about many violations.

Justice for serious crimes committed during this most recent conflict is a crucial component to breaking the cycle of impunity. South Sudan's leaders, many of the same strongmen who commanded rebels in the former war, should pledge to end decades-old patterns of abuse without any accountability and immediately commit to fair, credible, and impartial investigation and prosecution of crimes in accordance with international standards. Key international players, including the Intergovernmental Authority on Development (IGAD), the African Union, UN Security Council members and the European Union, should insist on justice for serious crimes, in order to bring redress to victims and to help pave the way for greater respect for the rule of law and a durable peace over the long-term.

South Sudan's judicial system does not currently have the capacity to prosecute crimes at this scale and neither the government nor the opposition forces have yet demonstrated any will to ensure real accountability for abusive forces. In this context, a purely domestic initiative to ensure justice for serious crimes seems highly unlikely. Trials could be pursued through a hybrid international-national judicial mechanism that includes relevant international support and participation – such as international investigators, prosecutors, and judges. Security permitting, this could have the advantages of accessibility to the local population and the prospect to help bolster the capacity of the domestic justice system. At the same time, the success of a hybrid approach will be highly dependent on willingness by domestic authorities to establish it and support it.

Trials by the International Criminal Court (ICC) could also be pursued. As South Sudan is not a state party to the ICC's Rome Statute, the ICC could open an investigation only if the government of South Sudan submitted a declaration voluntarily accepting the ICC's jurisdiction consistent with article 12(3) of the Rome Statute, or the UN Security Council referred the situation to the ICC.

An African Union Commission of Inquiry (AUCOI) mandated to investigate violations, initiated in December 2013 and headed by former Nigerian President Olusegun Obasanjo, could help pave the way for accountability with a strong report that documents the abuses, who is allegedly responsible and makes recommendations to ensure that alleged perpetrators of serious crimes are investigated and prosecuted fairly and effectively in accordance with international standards. UNMISS should continue to report publicly and in a timely manner on violations committed by both sides and continue to press for accountability.

Meanwhile, the UN Security Council should urgently impose an arms embargo on South Sudan with the support of the AU and IGAD, the latter which is running the peace process in Addis Ababa.

Both the UN Security Council and the African Union Peace and Security Council should initiate individual sanctions like asset bans and travel freezes against those responsible for serious violations of international humanitarian and human rights law.

In line with international law, IGAD leaders should ensure any future peace agreement supported by their mediators does not include amnesties for serious crimes. In January IGAD helped mediate a much-broken cessation of hostilities agreement between Salva Kiir and Riek Machar. IGAD cessation of hostility monitors should ensure their reporting covers violations of international humanitarian law and IGAD members should use these reports, and other relevant information, to help put in place targeted sanctions against abusive leaders. Information about abuses against civilians in the monitor's reports should be made public.

The UN Security Council should ensure the speedy deployment of promised additional peacekeepers to UNMISS. These forces should shore up protection of civilians around UN bases, where many civilians have been attacked, and in surrounding towns and also ensure human rights monitors are able to reach wider areas.

The pain and trauma caused by the past decades of brutal conflict has undoubtedly played into the extraordinary cruelty in the current conflict which many Southerners have said is worse than in the 1993-2005 war. Donors should increase funding for psychosocial support and for survivors of sexual violence and rape, widely under-reported in South Sudan and support community groups to assist survivors and collect information.

A broader process of national healing that recognizes the scale of both current and past crimes is also needed to promote peace for South Sudanese. But for such a process to be successful it should be independent and inclusive, provide for truth telling by both victims and people in positions of power and should not be used to sweep abuse aside or to avoid trials of alleged perpetrators of serious crimes.

# Recommendations

## To the Parties to the Conflict

- Ensure all forces, including any affiliated militia or proxy forces, immediately cease all violations of international human rights and humanitarian law.
- Exclude amnesty for serious crimes committed in violation of international law in any peace agreement.
- Ensure justice for serious crimes committed in violation of international law, by immediately committing to fair, credible investigation and prosecution of the crimes in accordance with international standards. Given the current limited capacity of the South Sudanese justice system, such trials could be pursued through a hybrid international-national judicial mechanism that includes relevant international support and participation such as international investigators, prosecutors and judges, acceptance of the ICC's jurisdiction by the government of South Sudan through a declaration under article 12(3) of the ICC's Rome Statute, or referral to the International Criminal Court by the UN Security Council.
- Ensure that the peace negotiations are inclusive and that broader complementary accountability mechanisms, for example, compensation for victims, truth telling and national reconciliation and vetting of security forces also are carefully considered, and, with the consultation of South Sudanese communities, provided for in any peace agreement.
- Immediately end the use and recruitment of child soldiers in organized forces or any allied groups.
- End attacks on and around UN bases, UN personnel and assets, and ensure that civilians seeking refuge at UN bases enjoy safe passage to the bases.
- Ensure unimpeded access by humanitarian aid organizations to all populations in need of assistance and ensure that humanitarian and medical facilities, staff, and material, including food stocks, are protected from attacks, looting or diversion.
- Ensure unimpeded access, including to conflict-affected areas, and otherwise cooperate with the African Union's Commission of Inquiry, UN human rights

monitors, independent journalists and human rights investigators, and IGAD cessation of hostilities monitors.

## To the Government of South Sudan

- Begin credible, transparent and comprehensive investigations that meet international standards into allegations of violations of international humanitarian and human rights law, including into commanders who ordered or should have stopped or investigated violations, with a view to securing effective prosecutions. These should include investigations into crimes committed in Juba in December 2013 and during the April attack on the UN camp in Bor. Any military, police and other investigations already underway should be promptly completed and the findings made public.
- South Sudan's national enquiry into human rights violations, the "Investigation Committee to Investigate on Human Rights Abuses in the Attempted Coup of 15<sup>th</sup> December 2013", established in January and currently ongoing, should fully cooperate with the African Union Commission of Inquiry.
- Train SPLA commanders and soldiers in the SPLA code of conduct and ensure that soldiers understand their obligation to avoid harm to civilians and not to impede their safe passage to places of refuge.
- Deploy military judge advocates to areas of active conflict and where government soldiers are positioned in towns and other civilian areas. Because of a lack of civilian police and judicial capacity in conflict areas, military judge advocates should investigate all reports of SPLA attacks on civilians or other violations of international humanitarian law and publicly report on their findings. Relevant cases and hearings at military tribunals should also be made public.
- Investigate the reported use of cluster bombs in South Sudan and make the results of those investigations public.
- End harassment and censorship of the media and civil society activists reporting on the conflict by the National Security Service and other authorities.

- Initiate a vetting process in the army, police service and other security forces to ensure perpetrators of serious violations of international humanitarian law or human rights law are excluded from these forces in future.
- Ensure that any national reconciliation process is independent, inclusive, does not undermine options for accountability for victims seeking redress, and has a mandate from the South Sudan Legislative Assembly for national truth telling.

## **To Opposition Forces**

- Investigate and suspend those alleged to be responsible for serious violations of international humanitarian law including unlawful killings of civilians, in disciplinary procedures that respect the requirements of due process. Investigations of alleged violations should include crimes committed in Bor in January and Bentiu in mid-April. Ensure accurate information about measures taken is available to the public.
- Ensure opposition commanders, combatants and affiliated militia forces have been trained and instructed to respect international humanitarian law and understand their obligations. Training could be done with the assistance of external bodies and should be designed to take into account high levels of illiteracy.
- Publicly commit to abide by international humanitarian law, including prohibitions against targeting civilians, using indiscriminate and disproportionate attacks, and attacking civilian objects, including humanitarian facilities and material.

## **To the United Nations Mission in South Sudan**

- Ensure UN peacekeepers and police patrol more regularly and proactively around UN bases where civilians are sheltering and on roads and in neighborhoods, markets and areas of return for internally displaced people.
- Use language assistants and community liaison officers to improve understanding of protection needs in towns.
- Ensure regular and timely public reporting by the Human Rights Division (HRD), as mandated by the UN Security Council in resolution 2155, including press releases and short reports. The mission should issue public reports on the December 19



attack on the UN base in Akobo and the April 17 attack on the UN base in Bor. The reports should also assess the response of UN peacekeepers during the attacks.

- Ensure support to the AU Commission of Inquiry, including through the provision of names and any other relevant information about alleged perpetrators.
- Establish a database of alleged perpetrators of serious violations of international humanitarian or human rights law from both government and opposition forces for the purpose of use in the future for vetting any national army or security force.
- Ensure any coordination with the South Sudan Police Service, other security forces or any assistance provided to government or opposition leaders strictly complies with the Human Rights Due Diligence Policy.

## **To the United Nations Security Council**

- Establish a comprehensive arms embargo on South Sudan and a UN monitoring body or panel of experts to monitor and report on implementation of the embargo.
- Impose targeted sanctions, including travel bans and asset freezes, on individuals responsible for violating the arms embargo or serious violations of international humanitarian law.
- Press for fair, credible, impartial investigation and prosecution of serious crimes committed during the conflict in accordance with international standards. Taking account of the current limited capacity of the South Sudanese justice system, such investigation and prosecution could be pursued through a hybrid judicial mechanism, acceptance of the ICC's jurisdiction by the government of South Sudan, or council referral of the situation in South Sudan to the ICC.
- Work to ensure urgent deployment of additional troops authorized by the Security Council in December 2013.

## **To Troop Contributing Countries**

- Ensure troops are appropriately equipped and supported and consistent with the mandate of UNMISS, are ready within their capacity and area of deployment to use military force to protect civilians under threat of harm including from SPLA,

opposition soldiers, other armed groups or armed civilians both inside and outside of UN bases.

### **To the UN Human Rights Council**

- Establish a mandate for a Special Rapporteur for South Sudan
- Request the Office of the High Commissioner for Human Rights to regularly and publically report on the situation in South Sudan, and on measures needed for protection of civilians and accountability for crimes committed.

### **To the African Union Peace and Security Council**

- Support a UN Security Council arms embargo on South Sudan, the establishment of a UN panel of experts or monitoring body to monitor and report on violations of the embargo, and the implementation of targeted sanctions against individuals who are responsible for violating the embargo or for serious violations of international humanitarian law.
- Ensure that the African Union Commission of Inquiry has sufficient financial and logistical resources and enough investigators, with appropriate expertise including South Sudan experts, sexual and gender based violence, criminal investigators and forensics experts, to investigate and document violations of international humanitarian law and human rights law and identify individuals responsible for serious violations of international humanitarian or human rights law.

### **To the African Union Commission of Inquiry in South Sudan**

- Focus resources on investigating the most serious violations, including some of the most serious incidents, identifying perpetrators of violations, and ensuring accountability for those responsible for the crimes. Ensure the African Union's Commission of Inquiry report is made public.
- Recommend fair, credible prosecutions for serious crimes committed in South Sudan in accordance with international standards of justice, acknowledging the limited capacity of the judicial system in South Sudan. Such investigation and prosecution could be pursued through a hybrid judicial mechanism, acceptance of

the ICC's jurisdiction by the government of South Sudan, or Security Council referral of the situation in South Sudan to the ICC.

## **To the Intergovernmental Authority on Development (IGAD)**

- Support a UN Security Council arms embargo on South Sudan, the establishment of a UN panel of experts or monitoring body to monitor and report on violations of the embargo, and the implementation of targeted sanctions against individuals who are responsible for violating the embargo or for serious violations of international humanitarian law.
- Ensure that any peace agreement does not include amnesty for alleged perpetrators of serious crimes and supports fair, credible trials of the crimes in accordance with international standards.
- The peace agreement should also include plans for broader accountability mechanisms such as compensation for victims and national reconciliation.
- Require the IGAD monitoring and verification teams to monitor and report not only on violations of the ceasefire but also on violations of international humanitarian and human rights law, as required in the January 23, 2014, Cessation of Hostilities Agreement. Relevant information regarding attacks on civilians should be made public, to the greatest extent possible, and shared with UNMISS Human Rights Division and the African Union Commission of Inquiry.

## **To the United States, EU Member States, and Other Governments**

### **Supporting Peace Process**

- Support a UN Security Council arms embargo on South Sudan, the establishment of a UN panel of experts or monitoring body to monitor and report on violations of the embargo, and the implementation of targeted sanctions against individuals who are responsible for violating the embargo or serious violations of international humanitarian law.
- Formally suspend military or other assistance to South Sudan's security sector, with the possible exception of human rights training and capacity building for

accountability mechanisms within the army and/or police, until abuses have ended and parties have taken credible steps towards accountability for violations.

- Ensure that any peace agreement does not include amnesty for alleged perpetrators of serious crimes and supports fair, credible trials of the crimes in accordance with international standards. The peace agreement should also include plans for broader accountability mechanisms such as compensation for victims and an independent national reconciliation process.
- Fund research and consultation into, provide expertise for, or otherwise support the people of South Sudan to prepare for broader accountability mechanisms such as compensation for victims, national reconciliation and vetting of security forces.
- Support South Sudanese civil society groups and media with training and funding for increased investigation, documentation and reporting of violations of international human rights and humanitarian law.
- Support capacity building programs with the South Sudanese judiciary.

## **To the Government of Uganda**

- Ensure that the Ugandan People's Defense Force troops respect their obligations under international human rights and international humanitarian law.
- Investigate the use of cluster bombs in South Sudan and make the results of those investigations public.

## **To UN Agencies and Nongovernmental Organizations Providing Humanitarian Assistance**

- Closely monitor the distribution of humanitarian relief to ensure that food and other items are neither diverted by armed forces nor inciting attacks upon civilians.
- Urgently provide comprehensive reproductive health and HIV services, as an integral part of response to sexual and gender-based violence. Health services should include:
  - Treatment of injuries that have occurred in the course of the sexual violence;

- Counselling to address the emotional and psychological impact of sexual violence;
- Access to emergency contraception and abortion services;
- The dissemination of information about and treatment for HIV/AIDS,
- Hepatitis B and C and other sexually transmitted infections, including post exposure prophylaxis (PEP) for HIV; and
- Confidential spaces for consultation, counselling and treatment of sexual violence.

## Methodology

This report documents abuses South Sudanese have endured since December 2013, demonstrating how targeted killings of civilians and mass pillage and destruction of civilian property lie at the heart of how parties to this conflict are fighting this war. It is based on seven trips by four Human Rights Watch researchers to South Sudan between December 2013 and June 2014. Researchers visited the capital Juba on every trip, spending several weeks there in January and March. Researchers also visited the towns of Bentiu three times, Bor twice, the town of Malakal once, and Awerial County in Lakes State once.

More than 400 people were interviewed in the course of conducting the research. Many of those interviewed were displaced people sheltering in UNMISS bases or camps for internally displaced people (IDP). In addition, Human Rights Watch interviewed other victims and witnesses living outside of the UN bases.

Also interviewed were South Sudanese government and army officials, opposition leaders, international diplomats and senior UN officials. Some of these interviews were conducted in Nairobi and Addis Ababa, where the Intergovernmental Authority of Development (IGAD) regional body is holding peace negotiations. In all locations in South Sudan, researchers consulted UNMISS and international humanitarian officials.

South Sudan's Unity, Upper Nile and Jonglei states have been especially affected by fighting, including in many rural areas that Human Rights Watch did not visit because of, insecurity or other access constraints. Many displaced people from those locations reported similar patterns of civilian targeting and destruction by fighters that Human Rights Watch documented in towns. The findings in this report are mostly restricted to violations that took place in Juba, Bor, Bentiu and Malakal. Further research in other locations, including opposition strongholds, would have almost certainly uncovered more abuses by both parties to the conflict.

Interviews with victims and witnesses were conducted confidentially and to the extent possible all interviews took place in privacy. Interviews took place in Arabic, Dinka, English or Nuer languages, with assistance from translators where necessary. Most interviews lasted 15 to 30 minutes and the vast majority took place in person although some

interviews were conducted by telephone. All interviewees gave consent. No incentives were provided to interviewees. Interviewees were informed about the nature of Human Rights Watch's work and their option to stop the interview at any time or choose not to answer a question. When allegations of abuse were made during interviews, the interviewees were asked again if they personally witnessed or experienced these abuses. Witnesses and victims interviewed by Human Rights Watch have not been named or otherwise identified to protect them from reprisal by the government or opposition forces.

The abuses documented in this report represent only some of the horrors the people of South Sudan have witnessed since December 2013.



# I. Background

Life for many South Sudanese, since their country's independence in 2011, has been marred by inter-ethnic conflict and armed rebellions by ethnic-based militias; violence and insecurity have destabilized much of the country. Unaddressed trauma and anger carried over from Sudan's long civil war that pitted Southern ethnic groups against each other helped drive the violence.<sup>1</sup> President Salva Kiir Mayardit has also faced increasing political resistance, including from close associates of the late rebel leader, John Garang, and from the then-Vice President Riek Machar. In mid-December 2013 tensions boiled over and plunged half the world's newest country back into war.

Riek, a Nuer from Unity state, began vying for the presidency as early as 2008 but made his presidential ambitions public in early July 2013.<sup>2</sup> On July 23, 2013, Salva Kiir, who is a Dinka from Warrap state, dismissed Riek as vice president along with most of his cabinet, a move seen widely as an attempt to reassert control.<sup>3</sup> Tensions between the men ballooned, especially in the lead up to a long-delayed National Liberation Council (NLC) meeting of the ruling Sudan People's Liberation Movement (SPLM), when party leaders were scheduled to decide, among other things, how top leadership is elected.<sup>4</sup>

On December 6, 2013, while Salva Kiir was out of the country, Riek and other government officials held a press conference in Juba and accused Salva Kiir of creating a crisis in the

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<sup>1</sup> Horrific attacks on civilians and ethnic targeting of civilians, seen in the current conflict echo war crimes committed in South Sudan during Sudan's civil war that helped displace hundreds of thousands of people and pushed parts of South Sudan into famine. Many communities, not only Dinka and Nuer, were targeted during this conflict because of their ethnicity or presumed allegiances. These alleged crimes, committed by all parties to the conflict – Sudan's army, the Sudan People's Liberation Army (SPLA) factions and other rebel groups -- and the fear and anger they created have never been addressed either through justice mechanisms or in national truth telling or reconciliation processes, and as a result have almost certainly helped drive abuse in the current conflict and the tensions that preceded it. For more information, see Human Rights Watch, '*Civilian Destruction: Abuses by All Parties in the War in South Sudan*', 1994, p90-239. <http://www.hrw.org/reports/1993/sudan/> and Human Rights Watch, '*Famine in Sudan 1998, The Human Rights Causes*' <http://www.hrw.org/reports/1999/sudan/>

<sup>2</sup> Riek publicly announced his intention to run for president in an article by the UK Guardian newspaper article, published on July 4, 2013. Simon Tisdall, "*Riek Machar, the Former Rebel Fighter Ready for New Battle*" The Guardian, July 4, 2013. <http://www.theguardian.com/world/2013/jul/04/riek-machar-south-sudan-ambitions> (accessed June 10, 2014). Riek had made moves for the chairmanship of the SPLM in 2008 but was persuaded by others to instead stand by Salva Kiir's leadership until South Sudan's independence, achieved in 2011.

<sup>3</sup> Salva Kiir also removed two of South Sudan's ten elected governors by presidential decree in 2013.

<sup>4</sup> As the SPLM was certain to win in the next elections, slated for 2015 (but now probably delayed), the chairman of the SPLM who is also the party's presidential candidate (the flag-bearer), would probably win the country's presidency. The NLC is made up of up to 275 SPLM representatives from across South Sudan and approves the party's budget and members of the party's political bureau.

country, dictatorial tendencies and unilateral decision making in the SPLM.<sup>5</sup> Newspapers reporting on the press conference were seized. Riek's replacement, Vice President James Wani Igga, issued a response on December 8, 2013, accusing the group of creating "instability ... chaos and disorder." Riek agreed to call off a planned public rally on December 13, 2013, to reduce tensions on the understanding that Salva Kiir would delay the NLC meeting.<sup>6</sup> Salva Kiir initially agreed to hold off, but then changed his mind and held the meeting as planned on December 14, 2013.

In his opening speech, Salva Kiir compared recent dissent within the SPLM with events in 1991 when Riek attempted a coup in the then-rebel SPLA and split from the main movement.<sup>7</sup> Fighting between the factions resulted in heavy Southern casualties and important areas were lost to the Khartoum government. The split prompted massive violations against civilians as both factions attacked villages belonging to the "other" ethnicity in cruel reprisal attacks. Both sides committed summary executions of soldiers and officers who happened to be in the wrong place or from the wrong ethnicity at the wrong time. The years 1991-3 were filled with ethnic hatred and bloodshed, including in areas where Nuer and Dinka had intermarried for generations.<sup>8</sup> The factional fighting also led to a famine in the "hunger triangle" between Ayod, Kongor and Waat towns in Jonglei state in the early 1990s.<sup>9</sup>

The 1991 Bor massacre --a series of attacks from September through November by Riek's forces and other Nuer forces on communities in John Garang's home area of Bor county and also in Kongor county of Upper Nile state in which some 2,000 Dinka civilians were killed-- probably sealed the ethnic division between Riek's and Garang's factions and carries great emotional and political weight in contemporary South Sudan.<sup>10</sup> The association between the 1991 "Nuer" split and the Bor massacre, combined with the

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<sup>5</sup> The other disgruntled politicians included political heavyweights Pagan Amum, Deng Alor Kuol, Oyay Deng Ajak, Majak D'Agoot and Gier Chuang Aluong, all of whom were arrested on December 16 and 17, after the fighting in Juba began, on allegations of helping mastermind the alleged coup. See: "Press Statement by Riek Machar", Gurtong website, December 8, 2013. <http://www.gurtong.net/ECM/Editorial/tabid/124/ctl/ArticleView/mid/519/articleId/14076/categoryId/120/Press-Statement-by-Riek-Machar.aspx>.

<sup>6</sup> Human Rights Watch interviews, National Security officials, names withheld, Juba, March, 2014.

<sup>7</sup> Machar split from the movement in August, together with two other leaders, including another prominent Nuer, Gordon Kong. Salva Kiir remained with Garang's faction.

<sup>8</sup> Human Rights Watch, 'Civilian Destruction: Abuses by All Parties in the War in South Sudan', 1994. P91 – 110.

<sup>9</sup> Human Rights Watch, 'Civilian Destruction: Abuses by All Parties in the War in South Sudan', 1994..p33

<sup>10</sup> Human Rights Watch, *Civilian Destruction: Abuses by All Parties in the War in Southern Sudan*, 1994, p124.

political tensions and fear that the Nuer would take over Juba, whether planned or not, helps explain the extent of the cruelty directed against Nuer men in Juba in the days that followed the NLC meeting.<sup>11</sup>

In his opening speech, Salva Kiir said: “(Indiscipline in the party) will take us back to the days of the 1991 split ... (and) we all know where the spilt took us ... this could jeopardize the unity and independence of our country and we must guard against such things. My dear comrades, I am not prepared to let this happen again.”<sup>12</sup> Senior SPLM officials including Riek and Garang’s widow Rebecca Garang challenged Salva Kiir in the, by all accounts, highly acrimonious meeting that followed. On December 15, even though Riek and other senior SPLM members boycotted the meeting, the NLC agreed to a voting mechanism and other documents.<sup>13</sup>

That night, only a few hundred meters from the venue of the NLC meeting, at the General Headquarters (GHQ) of the SPLA, Presidential Guard (PG) soldiers loyal to Riek fought other soldiers stationed there. The fighting spread that night to other parts of Juba. Pro-Kiir SPLA forces pushed the bulk of renegade Nuer soldiers out of Juba by around 1 p.m. on December 16. That afternoon, in full military uniform, Salva Kiir told a televised press conference that Riek had orchestrated a coup, a charge Riek denied. In his five minute statement Salva Kiir again talked about the 1991 split, calling Riek a “prophet of doom”.<sup>14</sup>

On December 16 and the following days Dinka soldiers and other government security forces brutally cracked down on Nuer men in Juba, including widespread killings and arbitrary detentions, described below.

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<sup>11</sup>Human Rights Watch research in the 1990s found that in general forces in neither Riek’s SPLA-Nasir nor Garang’s SPLA-Torit factions were held to account for burning homes, looting, killing civilians during the bloodshed in the 1990s. Riek has apologized for the Bor massacre since South Sudan’s independence.

<sup>12</sup> President Kiir’s speech can be viewed here: <https://www.youtube.com/watch?v=5y3bp6Oehis> (accessed June 5, 2013). See minute 12:00.

<sup>13</sup> The most contentious issue was how the chairman would be selected; including whether by secret ballot or open voting by a show of hands (the latter was seen as being to Kiir’s benefit). A constitution, code of conduct and basic rules and regulations were also debated and passed.

<sup>14</sup> President Kiir’s press conference can be viewed here: <https://www.youtube.com/watch?v=boLU2oO5JDI> (accessed June 5, 2013). Kiir said: “Let me reiterate my statement during the opening of the NLC meeting a few days ago. My government will not allow the incidents of 1991 to repeat themselves again. This prophet of doom continues to persistently pursue his action of the past and I have to tell you that I will not allow or tolerate or such incidents once again in our new nation.”...

Riek escaped from Juba on the night of December 15. On December 17, the government announced on its website that security forces had arrested ten politicians “in connection with the foiled coup attempt” in Juba and were searching for four others, one of whom, former SPLM secretary general Pagan Amum, was subsequently arrested and detained together with the other ten.<sup>15</sup> Most of these politicians had complained about Salva Kiir’s “dictatorial” style of governance in the December 6 press conference, described above. During the arrest of Gier Choung, a former minister, his driver was beaten. A man was killed by security forces in the house of an ex-minister, Gabriel Changson Chang, during Changson’s arrest. Changson was released the same day. The arrested politicians were kept incommunicado for several days, although family members and diplomats were able to visit them later in December.<sup>16</sup> On January 28, Justice Minister Paulino Wanawilla accused the eleven politicians, and three others including Riek, of treason but said seven of the men would be released because of lack of evidence.<sup>17</sup> The trial of the four others - Pagan Amum, Majak D’Agoot, Oyai Deng Ajak and Ezekiel Lol Gatkuoth – began on March 11. The government prosecution abandoned the case on April 25.<sup>18</sup>

The crisis in the capital was quickly followed by the disintegration of the SPLA in Jonglei, Upper Nile and Unity states. Key Nuer commanders and tens of thousands of Nuer soldiers defected, including many originally from Nuer former militias integrated into the SPLA following the Comprehensive Peace Agreement that ended the long civil war in Sudan and

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<sup>15</sup>Human Rights Watch interviews with former detainees and family members, (names withheld), January – April 2014, Juba, Addis Ababa and Nairobi. The politicians arrested were (ex-minister and ex SPLA chief of staff) Oyay Deng Ajak, (ex-minister) Gier Choung, (ex-deputy minister) Majak D’goot (ex-minister) John Luk Jok, (ex-deputy minister) Cirino Hiteng, (minister) Madur Biar, (ex-ambassador) Ezekiel Lol Gatkuoth, (ex-minister) Deng Alor Koul, Madut Bier and (ex-minister) Kosti Manibe. On December 19, government said they were still searching for the SPLM Secretary General Pagan Amum and an ex-minister Peter Adwok Nyaba, who were subsequently arrested, and former Unity state governor Taban Deng Gai, and Alfred Ladu Gore, both now with the opposition. Nyaba, who was unwell, was released on December 27 but in the following days was refused permission to leave the country.

<sup>16</sup> Under South Sudan’s Transitional Constitution, police are allowed to detain suspects for 24 hours or produce them in court, and should promptly inform suspects of the reason for the arrest and any charges.

<sup>17</sup> It remained unclear to these seven politicians whether they had been released, or released on bail. Lawyers hired to represent the detained politicians, told journalists soon after Wanawilla’s announcement said they had still been able to access their clients who had still not seen any formal, written charges against them. See Richard Nield, “*South Sudan Officials Charged With Treason*”, Al Jazeera, February 6, 2014. <http://www.aljazeera.com/indepth/features/2014/02/south-sudan-officials-charged-with-treason-20142312581655804.html> (accessed June 10, 2014).

<sup>18</sup> The ending of the case was announced by President Kiir who said he was acting in the interests of peace and reconciliation. The politicians faced difficulties leaving the country after the case ended but were eventually able to leave the country and now, together with Rebecca Garang, have been given seats at the table in the Addis Ababa peace negotiations.. See: “*John Luk: Travel Restrictions on Released Detainees against Constitution*”, Radio Tamazuj, April 28, 2014. <https://radiotamazuj.org/en/article/john-luk-travel-restrictions-released-detainees-against-constitution> (accessed June 10, 2014).

led to South Sudan's independence.<sup>19</sup> Senior military sources in the army have said that as much as 65 - 70 percent of the army may have defected in late 2013 and early 2014.<sup>20</sup> After Riek fled Juba he moved first to Bor, capital of Jonglei, and then to the east of the country where he set himself up as the leader of the SPLA/M-in-Opposition.<sup>21</sup>

On December 18, Maj. Gen. Peter Gadet, a Nuer and commander of the SPLA's Division 8, based near Bor town, defected with Nuer from other security forces, and, after a period of confusion in Bor town, took control of the Jonglei capital for a few days. On December 21, in Bentiu, capital of Unity state, Maj. Gen. James Koang, the commander of Division 4, announced his defection. The killings in Juba of Nuer had angered armed Nuer youth. Thousands of armed Nuer, often termed 'white army' by both government and opposition leaders, joined opposition attacks on the towns of Malakal, Upper Nile's capital, on December 25 and Bor on December 30.<sup>22</sup>

In the first months of the war, Malakal town in Upper Nile state has changed hands six times, Bentiu in Unity state four times and Bor in Jonglei state four times. Fighting

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<sup>19</sup> South Sudanese and international analysts as well as senior military officials have blamed the speed at which Nuer SPLA defected in the first weeks of the conflict on a failure to properly retrain and realign the allegiances of tens of thousands of Nuer soldiers from ethnic militias integrated into the SPLA following the CPA. Kiir's 2006 Juba Declaration may have doubled the size of South Sudan's army by integrating tens of thousands of Nuer soldiers from strongman Paulino Matiep's South Sudan Defense Force. Many of the Nuer members of the Presidential Guard who defected in Juba at the beginning of the crisis were formerly from Paulino Matiep or Riek's civil war militias and the Nuer kept their internal, informal command and control structures. Kiir has continued to solve armed dissent in South Sudan by amnesty deals for leaders, many of whom received senior positions in the already-top heavy army, and by integrating forces, swelling an already too-big force. This made meaningful reform a major challenge. This method was viewed increasingly negatively over the past few years, especially by the "Garang Boys", senior military and political leaders closely aligned to Garang before he was killed in a helicopter crash in 2005.

<sup>20</sup> Human Rights Watch interviews, SPLA officials, names withheld and SPLA Spokesman Philip Aguer, April 2014. Also see International Crisis Group "*South Sudan: A Civil War By Any Other Name*", April 10 2014, p8.

<sup>21</sup> Small Arms Survey Sudan, "*The SPLM-in-Opposition*", Human Security Baseline Assessment (HSBA) for Sudan and South Sudan, May 2, 2014, <http://www.smallarmssurveysudan.org/facts-figures/south-sudan/conflict-of-2013-14/splm-in-opposition.html> (accessed May 14, 2013).

<sup>22</sup> Men, often young, from the Lou and Jikany Nuer move and fight together in large groups, sometimes numbering many thousands, to defend their home areas or attack enemies: these large groups are often termed white army or Decbor. White army forces have been responsible for large scale attacks and destruction in inter-ethnic conflict in Jonglei state over the past years. It remains unclear how much control Riek and other opposition leaders, or commanders under them, have over these youth but at Riek and other opposition leaders have –since white army abuses – told Human Rights Watch they do not have control over the Lou and Jikany white army from Upper Nile and Jonglei states, but have some control over armed youth in Unity states. Most Southern and international analysts agree these forces, which have no overall command structure but instead fight in groups with instruction from their own community leaders, have fought mostly in parallel with the opposition, not under them. It is also unclear how much control Nuer prophets who often help instigate the formation of white army continue to have once they are formed. There are varying theories on why these community forces are so named, from the color of the ash the fighters put on their skin to stop insect bites, to the white metal of the machetes or spears they used in greater numbers when they fought in the 1983-2005 war: now many have guns. See Ingrid Marie Breidlid and Michael J. Arenson, "*Anyone who can carry a gun can go*": the role of the White Army in the current conflict in South Sudan", Peace Research Institute Oslo, 2014.

continues in all three states. In many instances the threat of attack by one side has been enough to send forces holding a town fleeing. Both sides have left civilians behind to face the brunt of attacks from forces bent on pillage and revenge on ethnic communities in reprisal for earlier violence. South Sudan is now in a humanitarian crisis, with an estimated 1.5 million people displaced and widespread severe food shortages that threaten a famine on the country.<sup>23</sup>

The regional organization, the Intergovernmental Authority on Development (IGAD) quickly took on the role of peacemaker, establishing envoys to mediate peace talks in Addis Ababa. IGAD, which mediated the peace deal that ended Sudan's north-south civil war, was a contentious facilitator as IGAD member, Uganda, had sent in thousands of troops and some helicopter gunships to shore up the government's defense of Juba and Bor towns, putting the impartiality of the body into question. The potential for greater regional involvement in this conflict remains. Ethiopia, Kenya, Sudan and Uganda have all received tens of thousands of refugees from the new war in South Sudan. Other countries notably the United States, United Kingdom, Norway, the European Union and China have also been actively engaged through sending delegates or funding the peace negotiation process.

The parties to the conflict signed a cessation of hostilities agreement on January 23, 2014, but very quickly both parties violated its terms.<sup>24</sup> IGAD has deployed teams to monitor compliance with the agreement that also prohibits the two forces from attacking civilians or civilian property. By May the monitoring team was mostly made up of ex-military and included only one legal expert to provide analysis on war crimes and other serious violations, and no civilian staff.

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<sup>23</sup>The Famine Early Warning Systems Network (FEWSNET) research body warned in May that three million people were in need of humanitarian assistance because of food insecurity and that famine in some parts of Unity and Jonglei states was possible as early as May-August 2014. FEWSNET Alert, "*Without urgent action populations in localized areas could face famine in South Sudan*", May 9, 2014. <http://www.fews.net/east-africa/sud%C3%A1n-del-sur/alert/fri-2014-05-09> 9 (accessed July 20, 2014).

<sup>24</sup> On May 9, 2014, Kiir and Riek re-committed to cease hostilities but this agreement has also been broken.

## II. Killings in the Capital: the Juba Crisis

### Timeline: The Start of the Juba Crisis

December 14, 2013	Tensions are high in Juba, focused on the strained relationship between President Salva Kiir and Riek Machar as the SPLM National Liberation Council meets.
December 15, 2013	Riek and other key politicians boycott the second day of the NLC meeting. At around 10:30 pm that night fighting between Nuer members of the Presidential Guard, loyal to Riek and government, mostly Dinka, Presidential Guard soldiers starts in the SPLA 'Giyada' HQ and spreads to some surrounding areas. At around midnight Nuer and government soldiers fight over the New Site arms store in the north of the capital. Riek escapes Juba.
December 16, 2013	<p>At dawn fighting in both places, the Giyada HQ and in New Site, continues and spreads to engulf many residential neighborhoods. Attacks on Nuer houses especially in the north west of the capital begin early that morning. By around midday the renegade Nuer soldiers have been pushed out of Juba. Nuer civilians are shot at as they run to UN bases. Over the day Nuer men are rounded up in Gudele and nearby neighborhoods and taken to the Gudele "joint unit" police station.</p> <p>That afternoon President Kiir says his forces are in control of Juba and blamed the violence on an attempted a coup by Riek. Meanwhile attacks on Nuer civilians are taking place in many different locations in Juba. Between 200 and 400 men are massacred at the Gudele police station at around 8p.m.</p>
December 17, 2013	Attacks continue on Nuer civilians, and as thousands flock to two UN bases. A gun battle over Riek's house takes place. In the late afternoon survivors of the Gudele massacre are rescued and authorities begin moving the bodies from the site. Fighting between Dinka and Nuer security forces is also reported in other parts of town. The government announces arrests of politicians accused of masterminding the coup.



The new war in South Sudan began with gun battles in Juba on the night of December 15, 2013, between mostly Dinka pro-Kiir soldiers and Nuer pro-Riek soldiers. An ensuing brutal crackdown by government forces on Juba's Nuer population included targeted killings of Nuer males, both in public places and during house-to-house searches, mass arrests, the unlawful detention of hundreds of Nuer for up to 10 days in poor conditions, ill-treatment and torture. The killings of Nuer civilians in the nation's capital was certainly the initial major driver of South Sudan's war, encouraging defection of Nuer SPLA from the army to the opposition and prompting tens of thousands of armed young Nuer men to join the opposition to seek revenge.<sup>25</sup>

The government maintains that the clashes that initiated what has been called the "Juba Crisis" were the result of an attempt by Riek, and his allies to stage a coup. The violence began with Dinka and Nuer Presidential Guard (PG), or "Tiger division" soldiers fighting to control an ammunitions store in the army's 'Giyada' General Headquarters (GHQ) at around 10.30 p.m. on December 15.<sup>26</sup> According to credible sources, the fighting started after some Nuer soldiers were disarmed in response to the high tensions, described above, between Riek and Salva Kiir at the SPLM National Liberation Council meeting.<sup>27</sup>

At around midnight Dinka and Nuer soldiers also rushed to an SPLA ammunition store in the New Site area in the northwest of the town, close to the main Bilpam army barracks, and fought each other intensively in a desperate gun battle conducted mostly in darkness. One senior SPLA official said that this nighttime battle was conducted in some confusion with neither side clear who or where the enemy was.

In both places, fighting spread into surrounding residential areas at dawn on December 16. Supported by tanks, government soldiers from the GHQ routed soldiers who had become

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<sup>25</sup> Both the Nuer and Dinka ethnic groups consist of many different subgroups with their own complex histories, power structures and webs of allegiances between powerful representatives from different areas that also often span across ethnic divides. But representatives from across Nuer areas, including the educated elite, living in the capital were attacked during the crisis and sheltered together in UN bases for many months cementing a joint perception that the government, specifically Kiir's administration, is persecuting the Nuer as a whole. Desire for violent reprisal against Dinka was often expressed verbally to Human Rights Watch by Nuer in the camps.

<sup>26</sup> Some Nuer PG fought on the side of the government both during the fighting on December 15 and 16 and have stayed with the government SPLA since. SPLA officials have denied any disarmament attempt and have claimed that the fighting in the GHQ began after a senior Nuer PG, Peter Lim, shot and killed a Dinka major, Akol Reach, and attacked the ammunition store in the GHQ. Lim may have been in charge of the Nuer renegades fighting around the GHQ on December 15 and 16.

<sup>27</sup> Human Rights Watch interviews with army, national security officials and politicians, names withheld, January to April 2014. Small Arms Survey, Human Security Baseline Assessment "*The SPLM-in Opposition*", May 2, 2014, p3.

Nuer renegades from the GHQ and nearby neighborhoods, pushing them southwards and out of the town by around 1 p.m. on December 16. Nuer renegade soldiers were pushed out of the New Site area and surrounding neighborhoods by mid-morning by government soldiers from various divisions. That afternoon President Salva Kiir, dressed in military uniform, told a press conference that his forces had full control of the town.

At this key moment, Salva Kiir said nothing about the attacks on Nuer civilians in Juba, and did not explicitly say that civilians or Nuer civilians specifically should be protected. Salva Kiir should have known that civilians had been attacked as Nuer were already fleeing for the protection of UN bases. As mentioned above, Salva Kiir also invoked the highly emotive 1991 split in the Southern rebel movement during this televised statement.

On December 16 and over the following chaotic days fighting also reportedly took place within the Bilpam SPLA barracks and in pockets across the town. Armed Dinka and Nuer civilians fought each other, for example in the Munuki neighborhood on December 16, and the Gorre and Jebel Dinka neighborhoods in the west of Juba later in the week. Other Nuer soldiers allegedly defected and fought in the capital after December 16. Even after the fiercest fighting on the night of December 15 and the following day was over, the threat of further violence within the capital was substantial and in the weeks that followed, opposition forces repeatedly threatened to attack the capital from outside. However much of the violence that took place during the morning of December 16 and in the following days consisted of government forces carrying out attacks on Nuer civilians and government forces engaging in opportunistic looting as they reasserted control over the town.

Riek's house was attacked on the morning of December 17 by soldiers from the PG. There were around 25 civilians present in the house during the attack, mostly women and children many of whom were unlawfully detained after the attack.<sup>28</sup> It is unclear why the

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<sup>28</sup> Although Riek was removed from his position as vice president by Kiir in August, he continued to live in the vice president's mansion in the Amarat neighborhood until the crisis. The disarmament of the PG protecting Riek's house appears to have been ethnic in nature. Two non-Nuer PG were told to leave, while the rest of the PG, all Nuer, were told to remain in the house. That Riek hosts large numbers of civilians in his home is well-known, and one woman present at the scene also told Human Rights Watch that she rushed out to tell the soldiers that there were civilians in the house as they began the attack, but was ignored. The civilians present in Riek's house during the attack were also arrested and kept for between one and three days in at least two different buildings in the presidential palace complex. The women reported to Human Rights Watch that they were treated well and were given food and water and even money to get transport to the UN Tamping camp, or in some cases given a lift there in a military pickup after they were released. One man, however, said soldiers severely beat and strangled him while asking him where Riek was. Soldiers also gave him a lift to UNMISS after releasing him.

house was attacked as Riek had already left Juba by then, and pro-Kiir PG had already disarmed the approximately 30 Nuer PG stationed in the house as part of Riek's bodyguard. After the disarmament, which was peaceful according to witnesses who spoke to Human Rights Watch, around 70 Dinka PG then were stationed at the front and rear of the former vice-president's house and remained there all night. The following morning a tank fired at and mostly destroyed the front gate and Dinka PG then attacked the house. The Nuer PG put up some armed resistance using guns kept in the house. Five Nuer PG were killed and several others were injured.<sup>29</sup> After the fighting a group of NSS officials came to the house and took the injured Nuer PG to Juba Teaching Hospital.<sup>30</sup> Other Nuer PG were arrested and then detained in a NSS building in Juba town for seven days (conditions in this detention site are described below).<sup>31</sup>

Victims and witnesses consistently described attacking forces, mostly PG soldiers but also in some cases police or other soldiers, as from the Dinka ethnic group who – after the Nuer defection – formed most of the remaining PG in the town. Officials of different ethnicities from the SPLA and police force have acknowledged that it was mostly Dinka security forces loyal to Dinka commanders, rather than to official lines of command and control, who took effective control of much of Juba. Officials within the army, the national security service and police have consistently told Human Rights Watch that they could have done nothing to stop the Dinka forces, bent on ensuring any possible threat to the president was eradicated, from committing abuses. Instead of intervening militarily, several senior officials from the army, national security and police conducted rescue missions, sending cars and soldiers under their command to pick up frightened Nuer.<sup>32</sup> Unlike the army, where official structures of command and control were at least partly replaced by ethnic lines of command and control, although some Nuer NSS did defect the NSS continued to function. NSS officers did not intervene during serious violence but in at least two cases

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<sup>29</sup> Several Nuer eyewitnesses, interviewed in January, told a Human Rights Watch that five Nuer PG were killed by Dinka PG in the hospital while they were receiving treatment. This allegation has been repeatedly denied by staff at Juba Teaching Hospital. Separately, Human Rights Watch spoke to three other Nuer civilians who were either threatened by Dinka security forces present in the hospital or were told to leave the hospital by staff who told the injured Nuer civilians – all of whom had suffered gunshot wounds during attacks on their homes – that they were in danger.

<sup>30</sup> Ibid

<sup>31</sup> This National Security Service building in Juba town is often referred to as the “riverside” building.

<sup>32</sup> For example, James Hoth Mai, the then-chief of staff of the army and the Inspector General of Police Pieng were among those who sent armed vehicles and security personnel for rescue missions. Police officers also provided safe haven for at least some Nuer police in police stations.

NSS officers helped establish control after incidents, helped wounded Nuer to hospital and in another incident, released Nuer from a detention site.

The PG forces include a large pro-Kiir force – sometimes known as the “Luri Boys,” named for the location of a training camp – of at least 1,000 young male Dinka cattle herders who were recruited in 2012 and 2013, including by the former governor of Northern Bahr el Ghazal State, Paul Malong.<sup>33</sup> According to SPLA officials the men were trained without the official approval of SPLA leadership and specifically to shore up protection for President Salva Kiir. Some Luri Boys, whom witnesses identified by their youth, rough and unsophisticated approach to civilians and ability to speak only Dinka, may have participated in attacks on Nuer civilians.

On April 24, 2014, Salva Kiir appointed Malong, who is from Salva Kiir’s Bahr el Ghazal stronghold, as head of the army, and removed James Hoth Mai, a Nuer. Senior army officials and many witnesses and victims interviewed by Human Rights Watch believe Malong played a key role in securing the town for Salva Kiir during the Juba crisis, when the worst abuses occurred.<sup>34</sup> While Malong was not officially in charge of security forces in the SPLA, witnesses saw him in military uniform and in military vehicles in several locations in Juba during the violence in December.

Arrests of Nuer men by government forces began around midnight on December 15. The following morning Nuer homes in both of the two main areas where fighting took place – including the Khor William and Lologo neighborhoods around the GHQ and the Manga, Mangaten, New Site neighborhoods in the northwest of the town – were attacked by government forces. It is possible that some of the attacks on houses were attempts by government forces to find Nuer soldiers or armed civilians who had participated in the fighting, some of whom may have taken off uniforms and hidden in houses. But the scale and widespread nature of the attacks indicates that the government security crackdown was targeted much more broadly against the Nuer community. Many of the attacks on homes took place during and immediately after the fighting on December 16, but shootings,

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<sup>33</sup> President Kiir has claimed that the “Luri Boys” were a reserve force for the already-bloated army. Sudan Tribune, “*South Sudan President Admits Forming Private Army*”, February 17, 2014. <http://www.sudantribune.com/spip.php?article49993> (accessed May 19, 2014)

<sup>34</sup> Human Rights Watch independently received reports for example that Malong gave orders at the National Security Service building during the crisis.

beatings and arrests of Nuer, mostly males of fighting age, on roads and in homes across the town continued during the following days.

Human Rights Watch received reports of over 60 separate cases of killings in Juba during the crisis, mostly on December 16 and to a lesser extent on December 17. Human Rights Watch received some reports of women being shot at and killed or injured but the vast majority of shooting victims were male. Many witnesses and victims told Human Rights Watch how soldiers conducted house to house searches and arrests and shot at and killed or injured Nuer males as they fled. Nuer were also arrested or shot as they tried to move to places of safety, including to the two UNMISS bases in Juba.<sup>35</sup> Witnesses described SPLA and other security forces coming to their neighborhoods to pick up bodies and carry them away in trucks. Nuer family members were sometimes told by soldiers not to touch bodies of relatives. Many families still do not know what happened to their relatives' bodies.

In numerous cases, Dinka security forces stopped and identified Nuer for arrest by traditional scarification marks or by “tricking” them into answering Nuer greetings as they moved on foot or in cars in the town. One Dinka media worker described being pulled out of his car and forced onto his knees when he responded to a greeting in Nuer. When Dinka soldiers cocked a gun at his head he showed them his ID and spoke to them in Dinka and they let him go.<sup>36</sup>

Scores of arrested Nuer men were brutally beaten and kept in overcrowded poor conditions in police cells, a national security building and in army barracks for many days. Some were tortured by Dinka security forces who demanded information about Riek's location or plans and threatened them about their “Nuer” presidential ambitions.

Wanton looting and destruction of homes by government security forces took place in many neighborhoods during the Juba Crisis. People from many different ethnicities experienced looting of their property. Many Nuer homes were looted during or after attacks and after Nuer had fled to UN bases or other places of safety.<sup>37</sup> In many cases across the

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<sup>35</sup> UN staff were unable to count the number of people displaced to their bases until December 18 by which time 8,500 people were at the UN Topping base and 8,000 at the UN House base. United Nations Mission in South Sudan (UNMISS), “Conflict in South Sudan: A Human Rights Report,” May 8, 2014, p18.

<sup>36</sup> Human Rights Watch, telephone interview, (name withheld), December 18, 2013.

<sup>37</sup> Human Rights Watch, various interviews (names withheld), Juba, December 2013 – February 2014.

capital, Nuer men had their mobile phones, money and ID cards seized from them by the Dinka security forces.<sup>38</sup> Human Rights Watch documented 10 cases in which security men confiscated the cars of Nuer civil servants or businessmen. Security forces often beat the Nuer either before or after they robbed their possessions, and then arrested and detained them, sometimes for many days. The detained Nuer were often badly beaten again as they were transported away in military pickups. One elderly Nuer man's story was typical:

It was on the main road to the airport. We were stopped by soldiers who spoke to us in Dinka. I don't know Dinka ... the soldiers asked us what language we speak, we told him we speak Nuer. From there they told us to get out of the car. ... Our car, all our phones and money were all taken.

Despite severe overcrowding and poor conditions some 30,000 Nuer, including mid to high level civil servants, remain sheltering in UN bases in Juba, too afraid to move back home including to neighborhoods that remain under a heavy SPLA presence.<sup>39</sup> On January 6, 2014 two female relatives saw their relative, a man, shot by three soldiers while he was trying to put his wife, children and other relatives onto a bus for Kenya.<sup>40</sup> South Sudanese politicians have encouraged Nuer to return to their homes, but have also frightened and stigmatized those living in the bases by calling the sites rebel havens.<sup>41</sup> At time of writing, security forces have continued to harass and attack Nuer around the bases when they leave from the camps to go to work or get supplies. Women have reported being raped to aid workers. Government officials have not taken measures to end the security forces' attacks, provided protection or make clear through public statements that, like all civilians, Nuer should be protected from attack.

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<sup>38</sup> Human Rights Watch, various interviews (names withheld), Juba, December 2013 – February 2014.

<sup>39</sup> For example of poor conditions in the camps, see: "*South Sudan: Living in Impossible Conditions*", Medecins Sans Frontieres press release, February 5, 2014. <http://www.msf.org/article/south-sudan-living-impossible-conditions> (accessed June 3, 2014).

<sup>40</sup> Human Rights Watch interviews, (names withheld), Juba, January 9, 2014. The man died in hospital from the gunshot wound.

<sup>41</sup> While the majority of Nuer displaced to the bases in Juba are there for security reasons some more senior civil servants and politicians stayed in the camp, especially in December 2013 and January 2014 in part to protest against the government for the killings. The government still includes Nuer politicians including ministers and the speaker of the South Sudan Legislative Assembly is also a Nuer.

## Attacks on Nuer Civilians Including Unlawful Killings

### *Fighting in Lologo and Khor William Neighborhoods*

Civilians were killed and civilian property damaged during fighting in the Lologo and Khor William neighborhoods on December 16. Maj. Gen. Marial Chanuon, the Presidential Guard (PG) commander, was in command of the government forces who fought the renegade Nuer forces around the General Headquarters (GHQ) on December 16, 2013.<sup>42</sup> By mid-morning the Nuer renegades from the GHQ had been pushed out of the GHQ into surrounding residential areas especially into Khor William and Lologo.<sup>43</sup> Chanuon's forces pursued them into these neighborhoods, assisted by the use of tanks. By around 1 p.m. the renegade Nuer had been defeated, driven southwards out of the capital.

Government forces in tanks reportedly destroyed civilian property in residential areas. A Dinka civil society activist described how his house in Khor William was crushed by a tank as soldiers "were shooting at random in my own compound ... they were shooting at people, into the air, I saw three people shot."<sup>44</sup> In a case that angered many Nuer, a young woman, Nyual Both, who had recently given birth was killed when a bullet flew into her room in Khor William during the night of December 15.<sup>45</sup> Other civilians were also killed during the fighting at GHQ and in surrounding residential areas.<sup>46</sup>

### *Attacks in the Lologo, Khor William and Jebel Market Areas*

After the Nuer renegades were pushed out of the Khor William, Lologo and Jebel market, Dinka soldiers attacked Nuer houses, killed Nuer civilians especially men, arrested others and looted homes. The exact identity of these soldiers is not clear; Chanuon told Human Rights Watch he recalled his soldiers after they chased out the renegade Nuer soldiers.

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<sup>42</sup> Human Rights Watch interview, Maj. Gen. Marial Chanuon, Juba, March 25, 2014. During the night of December 15, especially around the ammunition store in the GHQ, some 58 soldiers were killed. The dead included Dinka and Nuer PG, but as some Nuer PG fought together with the Dinka PG, including some who have since remained in Juba as part of the force, it is unclear how many of those killed were part of the "renegade" Nuer group. At least 700 Nuer soldiers left the PG force during the Juba crisis.

<sup>43</sup> Some fighting also took place in neighborhoods around the GHQ during the night of December 15.

<sup>44</sup> Human Rights Watch interview, (name withheld) telephone, December 17, 2013.

<sup>45</sup> Human Rights Watch interview with relative (name withheld) December 27, 2013. It is unclear who fired the bullet that killed Nyual Both.

<sup>46</sup> Human Rights Watch received several reports that dead bodies of civilians including a young girl were seen in the Khor William neighborhood after the fighting, possibly killed in crossfire. A man reported seeing chairman of Jebel Youth Union, Thok Chuol Kong, killed in Khor William by unknown gunmen during a lull in fighting between Dinka and Nuer PG forces during the morning of December 16.

For example, after the fighting was over on December 16 soldiers forced their way into one man's house in the Jebel market area and shot his uncle, a trader, and another trader sheltering with them.<sup>47</sup> "We hid in the home and lay down under the beds during the fighting. After the fighting we relaxed a bit and were lying on the beds and then the soldiers came back (and attacked our home)," the man said. On the same day Dinka soldiers pulled a pastor, Reverend Simon Nyang, from his house in Khor William and shot him dead. "They just called him out and killed him. He remained in his house thinking he is a pastor, and he is safe with the government soldiers," a relative said.<sup>48</sup> The same day, a Nuer civil servant witnessed government soldiers killing four Nuer men in their house in the nearby Custom Market area.<sup>49</sup>

Nuer homes in the Lologo neighborhood were also attacked. A 40 year old Nuer man, a well-known trader in his neighborhood, interviewed by Human Rights Watch in hospital while recovering from a gunshot wound in his leg, said Dinka soldiers attacked his house in the afternoon of December 16.<sup>50</sup> "It was Dinka soldiers and they knew mine was a Nuer house," he said.

Dinka soldiers went house to house searching for renegade Nuer soldiers, arresting Nuer. A Nuer student told Human Rights Watch that he and his two friends were among 27 Nuer men arrested from Nuer homes in the Khor William neighborhood on December 16 and then detained at a police station. His two friends, he said, were never seen again and are feared dead.<sup>51</sup>

Nuer fled on the afternoon of December 16 from Lologo, Jebel Market and Khor William to the UN House compound, the nearest of two UN bases in Juba town. While women and children were allowed to pass through neighborhoods and along the main roads to the base, soldiers stopped some of the men and arrested or killed them.

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<sup>47</sup> Human Rights Watch, telephone interview, (name withheld), Juba, December, 2013.

<sup>48</sup> Human Rights Watch, telephone interview, (name withheld), Juba, December, 2013.

<sup>49</sup> Human Rights Watch interview, (name withheld), Juba, December, 2013. The men who were shot included Jacko Long, Machar Deng and Lual Biel. One man was not named.

<sup>50</sup> Human Rights Watch, interview, (name withheld), Juba, December, 2013.

<sup>51</sup> Human Rights Watch, interview, (name withheld), Juba, March 25, 2014. The student managed to persuade the soldiers who detained him that he was from the Anuak tribe and was released after a night in the police station. He also said that Nuer PG did also hide in the house he was in during the morning of December 16 before running out of the town.



Three witnesses separately reported seeing Dinka soldiers pull three men from a shelter near the Yei road junction where they had been holding around 20 Nuer men who had wanted to flee to the UN House compound.<sup>52</sup> The soldiers then shot the men dead. Another man briefly detained close to the same Yei road junction told Human Rights Watch that he had seen the dead bodies of five Nuer men there.<sup>53</sup> Two Nuer, interviewed at different times, who fled to the UN House base that afternoon, reported seeing three dead bodies of Nuer men who had been shot near the fence of the UN House base on the afternoon of December 16.<sup>54</sup> A woman interviewed in the UN House base said her civilian husband was killed in the afternoon of December 16 at a SPLA checkpoint near the UN House base.<sup>55</sup>

Dinka security forces continued to target Nuer in Lologo, Khor William and Jebel residential areas after December 16. A 34-year-old student said his house in Khor William was attacked on December 17 by around seven Dinka soldiers. “They greeted us in Dinka language when we failed to answer they said that means you are Nuer and we are looking for Nuer,” he said. He escaped the house but when he returned to his home he found three bodies of Nuer who has been with him in the compound and the fourth inside the house. In a separate case, a Nuer Juba University student said he fled his house in Khor William after three Nuer neighbors were shot dead on December 17.<sup>56</sup>

After residents fled the area, government forces reportedly remained in some homes, looted their belongings, and sometimes attacked residents who returned to collect their possessions. A man who fled the Jebel market area with his family on December 16 to seek safety in the UN House said that his son and a friend were killed after being identified as Nuer by Dinka policemen when they returned to the area on December 18, to pick up money to bring back to the camp.<sup>57</sup>

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<sup>52</sup> Human Rights Watch interviews, (names withheld), Juba, December 23 – January 5 2014. The three men were shot outside the hut which was described by all the witnesses as having a roof but only a bamboo structure for walls. It was not clear to the eye witnesses why these three men were selected and killed.

<sup>53</sup> Human Rights Watch, interview, (name withheld), Juba, December 30, 2013.

<sup>54</sup> Human Rights Watch interview, name withheld, Juba, March 25, 2013. One of the bodies was identified as that of Michael Gatgweng Biel. There was no fighting between the government and renegade PG forces around this area.

<sup>55</sup> Human Rights Watch interview, name withheld, Juba, January 2, 2014.

<sup>56</sup> Human Rights Watch interview, name withheld, Juba, December 23, 2013.

<sup>57</sup> Human Rights Watch interview, name withheld, Juba, March 25, 2013.

A Nuer civil servant working in finance for the government said he returned to his house in Khor William on December 19 to pick up clothes. When he arrived, young Dinka men in police uniform, in the midst of taking his belongings, threatened to kill him. “I came back to check my house, they were carrying away all our stuff,” said one Nuer woman who had fled from her Khor William house on December 16 but later returned. She was also attacked. “(When they saw me) they shot me in the arm.”<sup>58</sup>

### *Attacks in the North-east of Juba: New Site, Manga, Mangaten, Mia Saba, New Site and Eden*

Neighborhoods in the northwest of the Juba town, on the western side of the Terekeka road leading north out of the capital, were the site of some of the most intensive attacks on Nuer. On the morning of December 16 soldiers conducted many attacks on homes during and after fighting Nuer soldiers and armed Nuer from the area. This fighting seems to have spread out from a heavy gun battle in the New Site weapons store during the very early nighttime hours of December 16.

These neighborhoods, including New Site, Manga, Mangaten, Mia Saba and Eden are heavily populated by Nuer families. The New Site area also hosts military installations such as the headquarters for the commandos unit, engineering corps, and an ammunitions storage facility. An UNMISS human rights report said that eyewitness accounts suggested that “at least 225 civilians, mainly of Nuer origin, were extra-judicially killed in individual incidents in Mia Saba and New Site on December 16, 2013”.<sup>59</sup> Human Rights Watch also documented numerous cases of killings in these neighborhoods, especially on the morning of December 16.

In some cases soldiers forced their way into Nuer homes and immediately began shooting. For example, a man still recovering from a gunshot wound in his right leg when he spoke to Human Rights Watch said four or five soldiers entered his compound in Mangaten and

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<sup>58</sup> Human Rights Watch interview, name withheld, Juba, December 28, 2013. This is another case where government soldiers were in disagreement about what level of violence to use. “When others heard the gun shot they came back and then there was a disagreement (about what had happened) and they did not shoot me again.”

<sup>59</sup> UNMISS, “*Interim Report on Human Rights Crisis in South Sudan*”, February 21, 2014, <http://unmiss.unmissions.org/Portals/unmiss/Documents/PR/Reports/HRD%20Interim%20Report%20on%20Crisis%202014-02-21.pdf> (accessed June 3, 2014). p11.

immediately opened fire, injuring him.<sup>60</sup> “Soldiers were chasing people from the market and when they ran into houses they followed them,” said another man, also shot in the right leg by soldiers in his house, also in Mangaten, on December 16.<sup>61</sup> A 35-year-old man with a bullet injury said his house in Manga was attacked by a large number of Dinka soldiers.<sup>62</sup> “They did not say anything. There were many, but it was only one who shot me,” he said.

In other cases Nuer men were killed when they ran from soldiers or resisted arrest during round-ups. A 41-year old man was shot at by soldiers on the evening of December 16, 2013, in the Mia Saba neighborhood enduring a serious head injury.<sup>63</sup> He said that four other men, all students at Juba University, who had been with him in his house in Mia Saba were shot and killed when they refused to get into a car as directed by the soldiers. A bricklayer said that he and his son had been shot at by soldiers as they fled their home in New Site on the morning of December 16.<sup>64</sup> Before leaving he said he witnessed soldiers pulling out a group of about five or six men from a neighboring house, and shooting them on the street in front of their gate.

Another witness said he was in a group of Nuer who had been rounded up by soldiers on December 16, in Mangaten.<sup>65</sup> Two of the men tried to escape and were shot and killed by the soldiers. In another case, three men, Ruai Both, Tai Magok and Madith Ruai were killed by soldiers in their house in Mangaten, according to a relative who witnessed the killing. The relative was also arrested and detained following the round up and shooting.<sup>66</sup> A man who was shot and injured during fighting in the Eden neighborhood during the night of December 15 said he saw his neighbor who was also injured shot in the back by soldiers as he ran.<sup>67</sup>

Nuer fled from these neighborhoods in large numbers on December 16 and 17 to the UN Tomping base. Although women told Human Rights Watch soldiers allowed them to go to

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<sup>60</sup> Human Rights Watch interview, name withheld, Juba, December 29, 2013. Human Rights Watch also spoke to other witnesses who had experienced similar attacks. For example a 16-year-old boy was shot in the leg when soldiers attacked his home, shooting at the car he was sleeping in as soon as he opened the door, in the very early hours of the morning of December 16.

<sup>61</sup> Human Rights Watch interview, name withheld, Juba, December 29, 2013.

<sup>62</sup> Human Rights Watch interview, name withheld, Juba, December 23, 2013.

<sup>63</sup> Human Rights Watch interview, name withheld, Juba, December, 2013.

<sup>64</sup> Human Rights Watch interview, name withheld, Juba, January 11, 2014.

<sup>65</sup> Human Rights Watch interview, name withheld, Juba, December 30, 2013.

<sup>66</sup> Human Rights Watch interview, name withheld, Juba, January 6, 2014.

<sup>67</sup> Human Rights Watch interview, name withheld, Juba, January 9, 2014.

the base, soldiers would not allow some males to go. “My husband was shot on the way (from Manga to the Topping UN base) with three others (men). ... We were told to sit, they were shot when we were sitting,” one woman told Human Rights Watch.<sup>68</sup> “If they saw a male they started shooting,” another woman said, adding that four men moving with her were shot dead and that her father who was elderly and had been lagging behind never made it to the Topping UNMISS base.<sup>69</sup>

Women who left the UN base in search of supplies in the days following December 16 were attacked. One woman described how when she went with a group of women to buy food on December 17, soldiers opened fire on them in New Site area. The women scattered but one of them had still not returned to the camp by December 27 and they believe she was killed.<sup>70</sup> In the days immediately after the beginning of the crisis a woman walking with seven other women to fetch water was attacked by a Dinka soldier who cut her hand with a machete.<sup>71</sup>

On December 21, a woman reported that when she left the camp earlier that week to cook food at a house in Juba town with three other Nuer women, soldiers in a car arrested them.<sup>72</sup> The women were then separated, and soldiers brought two of them to a house in the Topping neighborhood and shaved their heads. One of the women escaped through a makeshift latrine next to the fence. The other three women have never returned to the camp and are believed to have been killed.

Nuer women were also raped in the days following fighting in Juba. Eight Dinka young men raped one woman in the week after the fighting.<sup>73</sup> Her Dinka boyfriend, a soldier, picked her up from the Topping base and then took her to a house where he and the other Dinka men raped her and then dropped her back at the UN base, according to a close friend and relative of the woman. Another young woman reported being attacked while collecting money from Juba town on December 23. She said she was taken by Dinka men, including soldiers, to a tent in Khor William where four soldiers raped her.<sup>74</sup>

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<sup>68</sup> Human Rights Watch interview, name withheld, Juba, January 9, 2014.

<sup>69</sup> Human Rights Watch interview, name withheld, Juba, January 9, 2014.

<sup>70</sup> Human Rights Watch telephone interview, name withheld, Juba, December 23, 2013.

<sup>71</sup> Human Rights Watch telephone interview, name withheld, Juba, December 27, 2013.

<sup>72</sup> Human Rights Watch interview, name withheld, Juba, January, 2014.

<sup>73</sup> Human Rights Watch interview, name withheld, Juba, January 10, 2014.

<sup>74</sup> Human Rights Watch interview, name withheld, Juba, January 10, 2014.

Nuer were attacked at or immediately around the UN Topping base during this period. Two women reported to Human Rights Watch that their husbands, both soldiers but staying unarmed in the UNMISS camp in civilian clothes, had been picked up by soldiers outside the western gate of the UNMISS camp around a week after the fighting began. The men never returned to the camp and the women said they had been told by other men that their husbands had been shot in the SPLA Bilpam barracks.<sup>75</sup>

Human Rights Watch received several reports that people were killed outside the UN gate in the first days of the crisis, when security forces harassed Nuer trying to enter the camp. On December 16, two women were shot and injured and one child shot and killed near the camp fence as soldiers shot around camp.<sup>76</sup>

Abuse outside the UN bases, especially Topping, has continued long after the Juba Crisis ended. In early January 2014 there were five or six injuries inside the camp as soldiers outside the western gate shot at men trying to enter.<sup>77</sup> In early February, 24 Nuer men were arrested outside the west gate of the Topping UN base where they were seeking shelter. After being beaten close to the base they were transported to a military barracks where they were interrogated and accused of being rebels while being beaten with sticks. In mid-February another four Nuer men returning to the Topping base from a trip to a nearby market were also stopped and severely beaten only 300 meters from the camp. Nuer men were also shot at close to the base in March on at least two occasions.

Human Rights Watch has also received information of three different cases in which women from the camp, easily identified because they were carrying food aid in marked sacks to grinding mills, were detained and in one case gang raped by soldiers in March.

### *Attacks in the Gudele Neighborhood*

Human Rights Watch documented many cases of unlawful arrests and killings by government forces in the Gudele neighborhood, in the west of Juba, including a massacre. On December 16 Dinka soldiers and police moved house to house in Gudele seeking Nuer

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<sup>75</sup> Human Rights Watch telephone interview, name withheld, Juba, January, 2013.

<sup>76</sup> Human Rights Watch interview, name withheld, Juba, January 10, 2014.

<sup>77</sup> Klaas van Dijken, "They Just Started Shooting at Us" Radio Tamazuj website, January 20, 2014, <https://radiotamazuj.org/en/article/'they-just-started-shooting-us'>, (accessed June 10, 2014).

households but also stopped, arrested and sometimes killed Nuer moving on the main road that passes through Gudele.

### *The December 16, 2013, Gudele “Police Building” Massacre*

One of the worst incidents documented in the conflict was a massacre at a police compound of the South Sudan’s police service and used as a base for a mixed “joint unit” force of police, army and other security forces. The joint units were formed in Juba in 2012 to respond to growing crime in the town.<sup>78</sup>

Human Rights Watch interviewed seven survivors of the massacre. They consistently described how during the night of December 15 and the day of December 16 soldiers and policemen patrolling the Gudele and nearby neighborhoods rounded up and arrested hundreds of Nuer men and detained between 200-400 in the police compound. Soldiers arrested the men and boys based solely on their perceived ethnicity. One survivor, a Nuer construction worker, said he was arrested with six other builders by a group of soldiers and police stationed at the Gudele crossroads after midnight on December 15, while they were walking home from a worksite. The security forces walked them at gunpoint to the building.<sup>79</sup> They were questioned about their ethnicities the following morning. “They asked us what tribe we were, asking: ‘are you Nuer?’” he said. “There were two people who were not Nuer ... two Nuba; they were released.” The men were beaten with a gun during the interrogation but were not asked any questions besides their ethnicity.

Another young man, a student, said he was with two other Nuer men in a car that was stopped by soldiers at around 3 p.m. on December 16, 2013, at a checkpoint at the Gudele crossroads. The men were arrested, apparently because one of them had traditional Nuer scarification on his forehead, and were then marched at gunpoint to the building.<sup>80</sup>

A Nuer civil servant and three other Nuer men were stopped at the Gudele checkpoint and asked their ethnicity on the afternoon of December 15, soon after President Salva Kiir’s televised press statement.<sup>81</sup> When they told the security forces – a mix of Dinka in NSS and

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<sup>78</sup> Human Rights Watch interview with Inspector General of Police Pieng Deng Kuol, Juba, January 2014.

<sup>79</sup> Human Rights Watch interview, name withheld, Juba, January 3, 2014.

<sup>80</sup> Human Rights Watch interview, name withheld, Juba, December 28, 2013.

<sup>81</sup> Human Rights Watch interview, name withheld, Juba, March 24, 2014.

army uniforms –that they were Nuer they were told to get out of the car and lie on the ground on their bellies. “(One of the Nuer men) asked ‘what have we done wrong?’ and the soldiers said: ‘do you not hear the guns? Are you not Nuer?’” the witness said. The witness was then allowed to proceed with one of the other men. The other two, Tut Banypiny and Koang Toang, were detained and are believed to have been killed, most probably in the massacre.

More detainees were brought into the building during the day of December 16. One survivor told Human Rights Watch that he was among 17 Nuer males arrested in a house in the Manga neighborhood at around midday on December 16 and taken to the building on foot, at gunpoint.<sup>82</sup> He said the Dinka forces, which arrested them shot one man dead in the house during the arrest.

Many survivors described how after the single room had been filled with Nuer men in the afternoon of December 16, the door was locked. Several survivors reported seeing or hearing men being shot on the veranda outside the room. All the men said several individuals collapsed because of the intense heat and lack of air in the room that afternoon.

At around 8 p.m. on December 16, witnesses said that at least two men opened fire into the room through windows on one side of the building, killing almost all of the 200 - 400 people in the room. One survivor recounted:

When it got dark, at around 8 p.m. they fired at everyone (in the room) through the open windows. The room was very bright with bullets, sounds of PKM, and the different sounds from an AK 47.

Several of the survivors said they survived only because they were shot early on, fell to the ground and then were protected by the bodies of others falling on top of them. The survivors consistently reported that after the shooting, security forces entered the room with torches. “They came and checked who was still alive. Those still breathing they shot again,” one survivor remembered. Three of the survivors fled the building during the night but other survivors stayed in the room. “I spent a whole day with the corpses,” one man described.

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<sup>82</sup> Human Rights Watch interview, name withheld, Juba, December 29, 2013.

In the late afternoon of December 17, officers from the NSS came to the building, removed around 13 survivors from the room and took them to the Juba Teaching Hospital. Two of the survivors said an NSS officer came in the morning before this larger group came in the evening.

These survivors also said that they saw bodies being removed from the building and placed in trucks before they were removed from the site. On the afternoon of December 17, Human Rights Watch received a phone call from a witness, a Dinka resident of the neighborhood who was close to the Gudele crossroads at the time of the massacre. The witness said that he was watching as security forces moved “huge” numbers of bodies out of a building near the crossroads into trucks.

A security official who visited the site on the morning of December 17, after receiving a report of the mass killing reported seeing “an extremely large number of bodies” but said he was too scared to investigate further. He said there was “no command and control at all” and that it appeared that a number of the Dinka police and soldiers present on the scene were drunk. Another senior police official, talking to Human Rights Watch two months after the incident said that police officials had visited the site on December 17 and had been shocked by the scale of the killing that had taken place.

Human Rights Watch spoke to several families who believe they lost relatives in the massacre. A Nuer policeman told Human Rights Watch that 12 young men were taken from his house in the Gudele area, close to the massacre site, on the afternoon of December 16. He said he has still been unable to find out what happened to the men, but said he had been told by a Gudele massacre survivor that at least some of them had been in the building.<sup>83</sup>

A 46-year-old man who was shot and injured by soldiers in Mangaten said he saw soldiers line up a group of 19 Nuer men from the neighborhood tie them with rope in two groups, then march them away on foot. As of late December the men were still missing and believed to have been killed in the massacre.<sup>84</sup>

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<sup>83</sup> Human Rights Watch interview, name withheld, Juba, January, 2013.

<sup>84</sup> Human Rights Watch interview, name withheld, Juba, December 29, 2013.



One young Nuer man described how soldiers rounded up 11 men from his Mia Saba neighborhood at around 11 a.m. on December 16 and marched them through the streets at gunpoint. As they moved, he said, the soldiers collected other men from Nuer houses until there were between 50 and 60 men gathered at a small market in Gudele. The witness was released with four others, perhaps because they were the youngest in the group, but said the six others arrested with him are still missing and are believed to have been killed in the Gudele massacre.

### *Other Attacks in Gudele*

Human Rights Watch received reports of other cases of extrajudicial killings in the Gudele area, especially around the Gudele crossroads, near the Gudele police building on December 16 and 17. For example, according to an in-law, a civil servant named John Bamum was stopped in his car and killed near the Gudele crossroads when he went to check on relatives in Gudele during the night of December 15.<sup>85</sup>

A Nuer civil servant working in immigration said he ran from his house in Khor William on the morning of December 16 to the Gudele area to escape the fighting. On the morning of December 17 soldiers stopped him with others in his group at the Gudele checkpoint and demanded to see their identification documents. While he and another man who could show student IDs were told to sit on one side, the other four, traders without IDs, were shot and killed. The civil servant also said that he saw several bodies in ditches at the crossroads.<sup>86</sup>

An east African woman said she saw the bodies of 15 of her Nuer neighbors killed in their house in her neighborhood in Gudele, early in the morning on December 16, following shooting in the neighborhood between Nuer and Dinka soldiers. She told a Human Rights Watch researcher on December 17 that Dinka security forces in the neighborhood were still not allowing the bodies to be moved. In a follow up interview later that week she said that the bodies had since been removed by soldiers.

Three different eye witnesses, interviewed separately, told Human Rights Watch how seven men were killed in the house of David Kojela, a soldier with the presidential guard, in the Gudele neighborhood on the afternoon of December 16, by presidential guard soldiers, all

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<sup>85</sup> Human Rights Watch interview, name withheld, Juba, January 2014.

<sup>86</sup> Human Rights Watch interview, name withheld, Juba, December 27, 2013.

clearly identified by their tiger shoulder badges, who arrived in four military pickups, surrounded the house and fired into the compound. They told women to leave the building before they fired into the compound. The soldiers then collected bodies of Maker Thay Jany, Machuot Luth Puoc, Dak Biel Toang, Wuor Wang Machar, Reath Kulang Juoy, Ruot Meat Riak and Ter Gatjang Nhial and took them away.<sup>87</sup>

A Nuer civil society activist described seeing soldiers shoot three men, Charles Mawar, Duop Danhier and Maker Mathon, as they fled outside a house at around 3 p.m. on December 16 in the Gudele neighborhood near the Christian university. Another man, Gai Matong, was killed when soldiers shot inside the house where the civil society activist was also hiding.<sup>88</sup> Another man in the group of fleeing men said he also saw Duop Danhier and Charles Mawar being shot.<sup>89</sup>

According to two witnesses interviewed separately, three men were killed on December 21, in Gudele neighborhood, close to the Lou Clinic area. The men were Benjamin Dhieu Tungwar, 42 years, James Luny Tingwar, 28 years, and Marub Dhieu, 27 years.

### *Targeted Attacks and Extrajudicial Killings of High-profile Nuer*

Nuer politicians, soldiers and personnel from other security forces, none of whom were fighting with the renegade Nuer, were targeted for attack in various locations around Juba during the week of December 16.

Gatjuet Ruai, the personal secretary of the current speaker of the South Sudan Legislative Assembly, Manas Magok, was killed in his house in the Munuki neighborhood around midday on December 16.<sup>90</sup> Sudan Tot, who had served as an advisor to the former governor of Unity State Taban Deng – who is now in opposition with Riek – was also killed during the attack on the house. Tot's close friend, Manyang Tap, was also killed in the same incident and at least one other man was injured. In another incident, on December 16, 2013, the close relative of the then-SPLA Chief of Staff James Hoth Mai, senior civil servant Reath Thon Wakow, was killed together with three other men in Gudele Block 6.

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<sup>87</sup> Human Rights Watch interviews, name withheld, Juba, January 27, 2013

<sup>88</sup> Human Rights Watch telephone interview, name withheld, December 19, 2013.

<sup>89</sup> Human Rights Watch interviews, names withheld, Juba, December 27, 2013 and January 1, 2014.

<sup>90</sup> Human Rights Watch interviews with relatives, neighbors and former colleagues, names withheld, Juba, December 18, 2013 – January 2014. These killings are well-known among the Nuer community.

A member of parliament, Jal Thich was killed in Gudele Block 5 at around 10 a.m. on the morning of 16 December with two of his relatives. A witness described:

When the war broke out John (Jal Thich) told us to just lie on the floor. We were hoping it was just between soldiers. But then they came in three pickups ... (John) was asked to get into the car and his two nephews. They did not get far before serious shooting began again (in the neighborhood). They stopped the car and John and the others were taken out and shot. ... John was shot in the forehead, and the two nephews: one in neck and one in chest.

Also on December 16, in a Juba hotel, a secretary of Riek, Lam Chol Tishore, was shot and killed by soldiers, together with his brother.<sup>91</sup> That day, in Mia Saba, the house of Ruai Kuol, a state representative from Bentiu, was also attacked, although Kuol fled about an hour before the attack after hearing about the attacks on Nuer. Dinka police and soldiers forced their way into Kuol's compound and said they would shoot at the house unless all the men came out. The men were then made to squat in a line. "My uncle stood up and ran and fell into a hole (shallow ditch), and a soldier came up and shot him in the face. We buried him the next day," a relative said. Another young student relative of Kuol was shot and injured in the attack. "All of us were beaten with guns," he said.<sup>92</sup>

Some less prominent Nuer members of security forces were also targeted during the crisis. A Nuer policeman, Chuol Isaac, was killed close to his home in the morning of December 17 in the Topping neighborhood by a group of Dinka police and soldiers who had visited the house twice before specifically looking for Isaac. More than a month after the crisis, a friend told Human Rights Watch that he had been unable to return to the house as Dinka police were still occupying it after killing Isaac.

According to several sources, a senior police official, Brigadier General John Jul Boddoud survived a December 19 attack on his office by 15 Dinka police.<sup>93</sup> A senior Nuer soldier who had taken a year out of the army to attend university told Human Rights Watch he was attacked in his home in the Topping neighborhood early in the morning on December 18

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<sup>91</sup> Human Rights Watch interview with civil servant, name withheld, January 8, 2014. These killings are well-known among the Nuer community.

<sup>92</sup> Human Rights Watch interviews, names withheld, December 2013 and January, 2014.

<sup>93</sup> Human Rights Watch interview, name withheld, Juba, March 25, 2014.

by former colleagues in the PG. He narrowly escaped. A Dinka soldier knocked on his door, greeted the soldier, asked him how he was doing, left and then returned around 10 minutes later with a pickup of Dinka soldiers. The Nuer soldier said the Dinka soldiers shot at him as he fled.

## **Arrests, Unlawful Detentions, Ill-treatment and Torture of Detainees**

Government soldiers began arresting Nuer on the night of December 15. Round-ups, described above, and mass arrests continued in various locations across Juba, especially on the following day. In the course of these arrests, soldiers ethnically profiled Nuer, beat them and stole their property. The men were detained for hours or days in various locations including national security service buildings, local police stations or the SPLA's general headquarters, "Giyada," where the fighting first broke out on the night of December 15.

### *Unlawful Detentions in SPLA Giyada General Headquarters*

As thousands of Nuer residents of Khor William, Jebel and surrounding neighborhoods fled to the UN House UNMISS compound on December 16 and 17, fleeing fighting and the house to house searches for Nuer men, security forces arrested scores of males from the streets and at checkpoints. While some of those arrested were detained for just a few hours at army checkpoints, others were taken to the army GHQ where they were detained in various different buildings for between one to three days where they received some food and water. Others, arrested in other parts of Juba town, were detained under mango trees or in a cellar in the GHQ complex.

Around 150 men were arrested just after dawn on December 17 from the house in the Jebel area of a senior SPLA commander, and then brought to the GHQ where they were divided into soldiers and civilians.<sup>94</sup> At least some of the soldiers were allowed to stay under a tree outside the building under guard while many of the civilians and some soldiers were taken inside and detained for between two and three days in what many described as a "hole" in the ground.<sup>95</sup> Drawings and description by several former detainees shows the detention

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<sup>94</sup> Human Rights Watch interviews, names withheld, December 31, 2013 – January 7, 2014. Witnesses who described how around 200 SPLA soldiers surrounded the house at dawn on December 17, forced their way into the compound and shot and killed four Nuer soldiers, Paul Puok Thichuot, Manyang Yul Kot, Kuong Gat Pam and Kam Machak. According to eye witnesses, the men appeared to be unarmed and none of the four put up any resistance before they were killed.

<sup>95</sup> Human Rights Watch interviews, names withheld, Juba, December 31, 2013 to January 5, 2014.

site was a concrete cellar, with stairs leading down to a dark, hot and overcrowded space. Detainees said that because of the heat and lack of water several of the men in the cellar collapsed. Detainees from the house said that there were a large group of Nuer men already in this detention site when they arrived.

A 19-year-old student who decided to stay in his house in Khor William to protect it from looters was arrested and taken to the GHQ on December 17 despite being dressed in his school uniform which he hoped would show that he was a civilian. He was locked in a dark and very hot metal container and was severely beaten, together with six other Nuer men. A friend who was arrested with him was sent by soldiers to go and get some water and is now missing. “I still have nightmares about it,” the student told Human Rights Watch.

### *Detentions at the Juba NSS “Riverside” Building*

A large number of Nuer were detained in rooms in a national security building in Juba town, often called the “riverside” building. Although not all Nuer detained in this site were physically abused, several former detainees who spoke to Human Rights Watch reported being severely beaten at this location that was at the time under the control of a mix of Dinka soldiers and NSS officers. All former detainees complained of a lack of food, water and especially the extreme heat and crowded conditions. Detainees in one room, lit with a single light bulb, estimated there may have been around 50 or 60 of them in that room. “[It was so crowded that] we had to sit and stand in turns,” one former detainee recalled. In this particular building, almost all the detainees apparently developed white, scaly and itchy skin, especially on their legs and arms, possibly a reaction to the heat.

Detainees were usually held for between five and eight days and were mostly released on December 24 after being “rescued” by other NSS officers who then transported them to the UN camps. Detainees reported verbal abuse about their ethnicity. Some saw others being severely beaten or heard them being beaten out of the room. None of the victims saw men being killed in the building but repeatedly said they believed that some of the prisoners were killed and their bodies thrown in the river.

Some detainees were tortured at this site. A staff member from an aid agency said he was arrested with four others after soldiers attacked his house in Jebel area, killing three

men.<sup>96</sup> He was severely beaten and asked where Riek was while he was detained for eight days in the NSS building. “They said even if they throw us all (the Nuer) in the water, South Sudan will still be here,” he said. A 21-year-old student who was detained in the building for eight days told Human Rights Watch he saw other Nuer men being tortured in the compound of the NSS building. “They tied them with rope and then beat them and said if you don’t talk we will beat you,” he described. An older man, a civil servant, said three Nuer men, transported in the same vehicle with him, tried to run when they arrived at the building and were shot dead. “We will try to finish you, don’t dream for a 100 years that a Nuer will be president,” he reported being told.

### *Other Unlawful Detentions*

A number of arbitrary detentions took place in the Amarat neighborhood, where the presidency is located. A 25-year old man detained on the morning of December 16 in the area said he was badly beaten during his detention, tied up, shoved into a military pick-up, and detained at a building in the Amarat neighborhood. While there, soldiers beat him badly and demanded to know where Riek was. “They pushed my face into waste water ... and they stamped on my back. They pinched my ear with a tool,” he said.<sup>97</sup> After 24 hours the man and two others, also tortured while in the building, were taken to the riverside Juba town NSS building and detained until they were released on December 25.

Another student from Juba’s Christian University was arrested by soldiers when trying to leave Riek’s house late on the night of December 16. After taking him to a nearby building these men beat him severely, again while asking where Riek was. “They stood on my head (face into the ground) until I could not breathe,” he said. He was later taken to the NSS riverside building in Juba town, where he was beaten again before being released.

A government driver was also arrested together with another Nuer man in the same neighborhood on December 17 and taken to the same building where they were tortured by PG soldiers who demanded to know where Riek was.<sup>98</sup> The car and their phones and money were taken from them. More than a week later the victim was still covered in sores from where his arms were tied behind his back and was visibly still in pain when he tried to

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<sup>96</sup> Human Rights Watch interview, name withheld, December 28, 2013.

<sup>97</sup> The description given of the tool fits that of a pair of pliers. Four days after his release the man still showed signs of being beaten on his face and rope burn on his arms.

<sup>98</sup> Human Rights Watch interview, name withheld, December 29, 2013.

move because, he said, he was repeatedly beaten on his joints. He was taken afterwards to the NSS riverside building in Juba town.

A Nuer journalist and one of his relatives, an unarmed soldier in civilian clothes, were arrested at 2 p.m. on December 16 on the road by the presidency in the Amarat neighborhood. Soldiers severely beat both men on the street and when the journalist protested the soldiers burned his face with lit cigarettes.<sup>99</sup> The soldiers then took the two men to the Buluk police station in a military pickup. In the Buluk police station the two men were put detained in one of two large cells, each crowded with around 50 male Nuer, all recently arrested. The detainees received food and some water, but not enough given the extreme heat in the overcrowded room. The two men were released with around 70 of the detainees on December 18 after they managed to persuade authorities that they were all civilians.

Other detentions by Dinka security forces, who sometimes beat Nuer detainees after ethnically profiling them, took place in the Nyakuron , Konyo Konyo and the Khor William areas of Juba.

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<sup>99</sup> Human Rights Watch telephone interview, name withheld, Date, 2014 and on date, 2014, Juba, The victim still had a burn scar on his face on the date of the interview.

### **III. Terror in Bor Town: Unlawful Killings, Mass Displacement**

Some 200 kilometers north of Juba, the largely ethnic Dinka town of Bor was the site of some of the worst violence against civilians during the first month of the war. The town changed hands four times in December and January 2013, and fighting and targeted killings resulted in many hundreds of civilian deaths, according to local officials and UN estimates. It is not clear exactly how many people were killed during each period of control or how many people were killed in crossfire. It is however clear that widespread targeting of civilians took place in the first two weeks of January when Bor town was under the control of General Peter Gadet's opposition forces and Nuer armed men moved around the town killing Dinka civilians, looting and burning homes.

Former SPLA Division 8 commander Gen. Peter Gadet defected on or around December 17, together with most of his troops. Gadet's forces, joined by Riek on or before December 20, for a short period, dominated the town from December 18 until December 25 when they were pushed out by government forces.

Supported by thousands of armed Nuer white army youth, recruited from Nuer areas north of Bor, Gadet by all accounts easily reclaimed the town on December 31 after a brief fight with the government troops. Gadet held the town until the Ugandan People's Defense Force (UPDF), supporting the government's forces, led its recapture it on January 18, 2014. By the time these forces arrived most of the opposition forces and armed youth had already left the town. The town has since remained in government control.

Some of the most serious fighting between government and opposition forces during this war was on the road between Juba and Bor in the first weeks of January, heavier than any fighting in the town of Bor.<sup>100</sup> Evidence of fresh cluster bomb used either by the government forces or the UPDF, was found 16 kilometers south of Bor town in February by the UN Mine Action Service.<sup>101</sup>

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<sup>100</sup> The fighting along the Bor-Juba road threatened government's control of the capital itself. Various media reported on this fighting, for example, "*S. Sudan ex-VP Says Juba Will fall Soon*" Sudan Tribune, January 4, 2014, <http://www.sudantribune.com/spip.php?article49437> (accessed May 15, 2014).

<sup>101</sup> Human Rights Watch, press release February 15, 2014. <http://www.hrw.org/news/2014/02/14/south-sudan-investigate-new-cluster-bomb-use>. South Sudan is not a signatory to the 2008 Convention on Cluster Munitions which comprehensively



In late January government officials, with the assistance of UNMISS, buried 525 bodies in mass graves in Bor town, mostly from the Dinka ethnicity and mostly civilians.<sup>102</sup> Many other dead bodies – government officials say hundreds - were buried by residents and family members in single, usually shallow graves across the town. Bodies collected and buried by government officials included those known to have been targeted and killed by Nuer opposition gunmen during both the first and second period of opposition control, and also people killed during the chaotic period when opposition forces first defected, and perhaps while the government was control in the last days of December.

Fighting and the threat of fighting in Bor caused mass displacement. The vast majority of the town's population left their homes during the first round of fighting in December, either fleeing to the UN base outside Bor town, or across the River Nile to Awerial County, in Lakes state, where over 100,000 people, mostly Dinka, remained displaced as of April.<sup>103</sup> Thousands ran to the UN base in Bor on December 17 and numbered 19,000 within days.

Those who fled Bor town and Bor county experienced severe hunger and were in some cases also the victims of cattle raids reportedly by armed Nuer. An old displaced woman with a gunshot wound in her leg, interviewed in Awerial, described how a gunman had climbed a tree and shot at her group from across the water.<sup>104</sup>

Opposition forces also killed civilians in villages in the surrounding areas. A local government official who had traveled across Bor county recording the names of those killed showed Human Rights Watch notebooks with the names and details of some 2000 people killed in Bor town and in villages in the surrounding Bor county.<sup>105</sup> Government

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bans cluster munitions and became binding international law in 2010. The UNMISS' human right report describes cases of aerial bombardment by the UPDF. UNMISS, "Conflict in South Sudan: A Human Rights Report", (2014), p26.

<sup>102</sup> Human Rights Watch interview with UNMISS official (name withheld), Bor, April 1, 2014 and with Bor Mayor Nhial Majak Nhial, Bor, April 2, 2014. Three mass graves were dug in the Block 10 areas of Bor town. One of these was still open when Human Rights Watch visited the town at the beginning of April. At that time returning residents were still reporting finding dead bodies (for example seven bodies were placed in the grave on April 3, 2014). Three graves were also made in the St Andrews Episcopal Church compound, one mass grave and two smaller graves.

<sup>103</sup> UNOCHA 'Humanitarian Snapshot' April 2014

[http://reliefweb.int/sites/reliefweb.int/files/resources/South\\_Sudan\\_Humanitarian\\_Snapshot\\_28April2014.pdf](http://reliefweb.int/sites/reliefweb.int/files/resources/South_Sudan_Humanitarian_Snapshot_28April2014.pdf) (accessed May 15, 2014).

<sup>104</sup> Human Rights Watch interview, name withheld, Awerial, January 2014.

<sup>105</sup> Human Rights Watch interview with Molana Michael Mayen, Bor, April 3, 2014. UNMISS believes that the government estimate of 2,007 is a reasonable calculation for the number of casualties in Bor county.

officials told Human Rights Watch that many people had been killed in Baidit Payam and Makuach Payam.<sup>106</sup>

The fighting also resulted in widespread destruction. UN officials in Bor estimated that perhaps up to 10 percent of the homes in Bor town were burned in December and January, mostly, according to residents, during the second period of opposition control. The large Bor market was burned to the ground during the second period of opposition control. Many pharmacies and clinics in the market and other parts of the town were burned during this period.<sup>107</sup> All the offices of non-governmental organizations in Bor town were looted probably multiple times by different forces.

### **Attacks on Dinka by Defectors/Opposition Forces, December 19 – December 25, 2013**

At night of December 17, two Dinka men were killed in the Block 4 neighborhood Bor town by unknown, allegedly Nuer gunmen. The murders are believed to have been in reprisal for the killings of Nuer in Juba, news of which spread quickly across the country. The incident sparked tensions in Bor, and prompted residents to move to the UNMISS base and to cross the River Nile to Lakes state.<sup>108</sup>

On December 17 and 18 soldiers loyal to Gadet defected at Panpandiar and Malual Chat military bases, south of Bor. As security forces split along ethnic lines, shooting took place at police bases and other security forces locations in Bor town, including the prison.<sup>109</sup> “You could not know where to go. People lost their lives running away in the direction of the market. ... Police, wildlife, fire brigade, prisons, fighting was within all of these,” a 35-year-old police officer described to Human Rights Watch.<sup>110</sup>

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<sup>106</sup> Interview Mayor Nhial Majak Nhial, Bor, April 2, 2014. The UNMISS May 2014 human rights report includes information that during the December 18 to 22, 2013, period the opposition forces attacked at least three villages south of Bor town. Looting and burning reportedly took place and civilians were killed. The report also documents how opposition forces also reportedly killed civilians as they passed through Baidit payam after retreating from Bor town on December 25.

<sup>107</sup> Government health workers told Human Rights Watch in early April that most of Bor’s 26 clinics and pharmacy-clinics were destroyed during the second period of opposition control. Aside from those burned in the market, at least seven other clinics were also destroyed. Other medical facilities were destroyed in the wider Bor county, apparently as opposition forces moved through the area in January. According to NGO sources two medical facilities in Palabach and Mathiang areas were burned and a clinic in Pariak was looted and partly destroyed.

<sup>108</sup> According to displaced people from Bor interviewed in January by Human Rights Watch at least two children were drowned during the dangerous crossing. Boatmen charged large sums of money to carry people across.

<sup>109</sup> Human Rights Watch interview, name withheld, Aweril, January 5, 2014.

<sup>110</sup> Human Rights watch interview, name withheld, Aweril January 5, 2014.

At least four prisoners were shot in the prison, and the rest released.<sup>111</sup> Fighting in Block 4, close to a police base was especially fierce. The Langbar neighborhood was badly affected. The Kenya Commercial Bank was burned and the market looted.<sup>112</sup> Gadet's forces who entered Bor on December 18 continued to fight pockets of government forces for one or two days, dominating the town until December 24.

In the days before the government recapture on December 25, civilians who had not already fled Bor town, including elderly and disabled people, were purposefully shot at and killed by the defectors. A 40-year-old disabled war veteran from the Hai Machour area sent his family members to the UNMISS base for safety when the fighting began, but decided to stay in his house, believing – mistakenly -- that as a disabled person he would be safe from attack. Although he managed to hide from attackers, he witnessed two disabled colleagues and a mentally ill man shot dead: “On December 22 they killed two of my disabled colleagues, Piel Mayen, 65, and Keny Dabai, 40, both also veterans, as well as a mad person. They were in their homes when they were killed,” he said.<sup>113</sup> He also said 10 bodies were collected in the Hai Machour neighborhood, including Deng Mading, 50, Erjuk, 28, and Manyabol Mach, 40, a teacher. As elsewhere, the defectors forces also looted the neighborhood.

An old man in the Hai Salam neighborhood described how six elderly friends were killed by defector Nuer soldiers moving through the area in the days after fighting broke out.<sup>114</sup> He said Achol Bol, Ayen Jok, Akur Nhial, Athou Nyantuc, Kuer Gak and a man he only knew by his first name, Majak, were killed in his house where the group were sheltering, surviving for days on a box of biscuits left behind by a fleeing trader. Two women told Human Rights Watch that they had survived being shot at by Gadet's forces, long after government soldiers had left, on December 22, in two separate places in the town.<sup>115</sup> “They were targeting us, shooting us directly. They shot four other women, I saw their bodies,” one woman told Human Rights Watch.<sup>116</sup>

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<sup>111</sup> Human Rights watch interview, name withheld, Awerial, January 5, 2014. The UNMISS May 2014 human rights report reports multiple sources saying both prison staff and prisoners were shot, reportedly when the prison came under attack from opposition forces on the afternoon of December 18, 2013.

<sup>112</sup> Interview Awerial date. (woman from Marol market area). The May UNMISS human rights report indicates that it was Nuer opposition forces who raided the Kenya Commercial Bank and the Equity bank. They also looted and threatened traders.

<sup>113</sup> Human Rights Watch interview (name withheld), Awerial January 5, 2014.

<sup>114</sup> Human Rights Watch interview (name withheld), Bor, April 2, 2014.

<sup>115</sup> Human Rights Watch interviews (names withheld), Juba, Feb 5, 2014. Both women were still recovering from gunshot wounds from the separate incidents when they spoke to Human Rights Watch.

<sup>116</sup> The other witness said that two women had been shot dead in the incident she survived.

Witnesses saw people shot and killed at the port while trying to escape between December 18 and 24. On January 25, 2014, Human Rights Watch saw the remains of three bodies, one of which was burned, in the port, and a fresh grave in which witnesses said they had buried seven bodies. Just behind the port were three desiccated bodies of one woman and two men. Human Rights Watch received credible reports of other killings at other crossing points along the riverbank during this period.

Those who returned after December 25, when government re-took control, described large numbers of bodies, of both civilians and soldiers along the roads, in neighborhoods and in the main market area. A senior chief from one area of Bor found 11 bodies on his street alone and estimated that 21 civilians were killed at the port while trying to escape. A 32-year-old teacher said that the market was looted and houses destroyed and looted. “All my properties were taken,” he said. “I saw 30 or 40 bodies of civilians, men and women and children. There was no time to bury them because of the second (opposition, January 1 – 18, 2013) attack.”

The mayor of Bor, Nhial Majak Nhial, provided Human Rights Watch with video footage and photographs of 28 dead bodies, most apparently civilian, including nine near the UN compound, which he filmed in late December.<sup>117</sup> The mayor said that these people had been killed by opposition forces. Human Rights Watch was unable to independently verify this claim.

### **Attacks on Dinka Civilians by Opposition Forces, January 1 – January 18, 2014**

Government forces put up little resistance when Gadet and his forces, with support from armed Nuer youth, recaptured Bor town on January 1, 2014.<sup>118</sup> Witnesses described to Human Rights Watch how scores of Dinka civilians were killed in targeted attacks on civilians during this second period of opposition control that lasted until January 18, 2014.

Those Dinka killed during the second period of opposition control were often those who chose not to run because they were sick, aged or carers. Residents who stayed and survived described leaving early in morning every day to hide in the nearby bush or reeds along the River Nile. They described how small gangs of opposition forces moved through

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<sup>117</sup> Human Rights Watch interview with Mayor of Bor Nhial, January 2014 Juba. The mayor told Human Rights Watch that he had seen 216 bodies in one area but this is unverified.

<sup>118</sup> Gadet’s forces then pushed southwards towards Juba where they met stiff resistance from government troops and the UPDF.

neighborhoods sometimes apparently drunk, shooting and killing residents as they spotted them. These fighters, some in civilian clothing and some in military uniform killed people at the beginning, during and near the end of their period of control.

An 8-year-old girl recounted to Human Rights Watch a particularly horrific incident in which armed Nuer entered the hut where she, her mother and two brothers were hiding.<sup>119</sup> The soldiers demanded money and, when her mother said she had none, shot dead the woman and the two boys, aged five and two years. The men also shot the girl in the leg. The girl stayed in the hut for around two days. When the bodies of her family members began to smell she crawled to the latrine. She was rescued and brought to the UNMISS base around three days after the attack.

A man living in the Hai Salam neighborhood, close to the St. Andrews Episcopal Church showed Human Rights Watch where he had found the body of a disabled man on top of a wheel chair-type device made from modified bicycle parts.<sup>120</sup> A woman living next door showed Human Rights Watch where her relatives, Chol Arkoi, about 25 years old, and Chol Garang, about 30 years old, were killed inside her compound.<sup>121</sup> Both bodies had been removed but a strong smell and dark patches remained on the ground. Human Rights Watch received testimony or saw the rotting bodies or other remains of nine other people in this area, all shot and killed during the second period of opposition control.<sup>122</sup>

In another neighborhood, Malou, a local chief said that he had collected the bodies of about 50 people, mostly killed during the second period of opposition control. Close to his house he showed Human Rights Watch locations where five civilians had been killed, three women and two men. One of the bodies had been buried in a grave in the neighborhood, the rest of the bodies had been removed for burial by government authorities but the smell of the corpses was still present. Neighbors and witnesses showed Human Rights Watch the

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<sup>119</sup> Interview name withheld Feb 5, 2014, Juba.

<sup>120</sup> Human Rights Watch interview (name withheld), Bor, April 2, 2014.

<sup>121</sup> Human Rights Watch interview (name withheld), Bor, April 2, 2014.

<sup>122</sup> In January a Human Rights Watch researcher saw the maggot-filled bodies of Wany Kuol and Lueth Ding in a hut in another part of Hai Salam. Recently returned neighbors told Human Rights Watch the men had been alive before the opposition recapture of Bor. The neighbors also showed Human Rights Watch another body of a man shot in a latrine and the fresh graves of three other people, all of whom had been killed during the second period of opposition control. There were many other civilian bodies in this neighborhood and surrounding areas but it was unclear when these people had been killed.

remains of 14 other people shot by opposition forces at different times between January 1 and 18, 2013, in Malou. Often those killed were old people.<sup>123</sup>

Human Rights Watch was shown an area in the Laudier neighborhood where 13 civilian bodies had lain, according to a local government official. Around 200 meters away, near a riverside barracks, soldiers said they had buried another large group of civilians. Human Rights Watch saw the remains of nine other people killed during the second period of opposition control in several other neighborhoods in Bor town. It was unclear when other people, whose remains were still dotted around Bor town in January, were killed.<sup>124</sup>

### *St. Andrews Episcopal Church Compound*

During this period of opposition control, forces attacked the St. Andrews Episcopal Church compound and killed civilians. Soon after the government re-took control on January 18, authorities found the bodies of 14 women in the church compound. Second-hand sources in Bor town said that armed Nuer had entered the compound several times threatening the women sheltering there before killing 14 of them. A journalist interviewed a woman in Awerial in February who said she had been shot and injured in the incident but had escaped the slaughter with other women from the compound. She described the killers as young men between the ages of 15 and 20.<sup>125</sup>

When Human Rights Watch visited the site on January 25, 2014, 11 of the bodies were still in different parts of the compound. One woman had apparently been killed near the gate to the compound, her rotting body covered with a blanket, while three others were close to a small residential building. Six were in a room, the floor covered in the stinking fluid of

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<sup>123</sup> Human Rights Watch was shown the remains of Chol Moch and his son Abordi, a child, after they were shot dead by a group of Nuer, one in a uniform. Another man, Moch Garang, had been shot in the back about 40 meters away during the same incident. Human Rights Watch was also shown the remains of a couple, Deng Arok and his wife Akuol Mabior and four others Dhieu Athiang, about 70 years old, Dau Gak, an old lady Akol Deng and a man Yom Awot.

<sup>124</sup> In the Block 10 neighborhood, HRW confirmed that a woman, “Adau”, and her daughter, who was too ill to flee, were shot together in a room in their house. In Block 8 HRW found evidence of the killing of two women, Tholunj Mach and Amor Deng, and a man, whose body neighbors found after the government retook Bor and burned because it smelled bad. In Block 9 Human Rights Watch was shown the grave of 70-year-old Gabriel Mabior Ngeng, and the bodies of an old couple Ngor Aman and his wife Tir Lueth killed in their house. A woman who had recently returned to the Langbar C neighborhood said that at least three people, Amom Beek, whose body she had helped bury, another man Maliet Manyiel and a woman Mary Anei, who were both buried in mass graves by government officials were killed in the second period of opposition control. In another case, a mother of four told Human Rights Watch how armed youth killed her 70-year-old mother during the second period of opposition control.

<sup>125</sup> Jessica Hatcher, “*Try Not to Look Away From these Terrible Killings in South Sudan*”, *War is Boring*, February 10, 2014 <https://medium.com/war-is-boring/81fo3448cfdd>

decomposing bodies. In another hut a woman had hidden in one last desperate act before being killed, her hand sticking out from under the bed.

### *Bor Hospital*

Nuer gunmen reportedly killed several people in the Bor hospital. During visits after the government retook the town, authorities told journalists and Human Rights Watch that 13 people were killed inside the hospital, and showed desiccated bodies of victims around the compound. However, aside from one case in which a woman was shot in her bed, there was no clear evidence that all the victims were killed inside the compound, nor when they were killed. Journalists who visited on January 19, 2014, saw at least eight bodies in the hospital, including the woman who had been shot in her bed.<sup>126</sup> Human Rights Watch visited the hospital on January 25, and saw three bodies being moved into a mass grave in the hospital grounds together with stinking sheets and mattresses.<sup>127</sup> Officials said 10 other bodies were already in the mass grave.

## **Attacks on Nuer Civilians by Government Forces**

Some 19,000 people fled to the Bor UNMISS base when fighting broke out. Most of this population, largely Dinka, left the camp after the government retook Bor on December 25, leaving behind some 5,000 people, mostly ethnic Nuer.

According to displaced Nuer in the camp interviewed in early April, government soldiers harassed the Nuer in the base and attacked them during periods of government control. During the first period of government control, displaced residents said government forces killed a teacher, Sudan Kek, near the UN base and a doctor, Lul Kuajien, who was shot on his way to the hospital in the town, some distance away from the UN base. Human Rights Watch received reports from Nuer and UN officials that in at least one case government security forces had entered the camp and removed a Nuer man during this period.

Three gunshot victims, all Nuer, also said that they had been shot at by Dinka soldiers during the initial defection period.<sup>128</sup> A fishmonger said he and other Nuer were

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<sup>126</sup> Mark Lowen, “*South Sudan Conflict: Inside the Ghost Town of Bor*”, BBC News Africa, January 21, 2014. <http://www.bbc.com/news/world-africa-25819895>. Staff from the Medecins Sans Frontieres medical relief organization found two severely decomposed bodies in the hospital well later in January.

<sup>127</sup> The bodies were later removed from this mass grave, bagged and then buried in a mass grave in another part of the town.

<sup>128</sup> Human Rights Watch interviews, (names withheld) Juba, February, 2014.

separated by Dinka soldiers from Dinka also in a boat, marched away from the port area and then shot at.

In April and March government forces targeted and harassed Nuer in the camp. On March 13, 2014, for example, soldiers intercepted and beat a man, Chuol Lurinyang, who was trying to leave the camp to fetch wood, and then removed him from the camp by force. He never returned to the camp and is presumed to have been killed.

On March 14, 2014, a woman who exited the camp gate to throw out dirty water was taken by soldiers, threatened and harassed, before being allowed to return at the end of the day. A Nuer man interviewed by Human Rights Watch said that in late March soldiers beat him, cutting his head when he was collecting firewood directly outside the gate.<sup>129</sup> Because of the attacks, UNMISS decided to shut the gate temporarily in mid-March.

On April 30, following a horrific attack on the UNMISS compound by armed Dinka youths and security forces (described below), two men attempting to leave the camp were arrested by soldiers at a nearby checkpoint, tied up, and shot. Mawich Gai, in his early 30s, was killed and his companion, Gatwich Jor, in his 20s, was badly injured.<sup>130</sup>

Camp residents told Human Rights Watch in June that soldiers continue to harass those who attempt to leave the camp, including at the airport, effectively imprisoning them in the camp.

Aid workers bringing materials into the camp, including charcoal, were regularly harassed by soldiers and other security forces. In March, government soldiers obstructed humanitarian workers from evacuating a Nuer woman in need of a caesarean section operation and a Nuer man with a badly infected gunshot wound for days. Soldiers at the Bor airport also forced pilots of humanitarian aircraft to fly soldiers and others at gun point.<sup>131</sup>

### **Attack on Nuer IDPs at the UNMISS Compound on April 17, 2014**

On April 17, three months after the government had recaptured the town with Ugandan forces, a large group of Dinka youth and armed men, including some in government police

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<sup>129</sup> Human Rights Watch interview (name withheld), Bor, April 2, 2014.

<sup>130</sup> Human Rights Watch interview (name withheld), Bor, June 13, 2014.

<sup>131</sup> Human Rights Watch interviews, humanitarians and UN officials (names withheld), Bor, March 2014.



and military uniforms, attacked the UNMISS compound killing at least 53 people, mostly Nuer, and injuring scores of others.

The attack, which ostensibly began as a protest led by the Bor Community Youth Association (BCYA) against the presence of “Nuer white army” in the UNMISS compound and demanding their evacuation within 72 hours, was planned in advance. The protesters gathered in Bor town, delivered a copy of their petition to the Governor’s office, then proceeded to UNMISS.<sup>132</sup> Upon reaching UNMISS at around 11 a.m. the group moved around to the east side of the UN compound where the IDP camp is located, and within minutes breached the perimeter.<sup>133</sup> One of the attackers climbed a tree at the camp’s perimeter and fired an automatic machine gun into the crowded camp, while others entered the camp shooting guns and attacking IDPs.

Witnesses interviewed by Human Rights Watch in June said they ran toward the offices and UN staff residential areas of the UNMISS compound, or, in some cases, hid in their huts or in ditches as the attackers chased IDPs and looted homes. Many said they saw people injured or found them dead upon returning to the camp hours later. One woman, a former civil servant, who ran away from the attackers, recalled: “I was sitting here in this house when the attack started and saw [the attackers] coming. They shot six of my family members, and I found their bodies when I came back later the same day.”<sup>134</sup> Most of the dead were women and children, according to UNMISS and witnesses who buried the bodies.

UNMISS peacekeepers, posted around the perimeter, witnessed the attack but according to camp residents and aid workers only responded after the attack began. Peacekeepers claim to have killed several of the attackers and may have averted further killings, however it is not clear if a swifter response, which may have saved more lives, was possible. An internal UN analysis of the situation has so far not been made public.

The attack followed weeks of harassment of IDPs around the camp’s perimeter and some protests. By May, despite promises by the government to investigate the attack, no arrests had been made. South Sudan’s Minister of Information, Michael Makuei Lueth, appeared

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<sup>132</sup> Human Rights Watch interview with secretary general of the BCYA, Melas Adwot, June 13, 2014; see also copy of the petition, dated April 17, 2014, on file with HRW.

<sup>133</sup> Human Rights Watch interviews, camp residents (names withheld), Bor, June 12 2014.

<sup>134</sup> Human Rights Watch interviews, camp residents (names withheld), Bor, June 12 2014

to justify the attack saying that Nuer in the camp included rebels and that they provoked the attack by “intolerably” celebrating an opposition attack on Bentiu earlier that week.<sup>135</sup>

This was the second attack on an UNMISS compound in Jonglei state. On the afternoon of December 19 a group of armed Nuer civilians and unarmed civilians including women and children, with some members of security forces interspersed, revenged the Juba killings by attacking the UN base in Akobo, an area which was then controlled by opposition forces. After overrunning the compound entirely, the Nuer gunmen moved through the small base looking for and shooting Dinka, killing over 20 people. Two UNMISS peacekeepers were also killed during the attack that caused enormous anger amongst many Dinka. One Dinka man, a humanitarian, who sought sanctuary in the UN base described how the attackers, including a man in police uniform, told peacekeepers and other internationals to sit on the ground and then shot and killed Dinka.<sup>136</sup> He said he was lucky to be alive:

There was no way to escape, the compound was very small. I was inside. Many people were killed in my presence. I got confused I hid with the Indians (peacekeepers) in a small place. They (the attackers) called us out, there was no way to run (but) someone saved my life by saying this man is not Dinka, he is an Equatorian (from one of South Sudan’s three most southern states). ...the rest of the youth they were dancing, shouting that they have killed all the Dinka.

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<sup>135</sup> “*South Sudan Minister says slain Bor civilians were “intolerable”*”. Radio Tamazuj website, April 19, 2014, <https://radiotamazuj.org/en/article/s-sudan-minister-says-slain-bor-civilians-were-%E2%80%99intolerable%E2%80%99%E2%80%99rebels%E2%80%99> (accessed June 3, 2014).

<sup>136</sup> Human Rights Watch telephone interview, (name withheld) Juba, January 16, 2014.

## **IV. Attacks on Civilians in Bentiu, Unity State**

The largely Nuer town of Bentiu, capital of oil-producing Unity State, has changed hands four times. Military offensives on the town by both opposition and government forces have been accompanied by targeting of civilians, often on the basis of their ethnicity. Attacks by government forces on Bentiu town and villages and towns in southern Unity state have also included massive burning and widespread pillage of civilian property.

On December 21 Gen. James Koang, the Nuer head of the SPLA's Division 4, headquartered in Rubkona, next to Bentiu town, declared his defection and announced he was taking control of Unity state as military governor. The defection followed a series of skirmishes between pro and anti-government soldiers in Division 4 in several SPLA barracks in Unity state, including fighting in the Division 4 headquarters in Rubkona on the evening of 19 December.

Government forces, together with fighters from the Sudanese rebel Justice and Equality Movement (JEM), recaptured the town on January 10, 2014. JEM had been stationed in Bentiu since 2012. Following the government attack and recapture of the town JEM were frequently seen patrolling in Bentiu and Rubkona and conducted attacks with government forces into Guit and southern Unity in January and February 2014. Most of Koang's forces left the town ahead of the government attack, after blowing up the weapons and ammunition store in Rubkona Division 4 HQ.

Government forces then moved east and south of the town in the following weeks into places controlled by opposition forces and surrounding areas, conducting attacks on towns and villages, including burning villages and attacking civilians who were repeatedly forced to flee from village to village ahead of government attacks.

Opposition forces successfully re-took Bentiu town on April 14 and 15, 2014. During this attack, opposition forces killed at least 200 civilians who had gathered in a mosque and in a hospital for safety. Radio Bentiu was used in this period to incite ethnic-based killings. The government recaptured Bentiu on May 8.

## Killings of Dinka in Unity State by Armed Nuer in Late December 2013

Dinka soldiers, including those who were disarmed and so no longer a legitimate military target under the laws of war, were allegedly targeted and killed by Nuer soldiers during a complex series of skirmishes between pro and anti-government forces in and around barracks in Unity state.<sup>137</sup> On the evening of December 19, fighting erupted between Koang's defecting troops and government loyalists in the tank unit in the Rubkona Division 4 HQ.<sup>138</sup> Nuer soldiers then went to the house of one of the tank unit soldiers, and shot and killed two wives and three young children of one of the tank drivers.<sup>139</sup> Two of his other children were also shot and injured.

Armed Nuer civilians and members of security forces targeted Dinka civilians in Unity state, during the first week of the crisis. Several sources told Human Rights Watch that around 40 Dinka villagers were killed in the village of Lele in Pariang County, near the beginning of the conflict, including one soldier who arrived on the scene soon after the alleged killings by Nuer soldiers.<sup>140</sup> Two Dinka staff at a base owned by the *Greater Nile Petroleum Operating Company* oil consortium described to Human Rights Watch how Nuer day laborers turned on Dinka staff and killed at least six men using batons and machetes on the night of December 16. Both witnesses said Nuer police on the base saw the violence and did not intervene.<sup>141</sup>

Nuer soldiers killed four Dinka and one Nuer on the road between the Tharjath airport in the oil-producing area and Bentiu town on December 17.<sup>142</sup> Fighting broke out in the main

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<sup>137</sup> Fighting between forces was reported to Human Rights Watch, for example in the Hofra SPLA base on December 17, 2014 and in the Pariang base during the same time period. In several cases disarmed Dinka SPLA soldiers were attacked, including allegedly a large number of disarmed soldiers close to Mayom town on or around December 19, 2014. In Tor Abet barracks, south of Bentiu town, 15 disarmed Dinka were executed after being arrested and detained according to a soldier present at the scene. The killing by a Nuer soldier was stopped by a more senior officer. For a more detailed description of incidents in SPLA barracks and civilian areas surrounding them see UNMISS, "Conflict in South Sudan, a Human Rights Report" p41. In other places Nuer and Dinka security forces divided and fought each other, for example in the main headquarters of the Tharjath oilfield in which at least four policemen were killed. Five bodies of Dinka civilians killed in Unity oil field were brought to Bentiu hospital on December 19, 2013.

<sup>138</sup> Some government SPLA officials have claimed that the government soldiers were captured and then killed by Koang loyalists, but eyewitness who spoke to Human Rights Watch said that the men, albeit vastly outnumbered, were all killed in "normal" battle, with the exception of an unarmed Dinka SPLA chaplain James Wek who was unarmed when killed.

<sup>139</sup> Human Rights Watch interview (name withheld), Juba, February 5, 2014.

<sup>140</sup> Human Rights Watch interview (name withheld), Juba, February 4, 2014. A soldier was able to name six members of one family he saw killed in one place, three people and six people in two other locations in the village.

<sup>141</sup> Human Rights Watch interview (name withheld), Juba, January 5, 2014.

<sup>142</sup> Perhaps because of the prominence of the Dinka victims, who included a lawyer and a teacher, the shootings were widely publicized. One man traveling with them said that it appeared that the men were picked out by their ethnicity from the group and killed.

office of the *Sudd Petroleum Operating Company* in Tharjath as police and national security officers split along ethnic lines.<sup>143</sup>

Armed Nuer also killed Dinka civilians in Bentiu and Rubkona in reprisal for the killings of Nuer in Juba. A government administrator was killed, according to a relative, and two others injured when a mix of Nuer police and wildlife personnel attacked a house in Bentiu on December 19.<sup>144</sup> One woman said Nuer members of the wildlife service beat her aunt so badly on the night of December 20 that she later died. Another man said four people were killed in his house after he fled an attack by Nuer policemen.<sup>145</sup> A senior pro-government official said that around 70 Dinka civilians had been killed in the town.<sup>146</sup> As most Dinka had fled to the two Dinka counties of Unity state, Human Rights Watch was unable to ascertain the full extent of the killings.

It is probable that action taken by the government and army officials, including Koang who may not have had complete control of the town in the days following his defection, and UNMISS, to transport Dinka to the UNMISS base helped restrict the number of deaths. Markets, shops and the offices of numerous international organizations were heavily looted by defecting soldiers, as well as by police and civilians.<sup>147</sup> Traders, including from Sudan and Ethiopia, who fled to the UNMISS camp for safety during violence between pro and anti-government soldiers between December 17 - 20, told Human Rights Watch that their properties had been looted by Nuer defectors.

## **Looting, Destruction, and Attacks on Civilians by Government Forces in January and February 2014**

On January 10, 2014, government forces and JEM forces entered Rubkona and then Bentiu. The government recaptured the town the same day after battling remnants of Division 4 forces loyal to Koang, who mostly left the town as the government forces approached.

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<sup>143</sup> Human Rights Watch interview (name withheld), Juba, January 1, 2014.

<sup>144</sup> Human Rights Watch interview (name withheld), Bentiu, January 30, 2014.

<sup>145</sup> Human Rights Watch interview (name withheld), Bentiu, January 30, 2014.

<sup>146</sup> Human Rights Watch interview Governor of Unity State Joseph Monyueil, Bentiu, January 30, 2014.

<sup>147</sup> For example the 'Peace Hotel' in Rubkona was utterly looted by defected SPLA forces on December 22, 2013. Human Rights Watch also heard but was unable to verify that five women were also raped when the establishment was looted. Police forces also in at least one case looted vehicles belonging to a UN agency.

Large scale damage, including extensive burning in Bentiu and especially in Rubkona took place during the government recapture of the towns by government forces together with JEM fighters. Most civilians fled their homes ahead of the arrival of these forces. Those who remained were targeted during the attack.

The government attack included massive destruction of civilian property. Almost the entirety of Rubkona market and neighborhoods around the market and across the main road were burned to the ground during the attack, leaving only blackened structures. Large areas in Bentiu town were also burned, including major markets on either side of the main road.

As the government and JEM forces first entered Rubkona on January 10, 2014, along a road running past the UNMISS base, as many as 2,000 Dinka sheltering in the base, including some soldiers who had fled there after Koang's defection, jumped over the fence and joined the attacking forces. Witnesses watching from the UNMISS base described how some men from this group then viciously beat civilians living next to the base and burned numerous huts. Two witnesses saw some of these men being given weapons including machetes by the attacking forces.

At least five people were killed in attacks outside the UNMISS base, including an old woman who was burned in her hut.<sup>148</sup> "They came, pushed me in and then set my house on fire," said another old woman who still had extensive burns on her face and arms when she spoke to Human Rights Watch. "They were singing in Dinka when they came up to me. When they saw that I had (traditional scarification) marks they identified me as Nuer." UN officials and aid workers said that after the Dinka joined the melee many of them later returned to the camp during the following days, heavily laden with looted materials.

Civilians who attempted to flee to the UNMISS base on the day of the government attack were shot and killed as the forces moved towards Bentiu through Rubkona. In the

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<sup>148</sup> Human Rights Watch interviews with witnesses (names withheld), Bentiu, January 30, 2014. Those killed in the attacks included the old woman Nyaruach Makon, a man Gatchek Baiyuk, a 60-year-old man Ruot Gel, his nephew Weigok Jany and another man 60-year-old Kwondit Gai. One witness watching from the UNMISS described the attackers as "young men, completely out of control" but said he had also seen the men, who may have been amongst those who ran out of the UNMISS base being given weapons by the attacking government forces.

aftermath of the attack, around 30 civilian bodies were found on the road between the UNMISS base and Bentiu.<sup>149</sup>

Other civilians fled to swampy areas where government soldiers shot at them in their hiding places, according to witnesses.<sup>150</sup> “I saw three people shot ... in the head and chest. On the second day of hiding they decided to walk out and then they were shot,” said one man, a tailor, who hid among reeds for three days without food or water. Another man who hid nearby in a river said soldiers burned the rushes to better see those hiding.<sup>151</sup> “If you got out you would be killed, if the grass (rushes) moved they shot at you,” he said. He saw soldiers shoot one boy as he fled and later saw the bodies of two children and a woman shot in the river.

A young man, around 18 years old, described being shot in his left thigh by government soldiers as he ran.<sup>152</sup> An old man with a bullet wound, interviewed by Human Rights Watch in the UNMISS camp also said he had been shot by government soldiers during the attack.<sup>153</sup> A cattle herder said he saw SPLA and JEM soldiers moving through Kalibalik market in Bentiu shooting at and chasing civilians. While searching for his children after the initial attack, he saw eight bodies in two of many burned houses. A government worker said his 19-year-old nephew was killed on January 10 during the government attack and his body left in the Kalibalik neighborhood of Bentiu.

Many witnesses told Human Rights Watch they had seen or heard of bodies left in various neighborhoods in Bentiu following the recapture of the town.<sup>154</sup>

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<sup>149</sup> Human Rights Watch interviews with UN officials, aid workers, (names withheld), January 2014. UN human rights officers reported that 31 individuals were killed while fleeing to the UN base and reported seeing SPLA soldiers stopping a car on the way to the UN base and then shooting at the passengers as they tried to flee.

<sup>150</sup> Human Rights Watch interview (name withheld), Bentiu, February 3, 2014.

<sup>151</sup> Human Rights Watch interview (name withheld), Bentiu, January 30, 2014.

<sup>152</sup> Human Rights Watch interview (name withheld), Bentiu, February 3, 2014.

<sup>153</sup> The man was one of 15 civilians with gunshot wounds who sought medical treatment from doctors in the UNMISS base following the government attack. Four soldiers from the JEM group (unarmed and in civilian clothes) were also treated.

<sup>154</sup> Government medical staff conducting a vaccination campaign and who moved in the town shortly after the government attack also reported seeing dead civilians, presumably killed during the attack. In end-January Human Rights Watch was shown ammunition shells in Bentiu hospital suggesting the site may have been used as a location to fight.





Bentiu town, South Sudan,  
on January 8, 2014.



Bentiu town, South Sudan,  
on January 11, 2014.

Dozens of residential buildings on fire and massive smoke plumes visible in the town of Bentiu on the morning of January 11, a day after Government forces recaptured the town.



Bentiu town, South Sudan,  
on January 13, 2014.

Around 7,500 mostly residential buildings had been destroyed in Rubkona and Bentiu, almost all on January 10 and the morning of January 11.

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Source: USG-NextView Licence

Jan. 11 image copyright: 2014 ImageSat  
International N.V., Licensed by ImageSat  
International N.V.; Source: Geoserve

Jan. 13 image copyright DigitalGlobe 2014;  
Source: USG-NextView Licence



## Attacks on Civilians by Government Forces in Other Parts of Unity State

Thousands of residents from Rubkona and Bentiu fled southwards in the days ahead of the January government recapture of the towns. Those who fled into Guit County, south of Bentiu, told terrifying stories of having to flee village after village with little food or access to water as the pro-government forces chased remnants of Koang's Division 4 soldiers, often burning villages in the fighting.

Civilians who fled Bentiu at the same time as Koang's Division 4 soldiers complained that the defected Division 4 soldiers forcibly took food and money from them. Three witnesses said that they would have been safer had the Division 4 soldiers not fled with them. "When I said please don't run with us, they slapped me in the face," one woman who ran from Bentiu to Guit recalled.

By February 1, 2014, government troops had control of the town of Leer, in the south of Unity state and Riek's home county, after fighting opposition forces in Koch and Mirmir, to the north.<sup>155</sup> Opposition forces had already retreated from Leer after heavily looting the town, witnesses said. Upon entering Leer, the government soldiers and JEM forces burned much of the town, including the Leer hospital.<sup>156</sup> Government forces burned other villages around Leer, seemingly especially those on either side of the Mirmir-Leer town road, in the following days.

Fighting between the government and opposition forces took place in many places across Unity state in February and March. However numerous witnesses described how government forces, including "torabora", or Darfuri rebels, usually described as JEM, attacked towns and villages, burned and pillaged even when there were no opposition forces present. A woman who ran to Nguek village, some seven kilometers from Leer described seeing it being burned by government forces. She ran to a village called Piliny which was burned the following day.<sup>157</sup> Another woman said that in February 2014 JEM attacked Tuochriek village, where she was staying, four times, taking vehicles and

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<sup>155</sup> Government forces arrived in Leer county by January 20. UNMISS "Conflict in South Sudan: A Human Rights Report", p46.

<sup>156</sup> Human Rights Watch interviews, names withheld, Bentiu and Juba, April 2014. See "South Sudan: Satellites Show Homes Aflame in Opposition Leader's Hometown" by the Satellite Sentinel Project, February 4, 2014.

<http://satsentinel.org/node/763>. Also see MSF "Medical Care Under Fire in South Sudan", press release, February 26, 2014, <http://www.msf.org/article/medical-care-under-fire-south-sudan> for a detailed description of the destruction in the Leer hospital. The hospital was looted by opposition forces in the days ahead of the government attack.

<sup>157</sup> Human Rights Watch interview, name withheld, Bentiu, April 7 2014.

attacking civilians, shooting dead one young man.<sup>158</sup> “There were no (opposition) soldiers staying with us,” she said.

Mirmir town, north of Leer town, was also looted by JEM and parts of it burned, according to witnesses. A village called Gap, about 45 kilometers east of Leer town, was also attacked numerous times by the government and JEM forces. One woman who fled there from the attack in Leer said:

They took beds, sorghum, goats. They were shooting with big guns from cars, some were on foot shooting at civilians. Two of my relatives were killed. Gap was all burned. All that remains is four luak (large huts).

A woman who had run to a village called Both near Leer described how JEM and government soldiers beat her until she revealed where her stored sorghum was hidden. “They took 6 bags of sorghum. It would have been enough for my family until the next harvest,” she said. A man who fled Leer to the village of Beer, about 28 kilometers north-east from Leer town, described an attack in early February: “Darfur rebels and the SPLA soldiers attacked us ... they arrived shooting at us ... the gunfire was intense”.<sup>159</sup>

People in Mayendit county, southwest of Leer, also witnessed attacks, particularly in the area of Rubkuay a town along the road between Leer and Mirmir. Witnesses told Human Rights Watch starting in February, and as late as April, that they saw government forces who they described as “torabora,” [common name for Darfur rebels] enter into Rubkuay in vehicles, shooting in the air and at people, looting animals and forcing people to flee to surrounding bush.

Other witnesses named numerous other villages especially in Leer but also in Mayendit county where government and JEM attacks also took place. In almost every case, survivors said soldiers had taken foods and other property and in many cases the forces shot at civilians hiding in the bush and burned houses and other buildings.

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<sup>158</sup> Human Rights Watch interview, name withheld, Bentiu, April 7 2014

<sup>159</sup> Human Rights Watch interview, name withheld, Juba, March 25, 2014.

Human Rights Watch heard several reports of women being raped by government and JEM forces. A woman said her sister was gang raped by seven soldiers from both forces in Gandor village (also partly burned and pillaged by the forces), about 30 kilometers north of Leer town in February. Another woman who ran from Leer to a nearby village called Dhorgoni said her sister-in-law was raped there by six JEM soldiers in mid-February.<sup>160</sup> Another woman was raped in Liep near Adok port, Leer county, by “Dinka” soldiers, according to relatives.<sup>161</sup> Community leaders said Leer, Geer, Gandor and Pilliny were all locations where rapes occurred, but Human Rights Watch could not verify these claims.

Civilians were forced to run to swampy areas where they suffered extreme shortages of food. These locations were shelled by government tanks and shot by government soldiers, especially in locations near Adok port.<sup>162</sup> Many people who remained in the bush for months lived off of water lilies and livestock or fish. In early June, Human Rights Watch researchers interviewed new arrivals to the Bentiu UNMISS compound who had spent three to five months in hiding, and had become visibly emaciated.<sup>163</sup>

## Attacks on Civilians in Bentiu Town by Opposition Forces, Mid-April 2014

Opposition forces captured Bentiu on April 15.<sup>164</sup> During the attacks opposition forces carried out large scale killings of civilians, including Sudanese Darfuris in gruesome reprisal for JEM’s role in Unity state. UNMISS reported that opposition forces used the local radio station, Radio Bentiu, to broadcast hate speech, inciting killing and rape. UNMISS reported that hundreds of people were killed, including as many as 200 people seeking shelter in a mosque.<sup>165</sup>

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<sup>160</sup> Human Rights Watch interview, name withheld, Bentiu, April 8 2014

<sup>161</sup> Human Rights Watch interview, name withheld, Bentiu, April 8 2014. Human Rights Watch was also told of a rape in Guet, not far from Leer town by a large group of mixed government and JEM soldiers. Three women who had been hiding in Nhialdu, Tuarkien and other villages west of Bentiu town said there had been many rapes in that area when government forces and JEM attacked in March. Because of a lack of services for victims and extreme stigma rape is believed to be massively under-reported in South Sudan.

<sup>162</sup> Human Rights Watch interviews, names withheld, Bentiu, April 2014

<sup>163</sup> By early May MSF was treating 1,500 severely malnourished children under five years of age in Leer town. “*Initial Rapid Needs Assessment, Leer County, Unity State, May 26 – 28, 2014*”, unpublished document, May 2014, on file with Human Rights Watch.

<sup>164</sup> For a description of the fighting in northern Unity state ahead of the attack on the town see: “*The Conflict in Unity State*”, Small Arms Survey May 2, 2014 <http://www.smallarmssurveysudan.org/facts-figures/south-sudan/conflict-of-2013-14/the-conflict-in-unity.html>

<sup>165</sup> UNMISS, “*UNMISS Condemns Targeted Killings of Hundreds of Foreign and South Sudanese Civilians*”, April 21, 2014. <http://reliefweb.int/report/south-sudan/unmiss-condemns-targeted-killings-hundreds-foreign-and-south-sudanese-civilians>. Also see UNMISS, “*Conflict in South Sudan, a Human Rights Report*”, p47.

Although many people fled to UNMISS, the Governor reportedly reassured people that the situation was under control and government soldiers stopped many civilians in Bentiu on April 14, 2014, from moving to the UN base or fleeing the town ahead of the attack.<sup>166</sup> Thousands of townspeople sought refuge in the mosque, hospital, churches, and NGOs in town. Starting at around 6 a.m. the following day opposition forces began their attack, with heavy shooting in the town, and met little resistance from government forces that had already retreated. Some of the worst violence took place in the mosque and hospital.

A Dafuri man who was in the mosque during the attack, which lasted until mid-afternoon, told Human Rights Watch that groups of opposition soldiers began arriving at the mosque at around 11 a.m.<sup>167</sup> Dressed in uniforms and civilian clothes, these forces shot and killed some people outside the mosque, as hundreds of others sought shelter in the building. They then demanded money and mobile phones from those inside the mosque, and allowed some Ethiopian nationals to leave the site. The Darfuri survivor said hundreds of people were then shot inside the mosque:

There were about 12 windows and doors and they stuck their guns in sometimes breaking the glass to do so. [...] At around 1:30 p.m. they began shooting the guns. [...] I heard people around me scream that they had been shot. [...] [One man] next to me was shot in the head and his brain came out in front of me.

According to the witness, after the massacre other opposition forces, apparently higher ranking, arrived and took control of the mosque, telling survivors, including the injured, to wait under a tree. They then transported some of them to the hospital and, with help from about a dozen survivors, removed the bodies from the mosque and during the night buried them at a location about 50km away. Human Rights Watch could not corroborate this account.

A Nuer civil servant in the government, who was home in the Dar el Salam neighborhood during the fighting, told Human Rights Watch that he walked around town, alongside rebel soldiers and visited the mosque area after the killings.<sup>168</sup> “I went to the Kalibalik area and I

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<sup>166</sup> Human Rights Watch interviews, names withheld, April 14, 2014 and June 2014, Bentiu.

<sup>167</sup> Human Rights Watch interview, name withheld, June 9, 2014, Juba.

<sup>168</sup> Human Rights Watch interview, name withheld, Bentiu, June 5, 2014

saw many bodies at the roundabout and at the mosque and on the road,” he recalled. He also witnessed soldiers killing civilians elsewhere in town: “I was moving around with soldiers. I saw them killing people in the market. One commander told me civilians could move but I saw them killing.” A 22-year-old cook from Sudan told Human Rights Watch she saw 15 bodies outside the mosque “dumped in a pile”. Gen. James Koang who arrived in Bentiu town around midday on April 14 after his forces had recaptured the town told Human Rights Watch in June that people, including civilians, had been killed in the hospital in an attack by opposition forces, described below, but that the number of people killed in the mosque had been greatly exaggerated and that they were from the JEM force and not civilians, although he admitted that they were not armed. He added that his efforts to try and investigate these events further had been made impossible by ongoing conflict.

On April 14 and 15, 2014, hundreds of civilians went to the Bentiu hospital for safety together with injured government soldiers and at least two JEM combatants seeking sanctuary or treatment.<sup>169</sup> Witnesses told Human Rights Watch how groups of opposition soldiers entered the compound, asked for JEM combatants, and executed Darfuris. A doctor at the scene said at least 18 people were killed in total at the hospital.<sup>170</sup> He said: “At 9 or 10 a.m. the opposition [forces] came to the hospital... they said don’t be afraid we are looking for government. We saw 10 come and kill three Darfuris in the compound. They entered the hospital and, still firing, killed 2 more.”<sup>171</sup>

In the lead up to and following the attack, the population seeking refuge in the UNMISS base in Bentiu surged to more than 25,000, with 10,000 arriving in one day. On April 16, UNMISS transported more than 150 Darfuris from the hospital. These individuals, plus wounded opposition fighters, were brought to the UNMISS base and treated for injuries. UNMISS later transferred more than 100 Darfuris to JEM commanders, who transported them out of Bentiu town.

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<sup>169</sup> Human Rights Watch interviews, names withheld, Bentiu, June 5, 2014. According to the witnesses the combatants removed their uniforms before entering or while in the hospital.

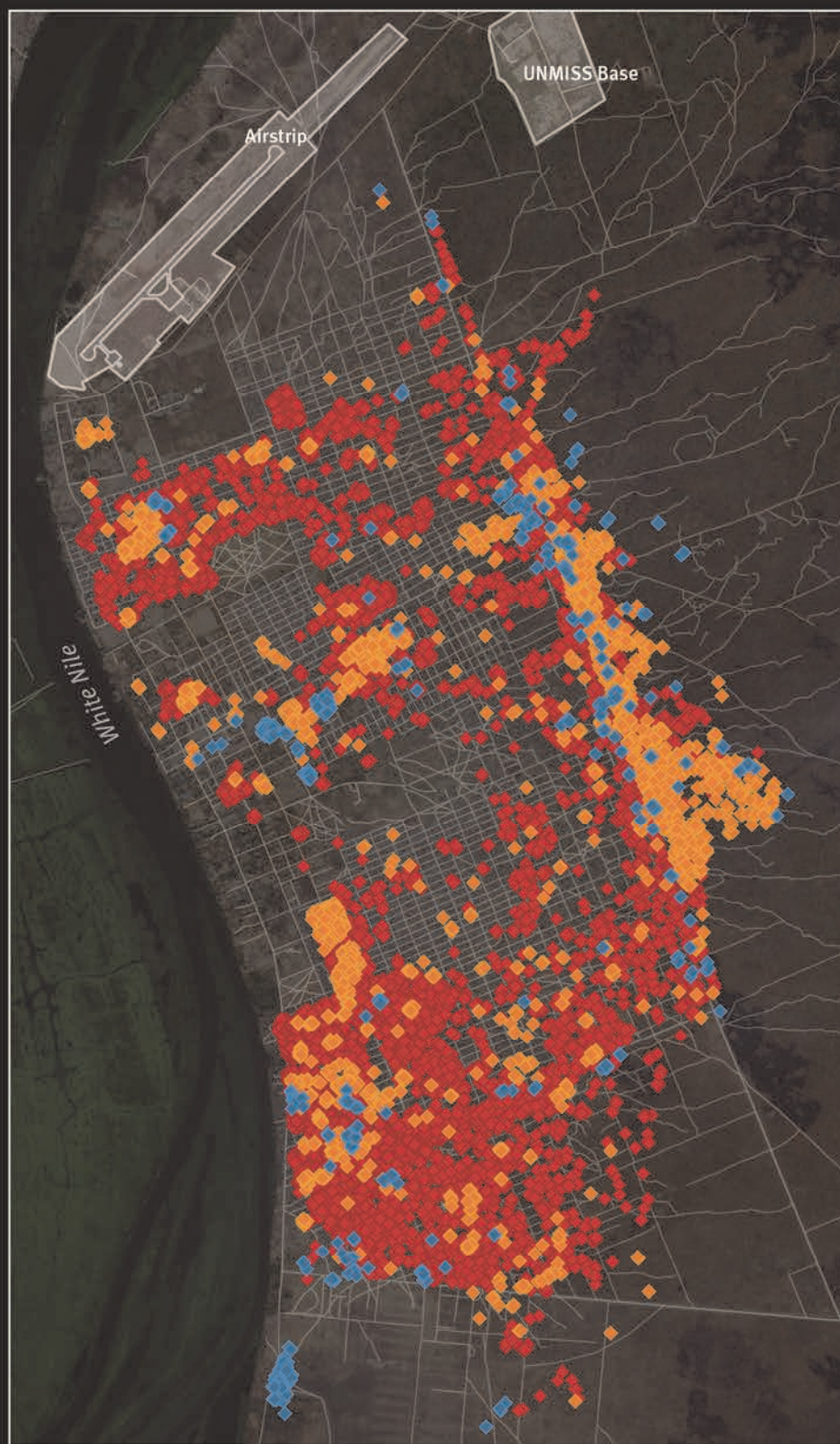
<sup>170</sup> Human Rights Watch interview, name withheld, June 5, 2014. The UN estimate that 20 people were killed in the hospital and MSF has said that 21 Darfuris were killed and five Nuer. Medecins Sans Frontieres, “*MSF condemns Unspeakable Violence in Bentiu Hospital*” April 28, 2014. <http://www.msf.org/article/south-sudan-msf-condemns-unspeakable-violence-bentiu>.

<sup>171</sup> One witness said that the opposition commander in Bentiu, James Koang, sent soldiers to stop further violence in the hospital later in the day on April 15, 2014.



# BUILDING DESTRUCTION IN MALAKAL, SOUTH SUDAN

## UNDER PERIODS OF GOVERNMENT AND OPPOSITION CONTROL



### DESTRUCTION:

- ◆ Government periods of control  
Jan. 20 – Feb. 19; Mar. 19 – Apr. 21, 2014
- ◆ Opposition periods of control  
Feb. 20 – Mar. 19, 2014
- ◆ Alternating periods of government and  
opposition control  
Dec. 6 – Jan. 20, 2014

Human Rights Watch analyzed a series of satellite imagery during successive periods of opposition and government control between December 2013 and April 2014 in Malakal.

By April 21, around 25 percent of Malakal town – over 12,700 mostly residential buildings – was destroyed. The most intense period of destruction, of **over 7,350 buildings** occurred between February 18 and 23, during which time opposition forces and allies were in control of the town. Around 58 percent of the destruction took place during this period. During a period of government control, between January 20 and February 17, around **2,800 buildings** were destroyed, which represents about 22 percent of the destruction.

Damage building analysis by Human Rights Watch  
Road data by Open Street Map 2014  
Satellite image copyright: DigitalGlobe 2014  
Source: USG-NextView Licence

## V. Attacks on Civilians in Malakal, Upper Nile State

According to the UN, Upper Nile state has seen the heaviest fighting during the conflict. The capital, Malakal, changed hands six times between December and April. On December 24, pro and anti-government forces clashed at SPLA barracks, the airport, and key locations in town. Nuer forces, commanded by Gen. Gathouth Galwak, who defected from the SPLA, held the town for two days before the government recaptured it on December 27 and held it for several weeks.

The town changed hands again with an opposition attack on January 14, 2014. The government recaptured it on January 20, followed by another opposition attack on February 18. The government recaptured the town on March 19 and still holds it. Government forces included the former rebel Shilluk group led by Johnson Olony, who accepted an amnesty and rejoined the SPLA in June 2013.<sup>172</sup>

Following the initial defections and fighting, opposition attacks in January and February included thousands of fighters from the so-called white army. Forces on both sides conducted house-to-house searches, arbitrary arrests, and killed many civilians, often based on their ethnicity. A brutal opposition attack in February included killings inside the Malakal hospital and attacks on churches.

In addition to the targeted killings, civilians were killed in the crossfire during clashes near the UN compound on December 24, January 20, and February 18, and as a result of fighting inside the compound. In mid-January some 200 people fleeing an opposition attack drowned when their boat capsized on the river.<sup>173</sup>

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<sup>172</sup> Human Rights Watch found that during conflict between Olony's group and the SPLA in March 2011 at least 60 Shilluk people were killed, including in targeted attacks on civilians. Human Rights Watch, "*Abuses by Both Sides in Upper Nile Crisis*" <http://www.hrw.org/news/2011/04/19/southern-sudan-abuses-both-sides-upper-nile-clashes>. Also see Human Security Baseline Assessment, "*SSDM/A-Upper Nile Faction*" <http://www.smallarmssurveysudan.org/facts-figures/south-sudan/armed-groups/southern-dissident-militias/ssdma-upper-nile.html> (accessed June 1, 2014).

<sup>173</sup> Sudan Tribune, January 15, 2014, "*South Sudan Mourns Drowning of More than 200 in Malakal*" <http://www.sudantribune.com/spip.php?article49565> (accessed May 16, 2014).

The UN has not made an estimate of the number of people killed in Malakal, but reported that between December 30, 2013, and January 3, 2014, alone 218 bodies were buried in one cemetery.<sup>174</sup> Human Rights Watch spoke to local aid workers who said they had collected around 500 bodies in early January.<sup>175</sup>

The town has been extensively burned and looted, with most of the damage to the market during the initial fighting. On a visit to Malakal in mid-February, Human Rights Watch researchers found the town empty of civilians and many homes burned out or still smoldering. Most civilians fled to villages, churches, the hospital, or the UN base north of the town. Around 20,000 people are still sheltering in the UN base in Malakal.

### **Attack on Civilians by Opposition Forces, January 2014**

On January 14, 2014, opposition forces attacked a second time. During their attack on January 14, the opposition white army fighters, wearing colored headbands to indicate their counties of origin (reportedly Akobo, Nasser, and Fangak areas), went house to house demanding money, phones, food, or other goods, according to witnesses. They looted indiscriminately, including from ethnic Nuer residents, but appear to have carried out more violence against non-Nuer residents.

Many witnesses interviewed by Human Rights Watch in Malakal in mid-February said they had left the town before the January 14 attack, taking refuge at the UNMISS compound or other locations. Those who returned to the town after the attack reported seeing dead bodies on the streets or in homes. Many victims apparently had been shot during robberies.

In one example, two armed white army fighters shot a man from Maban county in the face and stomach, killing him instantly, when he refused to hand over money and mobile phones. His 22-year-old wife, who witnessed the shooting, recalled:

When the rebels came from Nasir, we were at home. Some came together and demanded a mobile. My husband, Jumaa, said ‘No, we don’t have one.’ The rebels left but then two of them came back and again asked for a

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<sup>174</sup> UNMISS, “*Conflict in South Sudan, A Human Rights Report*”, p35.

<sup>175</sup> Human Rights Watch interview with South Sudan Red Cross volunteer, (name withheld) Malakal, February 15, 2014.



mobile and money. They pointed their gun at Jumaa and shot him in the belly and in the mouth.

A priest from Western Equatoria from the Moro ethnic group, who had remained in town following the opposition attack on January 14, said an opposition soldier almost killed his son. The soldier had arrested his son, tied his hands, and took him to the river at gunpoint. “He started to fire in the air, then recognized me and let my son go,” he recalled.

## **Ethnic Targeting by Government Forces in January**

Human Rights Watch received consistent reports from many sources that government soldiers targeted ethnic Nuer males, particularly of fighting age, for arrest and killings in the period between the government’s regain of control of Malakal on January 20, 2014, and several weeks later when the opposition attacked a third time. Nuer IDP leaders suggest that the brutal attacks by opposition forces and white army in late February were in reprisal for the targeting of Nuer youth by government forces that occurred during this period.

On January 20, the day the government re-took Malakal, a group of soldiers arrested a 20-year-old student with two friends as they were walking to the UN compound for safety. The soldiers tied the youths’ hands with rope, put them in a vehicle, and then handed them over to other soldiers at a military barracks where they shot all three of them, killing two on the spot. “They lined us up outside of a building and started shooting at us,” he said. “When they shot at me I just fell down.” The three of them were left for dead, but an hour later another soldier discovered that one youth was alive and took him to the hospital. His injuries required amputation of his right hand.

Another student, 18, said that on January 24 a group of government soldiers arrested him and two other Nuer youths at their home in Muderia area, took them to the riverbank, and shot at them. “They took us because we are Nuers,” he said. “They walked us to the riverside near the hospital. They told us to sit down and then they shot us. I tried to run into the river after I was shot and I fell into the water.” The student was shot in the buttocks and the thigh, and could not walk. A soldier found him later that day and took him to a church. The student believes the other two youths were killed.

A Nuer Presbyterian pastor was among those reported shot dead in the street in the days after the town was recaptured. A fellow clergyman recalled: “One pastor we know was killed. He was collecting his things. He put on his collar and wanted to visit the hospital but was shot on the way.”<sup>176</sup>

Soldiers also arrested Nuer men at the Malakal teaching hospital, where thousands of residents, most of them Nuer, had sought refuge when the government recaptured the town.

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<sup>176</sup> This was from an interview in Juba with clergyman, February 8, 2014.

Images of a neighborhood in the south-east of Malakal town taken on January 18, 2014, and again on February 4, showing burning of buildings. Government forces held the town between 19 January and 18 February.



## Attack on Civilians by Opposition Forces, February 2014

The UNMISS Human Rights Division has reported horrific crimes against people sheltering in churches and the hospital in February 2014. On February 19, opposition forces killed two people in the Christ the King Church, later returning to loot and sexually assault women.<sup>177</sup> During the same period, white army fighters forced entry into a Catholic church compound, a witness said, demanded to know if there were Dinka sheltering there and threatened to launch a RPG at the church.<sup>178</sup> They attacked the Malakal Teaching Hospital on February 18, entering with guns, machetes and spears, and killed a number of people after singling them out on the basis of their ethnicity.<sup>179</sup> The opposition forces returned the following day and killed, beat and stole from people in the hospital. The medical aid agency, Médecins Sans Frontières, reported that their staff found 14 dead bodies in the hospital on February 22, including some who appeared to have been shot in their beds.<sup>180</sup>

UNMISS has also reported that opposition forces and white army may have killed hundreds of civilians and destroyed and looted villages as they moved through Baliet county, east of Malakal, on their way to or from the opposition stronghold of Nasir during both the second and third attacks.<sup>181</sup>

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<sup>177</sup> UNMISS “Conflict in South Sudan, A Human Rights Report”, p36.

<sup>178</sup> Human Rights Watch interview, (name withheld), Nairobi, February 2014.

<sup>179</sup> UNMISS “Conflict in South Sudan, A Human Rights Report”, p37.

<sup>180</sup> “*Medical Care under Fire in South Sudan*”, Médecins Sans Frontières, press release, February 26, 2014. <http://www.msf.org/article/medical-care-under-fire-south-sudan>.

<sup>181</sup> UNMISS “Conflict in South Sudan, A Human Rights Report”, p36.





Images of a neighborhood close to the center of Malakal town taken on February 17 and again on February 23, showing burning of buildings. Opposition forces held the town between February 18 and March 19, 2014.

## VI. Protection of Civilians by the UN Mission in South Sudan

The UN Mission in South Sudan had a mandate to use force to ‘protect civilians under imminent threat of physical violence’, within its capabilities and in its areas of deployment since its inception in 2011. But until the new war began the mission focused on its other key mandate: to assist state building by working closely with government, including police and army.<sup>182</sup> Over the past years, the mission has showed itself to be unwilling to criticize the government publicly, including when government forces committed serious human rights violations and authorities failed to provide justice for victims.<sup>183</sup> This contributed to a lack of accountability for abusive soldiers and their leaders. Implementation of the mission’s protection of civilian mandate also suffered from too-few troops and a lack of clarity over where and under what circumstances peacekeepers would engage militarily to protect civilians.<sup>184</sup> In practice, in both the current war and during instability or violence that preceded it, peacekeepers have protected civilians that sought sanctuary in their bases but have rarely intervened otherwise. In the current conflict under-protected areas include the vicinities immediately around the bases and in towns where high levels of abuse has continued, both during attacks and violent occupations and during periods of relative stability.

The importance of providing sanctuary in bases in conflict areas where civilians often have no other safety at all cannot be underestimated. In immediately opening its gates to tens of thousands of terrified people in December 2013 and allowing them to shelter in their bases for many months, UNMISS potentially saved thousands of lives sometimes at the price of endangering its own staff.<sup>185</sup>

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<sup>182</sup> UNMISS’ mandate has since been changed (see below). The original mandate was described in United Nations Security Council, Resolution 1996 (2011), S/RES/1996 (2011). [http://www.un.org/en/peacekeeping/missions/past/unmis/documents/sres1996\\_2011.pdf](http://www.un.org/en/peacekeeping/missions/past/unmis/documents/sres1996_2011.pdf) (accessed June 2, 2014)

<sup>183</sup> For example, UNMISS failed to report publicly on brutal government reprisals on Murle civilians, including unlawful killings and other violations close to UN bases in Jonglei in 2012 and 2013. This was despite it becoming evident that a pattern of unchecked violations by SPLA were taking place. UNMISS also never reported publicly on the killing and injuring of more than 20 peaceful protestors in December 2012 by government security forces, an event that quickly became a watershed moment for freedom of expression in South Sudan. In both cases human rights officers investigated the unlawful killings. See Human Rights Watch *“They Are Killing Us”*, September 2013. <http://www.hrw.org/reports/2013/09/12/they-are-killing-us>, p41.

<sup>184</sup> UNMISS civilian staff have commented that the lack of public statements by the mission 2011 – 2013 clearly stating that attacks on civilians were unacceptable to the mission helped discourage peacekeepers from militarily intervening, and so risk their lives, to protect civilians.

<sup>185</sup> As described above, UN bases have been attacked during the conflict. Especially in the early days of the crisis, surrounded by hostile forces and often without support from humanitarian agencies, mission staff struggled to provide emergency health care, food and water under enormous stress. As well as protecting people in its bases, UNMISS has also

On May 27, the UN Security Council passed a resolution refocusing the mission's mandate away from government support to protection of civilians, protecting humanitarian assistance and human rights monitoring, investigations and reporting.<sup>186</sup> The mandate calls for protection of civilians under threat – not just ‘imminent’ threat – and for peacekeepers to protect ‘within (the mission’s) capacity and areas of deployment’; providing for much more than just protecting bases.

To be able to implement this mandate to the fullest extent possible, UNMISS needs to have its old problems – the lack of military manpower and a lack of clarity about when peacekeepers will intervene to protect civilians outside of the bases – addressed.

On December 24, soon after the violence spread out of Juba, the UN Security Council speedily passed a resolution authorizing the deployment of 5,500 more peacekeeping troops for South Sudan and 440 police – in addition to its existing 7,000 force- and 1300 police.<sup>187</sup> However, only a few of the promised peacekeepers had arrived by June 2014 limiting the number and range of patrols peacekeepers have been able to undertake. The overall number of civilians – and so the number of troops needed to protect them – in UN bases has continued to increase. Promised additional troops are urgently needed to bolster UNMISS’ chances at being more effective outside the bases.

Peacekeepers also need to be clear that they are required, within their abilities, to protect civilians outside of the bases. Aid workers have regularly advocated for more patrolling by armed peacekeepers around the perimeters of all camps and along key roads and in markets to help reduce abuse. Peacekeepers have also struggled to vary patrols and have tended not to get out of vehicles and walk in neighborhoods and markets, even when unarmed UNMISS police, military liaison and civilian staff have done so to collect

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provided numerous medical evacuations and has treated hundreds of patients who have been unable to seek medical care in government hospitals because they were frightened of being targeted because of their ethnicity. In some cases, for example in Bentiu in December 2013, UNMISS helped transport civilians under threat to their base.

<sup>186</sup> UN Security Council Resolution 2155 (2014), S/RES/2155 (2014).

[http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s\\_res\\_2155.pdf](http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_res_2155.pdf) (accessed June 2, 2014). Also see “United Nations Mission in South Sudan to Suspend Current Activities , Re-focus Priorities, Peacekeeping Chief Tells Security Council”, March 18, 2014, <http://www.un.org/News/Press/docs/2014/sc11323.doc.htm>, (accessed June 2, 2014).

<sup>187</sup> UN Security Council resolution 2132 (2013) S/RES/2132 (2013)

[http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s\\_res\\_2132.pdf](http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_res_2132.pdf) (accessed June 2, 2014). Formed Police Units of police arrived within months of the resolution.

information and advocate for civilian protection to military leaders.<sup>188</sup> The provision of language assistants to peacekeeping forces could make these kinds of important activities easier and more meaningful. Troop contributing countries should also ensure that at least some members of their troops speak English or Arabic.

Equally confronting abuses by both parties when they occur is important for the mission's ability to implement its civilian protection mandate and access areas controlled by both sides to the conflict. Even though both sides have been responsible for serious abuses, in January in Bor the mission allowed SPLA military liaison officers to stay in its base and flew injured SPLA soldiers to Juba from Bor for medical treatment, while refusing similar assistance to injured opposition soldiers, some of whom subsequently died of their injuries. This could have compromised the mission's capacity to access rebel held territory and advocate with opposition forces against the targeting of civilians.

UNMISS continued to regularly fly government officials, for example by approving a request to fly local government officials back to Bentiu in March, a few months after the government recapture of the town during which numerous serious abuses took place. The mission should broadly interpret its human rights due diligence policy and refuse support, including transport, to authorities who might, even indirectly, support human rights violations.<sup>189</sup>

Continuing to accept government demands has also had an impact on the kind of work the mission has been able to do. In Juba, UNMISS continued to seek permission to vary patrol routes many months after the December crisis, often taking government military liaison officers with them.<sup>190</sup> These restrictions have undermined the perception of independence of the mission and its flexibility and the ability of its staff to conduct sensitive investigations.

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<sup>188</sup> Human Rights Watch interviews, UNMISS officials, government officials, humanitarian officials, 2014.

<sup>189</sup> The UN Human Rights Due Diligence Policy (HRDDP) includes as a core principle that: "UN support cannot be provided where there are substantial grounds for believing there is a real risk of the receiving entities committing grave violations of international humanitarian, human rights or refugee law and where the relevant authorities fail to take the necessary corrective or mitigating measures." See Human Rights Watch "*Can UN Help Itself from Underwriting Human Rights Abuses?*" <http://www.hrw.org/news/2012/07/24/can-un-help-itself-underwriting-human-rights-abuses>. The UN HRDDP is available here: [http://www.un.org/ga/search/view\\_doc.asp?symbol=S/2013/110&referer=http://www.un.org/en/sc/documents/letters/2013.shtml&Lang=E](http://www.un.org/ga/search/view_doc.asp?symbol=S/2013/110&referer=http://www.un.org/en/sc/documents/letters/2013.shtml&Lang=E) (accessed June 10, 2014).

<sup>190</sup> Human Rights Watch interviews, UNMISS officials, names withheld, April 2014.



## Human Rights Reporting

Public human rights reporting can help expose and dissuade violations. By issuing a speedy initial fact finding report following mass killings of civilians by opposition forces in Bentiu in mid-April, the mission helped focus international attention, and trigger an emergency UN Security Council session, on the spiraling violence. In the past the mission had missed other such opportunities. The interim report on human rights abuses in February and a comprehensive report in May should form a strong base for more frequent, timely public human rights reports. The mission should also ensure that it uses its political leverage to support human rights officers to be able to fully investigate even the most sensitive alleged crimes including investigating sites of mass graves in Juba kept off-limits in part because of intimidation from government security forces.

The mission should also revitalize its radio Miraya FM broadcasts, which stopped reporting on human rights abuses early on in the crisis and reduced its news service and its call-in programs - an important platform for South Sudanese – since the conflict began. The UN radio Miraya FM reaches across South Sudan, has the greatest listenership and some of South Sudan's best-trained journalists. As such it is an important tool for countering ethnic hatred, dispelling rumors and exposing violations by all parties and should be used as such more proactively by the mission.

## Law and Order in the Camps

UNMISS should also ensure a new policy on handling criminality in the camps is fully implemented to ensure persons under their protection are not handed over to authorities without full assessment of the risk of abuse by those authorities. In March, two Nuer men, both alleged criminals, who had sought sanctuary in the Juba Topping UN base were handed over to authorities without a proper assessment of the very real risks to these individuals. Continuing to maintain separate areas within bases to house alleged criminals and others who pose a danger to other displaced people means the mission has a ready alternative to handing over troublemakers to authorities.<sup>191</sup>

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<sup>191</sup> The mission's mandate to detain people, even if they pose a risk to the safety of civilians, has been debated. The mission's clear civilian protection mandate, that includes the use of force, has been interpreted to include separating people who pose a risk to others.

## Support for UNMISS

To implement its mandate, UNMISS needs to be fully supported by UN Security Council members. Neither the government nor the opposition has respected the sanctity of UN bases. UNMISS compounds, barges and staff have been attacked and staff repeatedly harassed in trying to implement the mission's mandate. Twice, UN bases have been directly attacked. Government officials have publicly accused the mission of harboring rebels in its bases, contributing to tensions between those in the camps and government security forces who have repeatedly harassed and attacked displaced people in the vicinity of bases in Bentiu, Bor and Juba where they have been sheltering.

Fighting has repeatedly taken place around the Malakal UN base and on January 14, crossfire killed a boy and injured 38 displaced people in the site. Forces fought around the Bentiu base in April 2014 and at least four rockets were fired at the Bentiu base on April 17, most probably by the government-allied JEM militia group. In May, government SPLA forces positioned themselves near the Bentiu base endangering the base and civilians inside it. UNMISS patrols have been turned away from accessing areas by government forces on many occasions in Bor, Bentiu and Juba including when trying to assist with humanitarian assessments and human rights investigations. The government has also publicly verbally attacked UNMISS on several occasions.<sup>192</sup>

UNMISS should ensure that all violations of the status of forces agreement (SOFA) between the mission and the government are reported to the UN Security Council. By condemning and publicizing these violations, as the mission did in May after two of its staff were assaulted by government security forces, the mission strengthens its position and helps assert respect for UN staff, their mandate and the civilians they protect.<sup>193</sup> UN Security Council members should echo condemnation of SOFA violations by the US, UK and Norway and the UN Security Council should issue public statements on the nature and frequency of the violations.

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<sup>192</sup>Kiir himself criticized the UN for stopping information minister Michael Makuei from entering the UN base in Bor in January with an armed escort, accusing the mission of wanting "to be the government of South Sudan". UNMISS subsequently and controversially removed the UNMISS state coordinator from Bor. Relations between UNMISS and the government hit a new low in March when government forces seized a shipment of UNMISS weapons for peacekeepers in the town of Rumbek. Government officials accused the mission of transporting weapons to the opposition. UNMISS admitted that the weapons should have been flown and that they labeled the weapon containers 'general goods' in error.

<sup>193</sup> "After Assault on its Staff UN calls for its Staff to be Protected", UN News Center, May 21, 2014. <http://www.un.org/apps/news/story.asp?NewsID=47858#.U4xrQ7dOXIU> (accessed May 24, 2014).

## VII. Justice and Accountability

### Legal Standards Applicable in the Conflict

Under international law, the conflict between South Sudan's government and the SPLM/A-in-Opposition (the "opposition") is a non-international, or internal, armed conflict in which both parties are bound by international humanitarian law (the laws of war).<sup>194</sup> Government forces—the Sudan People's Liberation Army (SPLA) and pro-government militias—and the opposition forces, the SPLA-in-Opposition and Nuer ethnic armed groups associated with them are obligated to observe Common Article 3 to the four Geneva Conventions of 1949, which sets forth minimum standards for the proper treatment of non-combatants, as well as Additional Protocol II relating to the protection of victims of non-international armed conflicts. South Sudan became a party to the 1949 Geneva Conventions and the additional protocols on January 25, 2013.

Other laws that apply during South Sudan's internal armed conflict are international human rights law, and South Sudanese law, including the Transitional Constitution of South Sudan. These laws also prohibit violations of the right to life, torture, arbitrary arrest and detention. Abuses by the SPLA violate the army's own legislation, the Sudan People's Liberation Army (SPLA) Act of 2009, and the SPLA Code of Conduct.

### *War Crimes by Both Government and Opposition Forces in the Conflict*

A key principle under international humanitarian law is that forces must distinguish between civilians, or those no longer taking active part in hostilities, and combatants. Serious violations of the laws of wars with criminal intent, acts such as purposefully making civilians the target of attacks as well as murder, cruel treatment and torture may all constitute war crimes, and serious violations of human rights law that should be prosecuted.<sup>195</sup> Customary international humanitarian law also prohibits attacks directed

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<sup>194</sup> A non-international armed conflict is one in which there are sustained hostilities between at least two recognizable parties at least one of which is a non-government armed group. The non-government armed group or groups should have sufficient command and control structures and be capable of conducting sustained operations. Additional Protocol II of the Geneva Conventions applies specifically to non-international armed conflicts, "which take place in the territory of a High Contracting Party between its armed forces and dissident armed forces or other organized armed groups which, under responsible command, exercise such control over a part of its territory as to enable them to carry out sustained and concerted military operations and to implement this Protocol" (see art.1 para.1).

<sup>195</sup> Article 13(2) of Additional Protocol II prohibits making the civilian population the object of attack. Article 8(2)(e)(i) of the Statute of the International Criminal Court provides that "intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities" constitutes a war crime in non-international armed

against civilian objects, such as homes and places of worship.<sup>196</sup> Pillage – the forcible taking of private property – is also prohibited.<sup>197</sup>

In many cases documented by Human Rights Watch in South Sudan, soldiers from both opposition and government forces purposefully attacked civilians, including the elderly, disabled, and children, targeting and killing them where no enemy forces were located. Threats of violence with the primary purpose to spread terror among the civilian population are also prohibited.<sup>198</sup>

Responsibility may also fall on persons ordering, planning, or instigating the commission of a war crime.<sup>199</sup> Commanders and civilian leaders may be prosecuted for war crimes as a matter of command responsibility when they knew or should have known about the commission of war crimes and took insufficient measures to prevent them or punish those responsible.<sup>200</sup>

For example, government forces had long left Bor town in early - mid January and opposition forces could have had no conceivable military objective as they moved through neighborhoods shooting Dinka civilians they saw moving in or near their homes. The killings took place at the beginning, middle and end of the occupation period and civilians said they were attacked several times, suggesting no effective efforts were put in place to stop the abuse by the opposition commander in charge of the town at the time, Peter Gadet. These forces also burned the Bor town's main market and clinics and at least 14 pharmacies and looted widely. In Malakal during attacks in January and February 2014 opposition forces conducted similar targeted killings, destruction of civilian property and looting.

By the same token, government forces and their ally JEM attacked civilians in Leer county in January and February. These forces attacked villages over several weeks including where

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conflicts. See also Rule 1 of the ICRC Study. For the prohibition on murder, mutilation, inhuman treatment and torture see common article 3 (1) (a) of the Geneva Conventions and article 8(2) (c) (i) of the Statute of the International Criminal Court.

<sup>196</sup> See ICRC, Customary IHL, rule 7.

<sup>197</sup> Protocol II, Article 4 (2)(g). Also, Protocol II specifically bans attacks, destruction, or removal of objects indispensable to the survival of the civilian population including food-stuffs, agricultural areas, crops, livestock, drinking water installations and supplies, and irrigation works. Protocol II, Article 14.

<sup>198</sup> Protocol II, Article 13.

<sup>199</sup> See ICRC, Customary International Humanitarian Law, p. 554.

<sup>200</sup> See ICRC, Customary International Humanitarian Law, rule 153.

no opposition forces or other military targets were stationed, sometimes returning several times to steal, burn and frighten civilians by shooting at them.

### *Crimes against Humanity*

The term “crimes against humanity” includes a range of serious human rights abuses, including for example murder and torture, committed as part of a widespread or systematic attack by a government or organization predominantly against a civilian population.<sup>201</sup> “Widespread” refers to the scale of the acts or number of victims.<sup>202</sup> A “systematic” attack indicates “a pattern or methodical plan.”<sup>203</sup>

In Juba, attacks by Dinka forces on Nuer civilians were both widespread and systematic and could amount to crimes against humanity. Human Rights Watch documented widespread abuses in different parts of Juba, with very similar patterns of attacks, killings, looting and arrests. The number of security forces involved, and the fact that the abuses took place at the same time in different places—for example ethnic profiling and attacks on homes and round-ups of Nuer men in different neighborhoods as well as attacks and arrests of those who tried to move in Juba on December 16 and 17—suggests organization and planning. The round ups of Nuer men in the Gudele police compound and nearby areas on the night of December 15 and all the following day suggests a plan was put in place. Dinka security forces did not shoot the 200 – 400 men they had gathered in the Gudele police building until around 8 p.m. and it is unlikely that an act of this magnitude would have taken place without orders. In at least five cases Nuer captives said that more senior Dinka soldiers intervened and stopped other soldiers from killing them or others with them, suggesting there was at least in some places some form of direct command and control during the crackdown.

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<sup>201</sup> See Rodney Dixon, “Crimes against humanity,” in *Commentary on the Rome Statute of the International Criminal Court* (O. Triffterer, ed.) (1999), p. 122. This is the standard applied by Article 7 of the Rome Statute of the International Criminal Court. South Sudan is not a state party to the Rome Statute and is therefore not bound by it, but the definition in article 7 accords with the conception of crimes against humanity in customary international law.

<sup>202</sup> Akayesu defined widespread as “massive, frequent, large scale action, carried out collectively with considerable seriousness and directed against a multiplicity of victims,” *Prosecutor v. Akayesu*, ICTR Trial Chamber, September 2, 1998, para. 579; see also *Kordic and Cerkez*, ICTY Trial Chamber, February 26, 2001, para. 179; *Kayishema and Ruzindana*, ICTR Trial Chamber, May 21, 1999, para. 123.

<sup>203</sup> *Tadic*, para. 648. In *Kunarac, Kovac and Vokovic*, the Appeals Chamber stated that “patterns of crimes— that is the non-accidental repetition of similar criminal conduct on a regular basis—are a common expression of [a] systematic occurrence.” Para. 94.

Culpability for crimes against humanity requires knowledge of the crime.<sup>204</sup> That is, perpetrators must be aware that their actions formed part of the widespread or systematic attack against the civilian population.<sup>205</sup> An investigation into crimes against humanity in Juba would have to address this element of the crime.

Human Rights Watch research strongly indicates that several security organs participated in the fighting and attacks, and exerted effective control over Juba during the worst violence and violations. Identifying which security forces controlled which parts of Juba during the week of most intense fighting and killing is critical for determining criminal culpability for the gross human rights violations that occurred.

The Presidential Guard (PG), under the command of Maj. Gen. Marial Chanuong, was the dominant force around the GHQ in the southwest and in the center of the town around the presidency where many arrests, harassment and killings of Nuer took place.<sup>206</sup> However, in other areas, Dinka from other security forces also played a role together with PG. For example members of SPLA military police, engineering corps and commando force also fought Nuer renegade soldiers on the night of December 15, and on December 16, in Juba's northwest neighborhoods during fighting over the New Site arms store and in surrounding areas. Members of all of these forces may have been involved in house-to-house searches and killings in this area on December 16 and 17. In Gudele a range of Dinka security forces including police arrested and held Nuer civilians in the Gudele police building. Under orders by the SPLA Chief of Staff, James Hoth Mai, a number of Dinka men from security forces were arrested and detained for killing civilians and looting in December 2013. These forces included soldiers but also members of the police force, national security and even the fire brigade.<sup>207</sup>

Further investigation is needed to determine whether Salva Kiir, as the commander in charge, knew about all the actions of the various security forces or if he or other commanders or close allies gave specific orders to carry out attacks on Nuer civilians

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<sup>204</sup> See Prosecutor v. Kupreskic et al., ICTY Judgment, January 14, 2000, para. 556.

<sup>205</sup> See Kupreskic et al., ICTY Trial Chamber, January 14, 2000, para. 556: "[T]he requisite mens rea for crimes against humanity appears to be comprised by (1) the intent to commit the underlying offence, combined with (2) knowledge of the broader context in which that offence occurs." See also Tadic, ICTY Appeals Chamber, para. 271; Kayishema and Ruzindana, ICTR Trial Chamber, May 21, 1999, paras. 133-134.

<sup>206</sup> According to a senior SPLA official, Major Maluak Majok, was directly in charge of PG around the presidency during the Juba crisis.

<sup>207</sup> HRW Interview senior military official, name withheld, April 4 2014. These men later escaped detention (see below).

during the crackdown. Several military officials from different ethnicities have emphasized that instructions by Kiir's closest supporters may have been given to forces outside formal army command and control structures.

## **The Importance of Preventing Amnesties and Options for Providing Accountability**

South Sudan has a history of *de facto* blanket amnesties as part of peace deals, including when leaders have allegedly committed serious crimes. International law is clear that war crimes and crimes against humanity should be fairly prosecuted, and amnesties for serious crimes committed in violation of international law should not be allowed. IGAD mediators, the two parties and by extension all countries providing funding for and otherwise supporting the peace process should ensure no amnesties are provided for serious crimes and that the parties agree to fair, credible and impartial trials in accordance with international standards as part of the peace process.

South Sudanese, victims but also authorities, civil society and others from all ethnicities have repeatedly told Human Rights Watch that the current conflict is proof that “this time” a significant shift is needed for lasting peace in a country that has not yet seen violence subdued by the rule of law. Justice for serious crimes committed in the new war will not be sufficient for such a change – national healing and truth telling, changes in governance, military reform and greater adherence to the transitional constitution's bill of rights will be crucial as well – but it is necessary.

Trials for serious crimes committed in violation of international law should meet the following benchmarks, which are effectively the same standards that should apply for the trial of any person brought to justice for a serious criminal offense, namely: credible, independent and impartial investigation and prosecution; rigorous implementation of internationally recognized standards of fair trial; and penalties on conviction that are appropriate and reflect the gravity of the crime. The experience of international and hybrid tribunals to date has also shown the significance to fair, effective proceedings of witness protection and support; security for judges, court staff, and defense counsel; victim engagement with the process; and the accessibility of information about trials to local communities.

Timeliness in the delivery of justice is important, especially as much of the violence against civilians in this conflict has taken the form of reprisal attacks for earlier violence and history suggests, if unaddressed, these will spiral further. A serious, timely effort to investigate and prosecute serious crimes would maximize any impetus for commanders to stop further abuse and could also help reduce anger, often manifest in attacks on ethnic groups, which is driving brutality and the conflict.

### *National Accountability Efforts*

South Sudanese authorities should fulfil their legal obligation to investigate alleged war crimes and crimes against humanity, including by members of their armed forces, and prosecute those responsible.<sup>208</sup> However, South Sudan's government has not provided accountability or shown the will to make any credible efforts in this direction. Nor has the opposition. Riek has said he will investigate crimes committed by his forces but told Human Rights Watch in June that no serious investigations had yet been possible, including after the killings by opposition forces in Bentiu in mid-April. As far as Human Rights Watch knows no soldier has been punished for committing abuses.<sup>209</sup>

The government has promised accountability for violations in Juba many times. President Kiir has acknowledged that ethnic targeting and killings took place in Juba and said in a speech on December 25, 2013, that those responsible would be punished.<sup>210</sup> Several investigations have been set up to look into the Juba killings, but none have produced any public report or statement.<sup>211</sup> Investigators – or South Sudan's parliament - should call

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<sup>208</sup> See ICRC, Customary International Humanitarian Law, rule 158 citing ICC Statute, preamble.

<sup>209</sup> Nasir Declaration. On file with Human Rights Watch.

<sup>210</sup> Salva Kiir's message was based on a press statement issued by the Office of the President on December 24, 2013. [http://www.sudantribune.com/IMG/pdf/president\\_salva\\_kiir\\_christmas\\_message.pdf](http://www.sudantribune.com/IMG/pdf/president_salva_kiir_christmas_message.pdf) (accessed May 16, 2014). President Salva Kiir did not acknowledge that government forces had targeted and killed members of the Nuer ethnicity in this speech.

<sup>211</sup> Two government investigations were initiated in early January to investigate the alleged coup and the killing of innocent civilians. After the police had already announced their own investigation, President Salva Kiir formed an eight-man committee the "Investigation Committee to Investigate on Human Rights Abuses in the Attempted Coup of 15<sup>th</sup> December 2013" by republican order, headed by a judge, John Wol Makec. The decree states that the committee is to investigate human rights abuses by government and opposition forces across the conflict area. In March Makec told Human Rights Watch he was unable to comment on the structure or mandate of the committee or on any progress, and in July the deputy chairman Yohannes Yor Akol also refused to provide any information about the committee or its work. The committee did place an advert in two newspapers informing the public that the committee was ready to interview witnesses in its Juba office between July 1 and July 24, 2014 and in offices in Bor, Malakal and Bentiu between July 10 and 24, 2014. UNMISS has reported that two other investigations into the killings in Juba – neither which appear to have produced any results – were also established in February. According to UNMISS, a general court martial order that refers to "rampant looting and theft" by soldiers on December 15 and 16, was issued on January 23, 2014. By May, the court had still not been convened.



government and military leaders to appear in a public hearing to describe what action they took and what roles they played during the Juba crisis.

The former chief of staff of South Sudan's army, General James Hoth Mai, issued an order on December 21 to arrest a number of members of various armed forces suspected of killing "innocent soldiers and civilians simply because they hail from different tribes." Together with coordination from South Sudan's police force, under the command of the Inspector General of Police (IGP), Pieng Deng Kuol, at least 11 Dinka soldiers, police officers and members of other security forces were arrested and put into military detention in the GHQ. Those arrested included security forces allegedly controlling the Gudele area where the December 16 massacre took place, as well as others arrested for looting and killing civilians in other locations in Juba. However, all but one of these men escaped detention during a gun battle in the GHQ on March 5, 2014. Authorities have been unable to provide any details on efforts to recapture the men, reportedly now at large in the Bahr el Ghazal region.

On December 28, the IGP, General Pieng Deng Kuol, established a five-member committee to investigate allegations of killings of civilians. The IGP told Human Rights Watch in April that a report has been written but not made public.

Separately, the South Sudan Human Rights Commission (SSHRC), a governmental body mandated to monitor and promote human rights, released an interim report on March 18, 2014, that described abuses in Juba, Malakal, Baidi County (Upper Nile state) and in other areas. The report blamed the killings of what the commission estimated was around 600 Nuer civilians in Juba on a loss of control of troops by the army.<sup>212</sup> The SSHRC called on the government to speed up investigations into alleged perpetrators.

Aside from an evident lack of political will to provide the public details about the killings in Juba or accountability for these and other abuses, as a general matter, South Sudan's criminal justice system lacks capacity to try serious crimes committed during this conflict.<sup>213</sup> Cases involving serious crimes tend to be complex and sensitive, and they can

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<sup>212</sup> South Sudan Human Rights Commission, "Interim Report on South Sudan Internal Conflict December 15 2013 to March 15, 2014." March 18, 2014. On file with Human Rights Watch.

<sup>213</sup> On March 11, 2014, the government did open a case against four of the eleven politicians accused of helping Riek mastermind the alleged coup. On April 25, 2014, the government dropped the case ostensibly in the interest of

strain even the most robust national systems. The South Sudanese justice system suffers from various weaknesses and challenges upholding due process, and its judiciary has suffered lack of independence from authorities in the government and army and, largely as a result, public trust.<sup>214</sup>

These weaknesses are especially pronounced when abuses by the army are involved. In 2013 civilian prosecutors failed to even begin investigations into numerous alleged cases of unlawful killings of civilians by government forces in Pibor, Jonglei state.<sup>215</sup> Instead, under international pressure, the SPLA began a confusing myriad of at least seven poorly coordinated investigations. Authorities however failed to publish any of the findings including by military judge advocates, enhanced by training and support from the US and from UNMISS, and research by Human Rights Watch indicated a clear lack of seriousness at senior levels of the SPLA about the investigations.<sup>216</sup> These failures bode badly for the possibility of the SPLA providing meaningful accountability: the Pibor conflict was far smaller and less politically contentious than the new war that has only further eroded the powers of civilian government and accountability within the army.

Justice and meaningful national healing are made more difficult in the growing atmosphere of fear and restrictions on free speech and on the media. South Sudan's government should end harassment of journalists especially by the National Security Service and ensure long-delayed media laws--including a freedom of information bill--to protect

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"reconciliation," and the four men were released. That this is the only effort made so far to prosecute alleged criminals during this conflict only underlines the lack of political will to hold others to account by the government.

<sup>214</sup> Some of the many problems include an under-trained and under-funded police service, a complicated plural legal system of both statutory and traditional courts which lack reach into many areas, a lack of legal aid, lack of witness protection services. Knowledge even of South Sudan's own Penal Code and Criminal Procedure Code and of international law, including the laws of war, is limited. South Sudan has also not formally acceded to any of the major international human rights instruments, (although the parliament has ratified the Convention Against Torture and the African Charter on Human and People's Rights 1981) and so it is unclear how minimum standards in these laws could be applied in South Sudan. Statutory courts are understaffed, with only 125 of 250 judges in place, for example, in 2012. For a more detailed description of South Sudan's criminal justice system see: "*Prison is Not For Me: Arbitrary Detention in South Sudan*", June 2012, <http://www.hrw.org/reports/2012/06/21/prison-not-me>.

<sup>215</sup> South Sudanese law clearly states prosecution of perpetrators of crimes against civilians falls to the civilian justice system. See section 37 (4) of SPLA Act 2009: 'Whenever a military personnel commits an offense against a civilian or civilian property, the civil court shall assume jurisdiction over such an offense'. However civilian prosecutors and police investigators have been too afraid to hold soldiers to account for abuses and other alleged crimes like occupying land.

<sup>216</sup> For example, a senior SPLA commander, James Utong, was arrested but military prosecutors failed to provide any evidence or even charges against him when they brought him to a military court. The trial was postponed. Individuals in the committee responsible for collecting further evidence remained ignorant of their allocated task until six weeks after the body was formed under the order of a senior commander. In SPLA investigations into cases of unlawful killings, teams did not travel to the site of the crimes, did not speak to victims and appeared to accept denial of any wrong doing by soldiers at face value.

journalists and freedom of expression are fully implemented. The Minister of Information Michael Makuei Lueth himself has personally intimidated journalists.<sup>217</sup>

The success of a long-awaited national reconciliation process, which may provide another entry point for wider accountability, will also require freedom of expression in South Sudan. South Sudan has never conducted a broad or organized truth telling process. Before the conflict, a planned national reconciliation process had stalled. The process has been revitalized since the crisis and consultation with communities across South Sudan has been planned but has been slow to begin. South Sudanese, including victims, have expressed a strong desire to see politicians and military leaders tell the truth publicly about their role in the violence and some believe this together with intercommunal dialogue could help provide societal healing. How this initiative will do its work, whether it will encourage accountability as one route to reconciliation, and whether it will manage to maintain its independence from the government, remain to be seen. Other South Sudanese victims, officials and civil society members have expressed interest in memorialization as a way to recognize victims and to help communities recover from the pain caused by abuses.

### *International Support for Accountability*

As described above, South Sudan's government has yet to show that it is willing to provide justice where it could do so and is unable to address the scale of the abuse. Fair, credible trials of serious crimes committed even where theoretically possible (for example, in Juba, which has been relatively stable since the conflict began), thus seems unlikely without international support.

On February 21, the UNMISS Human Rights Division released an interim report on human rights abuses followed by a final report on May 9, stating that gross violations of human rights and serious violations of humanitarian law had taken place during the conflict and there are "reasonable grounds" to believe crimes against humanity had occurred. Following this report the UN has recommended that any national process "be complemented by international assistance through a special or hybrid court" both to help

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<sup>217</sup> Makuei has for example told journalists not to interview opposition forces. Committee for the Protection of Journalists, "South Sudan Government Warning: Don't Interview Rebels", March 14, 2014. <http://www.cpj.org/blog/2014/03/south-sudan-government-warning-dont-interview-rebe.php> (accessed May 19, 2014).

ensure that all parties to the conflict are held accountable and to help build the capacity of national institutions. A court that includes national and international personnel, established in South Sudan, has also had support from at least one important civil society organization.<sup>218</sup>

On December 30, the African Union's (AU) Peace and Security Council established a commission to investigate "human rights violations and other abuses committed during the armed conflict in South Sudan" and submit a report within three months.<sup>219</sup> The commission was slow to start its work. On March 7, 2014, the AU announced formation of the commission with former Nigerian President Olusegun Obasanjo at its head. The AUCOI has also said it is "leaning towards" recommending a hybrid court "along the lines of the Extraordinary African Chambers in Senegal (Hissène Habré Tribunal) to be established jointly by the African Union and United Nations should evidence disclose commission of international crimes".<sup>220</sup>

It would be beneficial for South Sudanese to see proceedings done in-country, security permitting, and to be able to participate in the delivery of justice if trials consistent with international standards could be achieved. A court that includes South Sudanese and international participation could also be a way to help build domestic capacity, while helping to insulate the process from political pressure and risks to national judges, prosecutors and witnesses.

At the same time, the success of a hybrid approach will be highly dependent on the willingness by domestic authorities to establish it and support it.

Trials by the International Criminal Court could also be pursued. The ICC was established in 2002 to prosecute genocide, war crimes, crimes against humanity where national authorities are unwilling or unable to prosecute domestically. South Sudan has not ratified the Rome Statute of the ICC, so the situation could only come before the ICC if the

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<sup>218</sup> David Deng, South Sudan Law Society, "Special Court for Serious Crimes (SCSC): A Proposal for Justice and Accountability in South Sudan", May 2014. On file with Human Rights Watch.

<sup>219</sup> African Union Peace and Security Council Communique of the 411<sup>th</sup> Meeting at the Level of Heads of State and Government. December 30, 2013, <http://www.peaceau.org/uploads/psc-com-411-south-sudan-30-12-2013.pdf> (accessed May 16, 2014).

<sup>220</sup> "The AU Commission of Inquiry Undertakes Consultations in Nairobi", African Union, press statement, May 15, 2014. <http://www.au.int/en/content/commission-inquiry-south-sudan-undertakes-consultations-nairobi> (accessed June 13, 2014).

government submitted a declaration voluntarily accepting the court's jurisdiction under article 12(3) of the ICC's Rome Statute, or the UN Security Council referred the situation in South Sudan to the ICC. Establishment of a new ad hoc international court focused on crimes committed in South Sudan is also theoretically possible, but would present a range of political, financial, and logistical difficulties.

The international community can also help press for and provide some accountability through establishing targeted sanctions on key individuals. The US government opened the way for individual sanctions through an executive order by President Barack Obama on April 4. On May 6 the US imposed sanctions against the opposition commander Peter Gadet and the head of the government's presidential guard force, Marial Chanuong. On July 10 the European Union imposed sanctions on Gadet and a government SPLA commander Santino Deng. The AU Peace and Security Council have said they "intend to take appropriate measures including targeted sanctions" on South Sudanese leaders who commit human rights abuses or incite violence and should follow through on this warning.<sup>221</sup> The UN Security Council should also impose sanctions on individuals responsible for serious crimes.

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<sup>221</sup> African Union Peace and Security Council website, "*411<sup>th</sup> Meeting of the Peace and Security Council at the level of Heads of State and Government on the Situation in South Sudan*", December 30, 2013, <http://www.peaceau.org/en/article/411th-meeting-of-the-peace-and-security-council-at-the-level-of-heads-of-state-and-government-on-the-situation-in-south-sudan> (accessed May 18, 2014).

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*“If we have no peace it is because we have forgotten that we belong to each other.”*

– Quote from Mother Teresa posted on Facebook by a South Sudanese civil servant in late December 2013.



Since mid-December 2013, South Sudan has been engulfed in a new civil war in which thousands of people have been killed. Large parts of key towns, including clinics, hospitals, schools and other infrastructure, have been looted and destroyed, and abandoned. An estimated 1.5 million people have been forced to flee their homes, often to places where they face severe food shortages. The potential of famine looms on the horizon. Some 100,000 people are still sheltering in United Nations compounds, too afraid to go home.

*South Sudan's New War: Abuses by Government and Opposition Forces* documents widespread abuse by government and opposition forces and allied forces. The report focuses on Juba, where conflict erupted, and three other main towns where conflict quickly spread, and where civilians have been repeatedly been the victims of war crimes and in some cases potential crimes against humanity.

The report also documents mass destruction and pillage of civilian property and how the parties to this conflict are openly killing civilians on the basis of their ethnicity or presumed allegiances. Attacks have been carried out in reprisal for earlier violence, pitting South Sudan's two largest ethnic groups – Dinka and Nuer -- in a dangerous cycle of brutality that threatens to spin further out of control and envelop other ethnic groups.

Decades of ruthless violence during Sudan's civil war, and brutal cycles of reprisal bloodletting during peacetime, without any form of accountability has helped birth this latest conflict. Human Rights Watch calls on all parties to end these abuses, hold abusive forces accountable, and ensure justice for victims. A commitment to justice for crimes against civilians and national truth telling as part of societal healing, not amnesties, will be critical steps toward lasting peace South Sudan.

*(above) Displaced people arrive in Awerial, Lakes State, by river barge from Bor town in December 2013. Tens of thousands of people fled fighting between government and rebel forces in Bor to an impromptu camp in Awerial or to other locations in South Sudan.*

© 2014 AP Photo/Ben Curtis

*(front cover) Displaced families camped inside the Topping UN base in Juba on December 24, 2013, days after the conflict began.*

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