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Human rights situations that require the Council's attention

Written statement* submitted by the Society for Threatened Peoples, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[13 February 2017]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Impunity in South Sudan

The peace process that formally ended the 2013-2015 civil war in South Sudan has collapsed as a result of on-going human rights violations by all conflict parties. The UN Special Adviser on the Prevention of Genocide, Adama Dieng, warned in November 2016 that “there is a strong risk of violence escalating along ethnic lines, with the potential for genocide”. The former UN Secretary-General Ban Ki-moon warned that a failure of the UN Security Council to stop the crisis would put South Sudan on a “trajectory towards mass atrocities”.

Only swift action can avert a new South Sudan genocide, according to a statement by UN High Commissioner for Human Rights, Zeid Ra’ad al-Hussein in December 2016 in Geneva. Amid warnings of an all-out ethnic civil war, UN human rights experts and human rights organizations have emphasized at the 26th Special Session of the UN Human Rights Council that violence in South Sudan could destabilize the wider East Africa region. The Special Session was requested by 40 countries, underlining the world wide concern for a more effective protection of the civilian population from massive human rights violations. All conflict parties in South Sudan were accused of deliberately ignoring and violating national and international human rights provisions. The scale of sexual violence perpetrated by all sides in the conflict already matches that of the genocide in Bosnia, has declared the Chair of the Commission on Human Rights in South Sudan, Yasmin Sooka. The African Union (AU) Special Envoy on women, peace and security, Mrs. Bineta Diop, in February 2017 has publicly called for stronger action against gender-based violence in South Sudan.

Many detailed reports by international human rights organizations and the UN High Commission for Human Rights have been published on the massive human rights violations perpetrated by all conflict parties in South Sudan. All UN-experts and NGOs highlight the urgent need to end impunity and to strengthen the rule of law and a credible justice system in South Sudan. Furthermore the victims have to be given a voice to provide them an opportunity to be heard in their pain.

The Chapter V of the Agreement on the Resolution to end the Conflict in South Sudan, signed by all conflict parties in August 2015, emphasizes the establishment of a hybrid court by African Union as part of transitional justice mechanisms to address violations committed during the conflict. The hybrid court will be independent from South Sudan’s Supreme Court and it will start its own investigations in crimes against humanity, war crimes and other serious human rights violations. Furthermore the hybrid court should have an independent victims and witness protection unit and include South Sudanese judges and staff.

Despite public statements confirming their commitment to end impunity and to establish the hybrid court by the African Union and the Government of South Sudan, the crucial process has been long delayed. According to the peace agreement, the mandate and the jurisdiction of the hybrid Court should have been finalized within six months of the formation of government of national unity, which was arranged in April 2016. That means that the deadline for the conception of the mandate has expired in October 2016. The hybrid court should then be operational within 12 months of that date, meaning in April 2017. Unfortunately this perspective by no means is realistic anymore, since the government of South Sudan declared in January 2017 that the formation of the hybrid court should be delayed. Many national and international human rights organizations expressed their deepest concern after the South Sudanese Minister of Information, Michael Makuei Lueth, has claimed that establishing the hybrid court would undermine peace. South Sudanese lawyers contradicted the minister and insisted that there will be no sustainable peace without justice.

National and international human rights organizations have been urging the AU to fulfil its legal commitments and to advance with credible initiatives to establish the hybrid court. But unfortunately the question of impunity in South Sudan was given no priority in the discussions on regional peace and stability at the AU Summit in Addis Ababa in January 2017.

Society for Threatened Peoples calls on the UN Human Rights Council to:

- Urge the African Union to prioritize the establishment of a hybrid court for South Sudan and to concentrate their efforts on ending impunity,
 - Urge the UN Security Council to impose targeted sanctions against leading representatives of all conflict parties, responsible for massive human rights violations, and to declare an arms embargo, in order to stop the transfer of new arms to all conflict parties in South Sudan.
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