



General Assembly

Distr.: Limited
19 March 2019

Original: English

Human Rights Council

Fortieth session

25 February–22 March 2019

Agenda item 4

Human rights situations that require the Council's attention

Albania,* Argentina, Australia, Austria, Belgium,* Bulgaria, Canada,* Chile, Croatia, Cyprus,* Denmark, Estonia,* Georgia,* Germany,* Greece,* Guatemala,* Iceland, Ireland,* Italy, Liechtenstein,* Lithuania,* Luxembourg,* Malta,* Netherlands,* Norway,* Romania,* Spain, Sweden,* Switzerland,* United Kingdom of Great Britain and Northern Ireland: draft resolution

40/... Situation of human rights in South Sudan

The Human Rights Council,

Guided by the purposes and principles of the Charter of the United Nations,

Guided also by the Universal Declaration of Human Rights, the African Charter on Human and Peoples' Rights and relevant human rights treaties,

Reaffirming that all human beings are born free and equal in dignity and rights, and that everyone is entitled to all the rights and freedoms set forth in the Universal Declaration of Human Rights,

Recalling Human Rights Council resolutions 34/25 of 24 March 2017 and 37/31 of 23 March 2018, the twenty-sixth special session of the Council, including its resolution S-26/1 of 14 December 2016 on the situation of human rights in South Sudan, and its resolution 31/20 of 23 March 2016, in which the Council established the Commission on Human Rights in South Sudan, and all other previous Human Rights Council and Security Council resolutions and President's statements on South Sudan,

Deeply alarmed by the report of the Commission on Human Rights in South Sudan,¹ in which it noted that some of the human rights violations and abuses may amount to crimes against international law, including war crimes and crimes against humanity, and that the armed conflict and violence in South Sudan includes attacks against civilians, killings, abductions, torture, rape and other forms of sexual and gender-based violence, deliberate denial of food, the looting and destruction of homes and villages, violence against children, the unlawful recruitment and use of children by armed groups, and attacks on schools and hospitals,

Welcoming the joint reports of the Office of the United Nations High Commissioner for Human Rights and the United Nations Mission in South Sudan of July 2018, entitled "Indiscriminate attacks against civilians in southern Unity: April–May 2018", of October 2018, entitled "Violations and abuses against civilians in Gbudue and Tambura states

* State not a member of the Human Rights Council.

¹ A/HRC/40/69.



(Western Equatoria)”, and of February 2019, entitled “Conflict-related sexual violence in northern Unity: September–December 2018”, noting the recommendations contained therein and deeply concerned by their findings,

Welcoming also the reports of the Secretary-General, and expressing grave concern at the findings in his report on children and armed conflict in South Sudan,² and of the Panel of Experts on South Sudan established pursuant to Security Council resolution 2206 (2015) of 3 March 2015 and renewed pursuant to resolution 2428 (2018) of 13 July 2018,

Welcoming further the signing of the Revitalized Agreement on the Resolution of the Conflict in the Republic of South Sudan on 12 September 2018, and calling upon all parties to the agreement to implement it fully with a view to bringing peace, stability and sustainable improvement to the situation in South Sudan,

Urging all parties to the conflict to fully respect the Agreement on Cessation of Hostilities, Protection of Civilians and Humanitarian Access of 21 December 2017 and the permanent ceasefire and transitional security arrangements that came into effect on 1 July 2018, and expressing concern at ongoing violations of the permanent ceasefire,

Noting all relevant decisions and communiqués of the African Union and the Intergovernmental Authority on Development, and the communiqués of the Peace and Security Council of the African Union of 26 April and 10 October 2018, in which the Council, inter alia, re-emphasized its request to the Government of South Sudan and the African Union Commission to accelerate the establishment of the hybrid court for South Sudan and called for government efforts to be scaled up in establishing the commission for truth, reconciliation and healing and the compensation and reparation authority as provided for in the Revitalized Agreement,

Welcoming the commitment of the Government of South Sudan to cooperate with the Human Rights Council and its mechanisms, including the universal periodic review and the Commission on Human Rights in South Sudan, and the Office of the High Commissioner,

Expressing grave concern that up to 6.2 million South Sudanese people are classified as food insecure by the International Food Security Phase Classification and that 1.9 million are internally displaced within South Sudan and approximately 2.3 million are displaced outside the country according to statistics of the Office for the Coordination of Humanitarian Affairs, noting that the humanitarian crisis is caused primarily by armed conflict, deeply concerned by the targeting and occupation of schools and hospitals by parties to the conflict, commending humanitarian agencies for their continued assistance to the affected populations, and recalling the need for all parties to the conflict to allow and facilitate the full, safe, rapid and unhindered access of relief personnel, equipment and supplies free of unnecessary duties and taxes and the timely delivery of humanitarian assistance to all those in need, in particular to internally displaced persons and refugees, based on the United Nations guiding principles of humanitarian assistance, including humanity, neutrality, impartiality and independence,

Noting the return of some internally displaced persons and refugees,

Emphasizing the inviolability of United Nations premises, and underlining that targeting civilians and attacks against United Nations missions may constitute war crimes,

Condemning in the strongest terms all attacks against humanitarian personnel and facilities, which have resulted in the death of at least 112 humanitarian personnel since December 2013, including 14 in 2018 alone, and expressing grave concern for the civilians who sought safety in protection-of-civilians sites who have been attacked, killed, traumatized or displaced, at the serious damage caused to the sites, including to medical clinics and schools, which were burned down and destroyed, and at sexual and gender-based violence committed against women and girls exiting protection-of-civilians sites,

Emphasizing that States have the primary responsibility for the promotion and protection of human rights, and recalling that the Government of South Sudan has the

² S/2018/865.

responsibility to protect all of its population in the country from genocide, war crimes, ethnic cleansing and crimes against humanity,

Gravely concerned about ongoing reports of widespread sexual and gender-based violence committed against women and girls and instances of conflict-related rape and gang rape, used as a weapon against the civilian population, including the rape of women and girls near Bentiu, coupled with beatings, abductions, sexual slavery and forced marriage, and recognizing the urgency and importance of timely investigations and timely assistance and protection for survivors of sexual and gender-based violence, including sexual and reproductive health, psychosocial, legal and livelihood support and other multisectoral services for survivors of sexual and gender-based violence, including working with communities to reintegrate those affected by sexual and gender-based violence, and taking into account the specific needs of persons with disabilities,

Emphasizing the importance of good governance and the rule of law as key elements of conflict prevention, peacekeeping, conflict resolution and peacebuilding, and stressing the responsibility of the Government of South Sudan to promote and protect democratic space in South Sudan, including through freedom of expression, of peaceful assembly and of association and by preventing attacks on and harassment of journalists, media workers and human rights defenders, in the interest of fostering an open and inclusive political environment that supports sustainable peace,

Expressing concern at continued impunity in South Sudan, while noting that the prosecution and conviction of members of the national armed forces for the killing of a journalist and rape of humanitarian aid workers at the Terrain Hotel in July 2016 represents a step towards greater justice and accountability in South Sudan, and that the parties to the Revitalized Agreement have re-endorsed the transitional justice mechanisms in its chapter V,

Noting the establishment of investigation committees at the national and state levels to investigate violations of human rights and international humanitarian law and stressing the need for these committees to produce credible, accurate and public reports while respecting the rights of survivors and victims,

Recognizing that transitional justice mechanisms are important elements in a national reconciliation process as they, inter alia, address accountability, reparations, truth-seeking and guarantees of non-recurrence, emphasizing the importance of the agreed principles for transitional justice and the establishment of the hybrid court for South Sudan, the commission for truth, reconciliation and healing and the compensation and reparation authority, as outlined in chapter V of the Revitalized Agreement, and underlining the role that domestic, regional and international accountability mechanisms can play in assisting South Sudan to ensure accountability,

Recognizing also the importance of an inclusive political process, and noting that the steps taken to unify the Sudan People's Liberation Movement could be a part of that process,

1. *Condemns in the strongest possible terms* the ongoing violations and abuses of human rights and violations of international humanitarian law in South Sudan, including those involving the targeted killing of civilians and widespread sexual and gender-based violence, including rape and gang rape, which continue to be used as a weapon of war, the recurring unlawful recruitment and use of children by armed groups, arbitrary arrests and detention, torture, the arbitrary denial of humanitarian access and attacks on schools, places of worship, hospitals and United Nations and associated peacekeeping personnel by all parties, and the impunity for such violence by all armed groups, and condemns the harassment and violence directed at civil society, human rights defenders, humanitarian personnel and journalists;

2. *Stresses* that those responsible for violations and abuses of human rights and violations of international humanitarian law, including any that amount to war crimes or crimes against humanity, should be held accountable, with a view to ending impunity and ensuring redress, while affording fair trial protections to the accused and supporting victims and protecting potential witnesses before, during and after legal proceedings;

3. *Demands* that all parties to the conflict put a halt to all violations and abuses of human rights and all violations of international humanitarian law, and strongly calls upon

the Government of South Sudan to ensure the protection and promotion of human rights and fundamental freedoms;

4. *Notes with appreciation* the report of the Commission on Human Rights in South Sudan,¹ and the recommendations contained therein;

5. *Recognizes* the important role and efforts of the Intergovernmental Authority on Development in bringing parties together to work towards a peaceful resolution to the conflict, supporting the inclusion of civil society, women and youth in the negotiations and securing the Revitalized Agreement on the Resolution of the Conflict in the Republic of South Sudan;

6. *Also recognizes* the important role of the Reconstituted Joint Monitoring and Evaluation Commission and the Ceasefire and Transitional Security Arrangements Monitoring and Verification Mechanism in supporting the implementation of the Revitalized Agreement and its ceasefire provisions, and urges all parties and international partners to engage constructively with all the bodies created pursuant to the Revitalized Agreement;

7. *Further recognizes* the importance of an inclusive process for national dialogue and the implementation of the Revitalized Agreement, and urges all parties and international partners to engage constructively with the African Union Commission, the African Union High Representative for South Sudan and the bodies created pursuant to the Revitalized Agreement;

8. *Urges* the Government of South Sudan to strengthen efforts to protect and promote the rights to freedom of expression, peaceful assembly and association in accordance with its international human rights obligations, and, inter alia, to ensure that members of civil society organizations and the media can operate freely and without intimidation;

9. *Strongly urges* all parties to end and prevent violations and abuses of human rights committed against children, and calls upon all parties to end immediately the unlawful recruitment and use of children by armed groups and to release all children that have been unlawfully recruited to date;

10. *Recognizes* the important role that women play in building peace, and calls for the protection and promotion of the rights of women and their empowerment and participation in peacebuilding, conflict resolution, post-conflict processes and humanitarian responses, in accordance with Security Council resolution 1325 (2000) of 31 October 2000 and subsequent resolutions on women, peace and security, including Council resolution 2242 (2015) of 13 October 2015;

11. *Emphasizes* the need for the Government of South Sudan to ensure the effective and meaningful participation of women during all stages and in all structures envisaged in the Revitalized Agreement, and for all parties to the Agreement to meet their commitments regarding women's representation and to have regard to the need to ensure balance in the representation of youth, gender and national and regional diversity in their appointments;

12. *Supports* the establishment of transitional justice institutions, and calls upon all parties to cooperate fully in the implementation of the Revitalized Agreement, including the establishment of the commission for truth, reconciliation and healing, the hybrid court for South Sudan and the compensation and reparation authority, as outlined in its chapter V;

13. *Notes with appreciation* that the Government of South Sudan has cooperated with the Office of the United Nations High Commissioner for Human Rights, the special procedures of the Human Rights Council and the Commission on Human Rights in South Sudan in the fulfilment of its mandate, including by authorizing travel to and within the country and providing meetings and relevant information, and calls upon the Government to cooperate fully and constructively with and to provide unhindered access to them, as well as to the United Nations Mission in South Sudan, and regional, subregional and international mechanisms on the ground;

14. *Recognizes* that continued cooperation and engagement by the Government of South Sudan with the Commission on Human Rights in South Sudan, and an improved human rights and security situation in accordance with international standards, should inform

future consideration of South Sudan by the Human Rights Council, including the appropriate agenda item pertaining thereto;

15. *Reaffirms* the importance of the mandate of the Commission on Human Rights in South Sudan, with continued emphasis on the need to establish the facts and circumstances of alleged violations and abuses of human rights with a view to ensuring that those responsible are held to account, and welcomes the recommendations made by the Commission on ending impunity and ensuring accountability;

16. *Decides* to extend the mandate of the Commission on Human Rights in South Sudan, composed of three members, for a period of one year, renewable as authorized by the Human Rights Council, with the following mandate:

(a) To monitor and report on the situation of human rights in South Sudan, and to make recommendations to prevent deterioration of the situation with a view to its improvement;

(b) To determine and report the facts and circumstances of, to collect and preserve evidence of, and to clarify responsibility for alleged violations and abuses of human rights and related crimes, including sexual and gender-based violence and ethnic violence, with a view to ending impunity and providing accountability, and to make such information available also to all transitional justice mechanisms, including those to be established pursuant to chapter V of the Revitalized Agreement, including the hybrid court for South Sudan, once established in cooperation with the African Union;

(c) To report on the factual basis for transitional justice and reconciliation;

(d) To provide guidance on transitional justice, including accountability, reconciliation and healing, as appropriate, and to make recommendations on technical assistance to the Government of South Sudan to support accountability, reconciliation and healing;

(e) To engage with the Government of South Sudan, international and regional mechanisms, including the United Nations, the United Nations Mission in South Sudan and the African Union, including by building upon the work of the African Union Commission of Inquiry on South Sudan and African Commission on Human and Peoples' Rights, the Intergovernmental Authority on Development, including the Partners Forum, the Chair of the Reconstituted Joint Monitoring and Evaluation Commission and civil society, with a view to promoting accountability for human rights violations and abuses committed by all parties;

(f) To make recommendations on technical assistance and capacity-building, including to law enforcement institutions, on the promotion and protection of human rights and fundamental freedoms, including on addressing sexual and gender-based violence;

17. *Urges* the Government of South Sudan, through its Ministry of Gender, Child and Social Welfare, to intensify efforts to halt violations and abuses particularly against women and children, including sexual and gender-based violence, and to provide for all forms of assistance for and protection and reintegration of survivors;

18. *Requests* the Office of the High Commissioner to provide the full administrative, technical and logistical support necessary to enable the Commission on Human Rights in South Sudan to carry out its mandate, including computer software to support the Commission's evidence collection function, and resources for strengthening the Commission's resources in relation to communications- and media-related tasks;

19. *Also requests* the Commission on Human Rights in South Sudan to present an oral update to the Human Rights Council at its forty-second session in an interactive dialogue, and to present a comprehensive written report to the Council at its forty-third session in an interactive dialogue;

20. *Further requests* the Commission on Human Rights in South Sudan to submit its report and recommendations to the Human Rights Council and then to share them with the African Union and all relevant organs of the United Nations, including the United Nations Mission in South Sudan;

21. *Decides* to remain seized of the matter.