



**“IF YOU DON’T COOPERATE,  
I’LL GUN YOU DOWN”**

CONFLICT-RELATED SEXUAL VIOLENCE AND IMPUNITY  
IN SOUTH SUDAN

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**Cover illustration:** In South Sudan, Conflict-related sexual violence that is still ongoing is facilitated by guns. Impunity for rape and other forms of CRSV is still the norm and there are no protection mechanisms for survivors, witnesses, and judicial actors. © Amnesty International

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# ABBREVIATIONS

ACERWC	African Committee of Experts on the Rights and Welfare of the Child
ACHPR	African Charter on Human and Peoples' Rights
ACHPR	African Commission on Human and Peoples' Rights
ARCSS	Agreement on the Resolution of the Conflict in the Republic of South Sudan
AU	African Union
AUPSC	African Union Peace and Security Council
AUCISS	African Union Commission of Inquiry on South Sudan
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment of Punishment
CEDAW	Convention on the Elimination of all Forms of Discrimination Against Women
CHRSS	Commission on Human Rights in South Sudan
CRSV	Conflict-related sexual violence
CRA	Compensation and Reparation Authority
CRC	Convention on the Rights of the Child
CTRH	Commission for Truth, Reconciliation and Healing
JDB	Joint Defence Board
GBV	Gender-Based Violence
HCSS	Hybrid Court for South Sudan
HRD	Human Rights Defender
NAS	National Salvation Front
NGO	Non-governmental Organization
NSS	National Security Service
OHCHR	Office of the High Commissioner for Human Rights
R-ARCSS	Revitalized Agreement on the Resolution of the Conflict in the Republic of South Sudan
RTGoNU	Revitalized Transitional Government of National Unity
SGBV	Sexual and Gender-Based Violence
SPLA	Sudan People's Liberation Army
SPLM/A-IO	Sudan People's Liberation Movement/Army in Opposition
SRSG-SVC	Special Representative of the Secretary General on Sexual Violence in Conflict
SSNPS	South Sudan National Police Service
SSPDF	South Sudan People's Defense Forces
UN	United Nations
UNFPA	United Nations Population Fund
UNMISS	United Nations Mission in South Sudan
UNSC	United Nations Security Council
WHRD	Woman Human Rights Defender

# 1. EXECUTIVE SUMMARY

**“They will say if you don’t comply with me, if you don’t cooperate, I’ll gun you down. So, we fear, we have to accept what they want.”**

Keji (pseudonym), CRSV survivor, 5 March 2022, Central Equatoria State.

Conflict-related sexual violence (CRSV) has been a persistent feature of the conflict that broke out on 15 December 2013 and that spread to South Sudan’s Greater Equatoria region following the collapse of the 2015 peace agreement in July 2016. All parties to the conflict, their allied militias, as well as a non-state armed group that did not sign the 2018 revitalized peace agreement, have committed sexual violence that violates international humanitarian law and constitutes war crimes. CRSV in South Sudan is grounded in historical and pervasive gender inequality, discrimination against women and a patriarchal and militarized society in which women and girls are subordinate to men and boys.

In 2014, the UN Secretary General listed the army, police, the Sudan People’s Liberation Army-In Opposition (SPLA-IO) – the main armed opposition group – and other armed groups as parties suspected of committing, or being responsible for, patterns of sexual violence in conflict situations on the UN Security Council’s agenda. This started a process culminating in the January 2021 adoption of the Action Plan for the Armed Forces on addressing conflict-related sexual violence in South Sudan (2021 action plan) by the Joint Defence Board (JDB) – a body established under the peace deal composed of security actors.

On 28 May 2021, the UN Security Council renewed the arms embargo on the territory of South Sudan that it established in 2018 and set the implementation of the AP CRSV as a benchmark against which renewal of the arms embargo would be reviewed in May 2022. In this report, Amnesty International sets out that pillars four and five of the AP CRSV, containing activities aimed at enhancing accountability and protection of witnesses, victims and judicial actors, are insufficiently implemented for the benchmark to have been met. The organization calls on the UN Security Council to renew the arms embargo.

South Sudan’s legal framework does not effectively address CRSV. The 2008 Penal Code remains unamended and does not include war crimes or crimes against humanity, defines rape in a limited manner, and does not contain command responsibility as a mode of criminal liability. South Sudan has not completed the ratification of the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (the Maputo Protocol) and has not ratified the African Charter on the Rights and Welfare of the Child (African Children’s Charter). South Sudanese authorities should review its legal framework as it relates to CRSV to ensure it is compliant with the country’s obligations under international human rights and humanitarian law.

Prosecution of suspects of CRSV remains the exception and impunity the norm. A handful of sexual violence cases committed by state security actors against civilians have been tried in military and civilian courts, but these do not match the high number of cases. To the best of Amnesty International’s knowledge, no case has been prosecuted as a war crime or torture. Military courts lack jurisdiction over crimes against civilians committed by the army and lack independence, in part because the President has veto power over verdicts

and sentences passed by court martials. Amnesty International's research found no evidence of collaboration between the civilian and military justice systems that would enable a transition to prosecution of crimes committed against civilians exclusively in the civilian courts in the near future, as required by South Sudanese law. In addition, South Sudanese authorities continued to block the establishment of the Hybrid Court for South Sudan (HCSS), thus failing to create another justice avenue for survivors outside of national courts. Amnesty International calls on the South Sudanese authorities to sign the Memorandum of Understanding for the HCSS and on the African Union Peace and Security Council (AU PSC) to follow-up on previous calls to the South Sudanese authorities to establish the HCSS.

Amnesty International found no evidence of significant progress as it relates to the protection of victims, witnesses and judicial actors. This lack of protection also extends to human rights defenders working on gender-based violence (GBV) and CRSV. Amnesty International calls on the South Sudanese authorities to establish a victim and witness protection programme, ensure meaningful participation of survivors in its creation and allow civil society to operate freely, speak critically, and to document and investigate CRSV.

Amnesty International's research found that copies of the 2021 action plan are not easily accessible and awareness about it close to non-existent among survivors and most civil society members interviewed. This suggests implementation of the 2021 action plan is not survivor-centred despite international human rights law's requirement that victims and survivors should be able to participate in state decision-making processes on matters affecting them. Amnesty International urges the Government of South Sudan to raise more awareness about the AP CRSV beyond the armed forces and ensure the meaningful participation of survivors in the implementation and monitoring of the 2021 action plan.

The prevalence of CRSV is hard to estimate, given that sexual violence is generally under-reported due to fear and stigma. Amnesty International interviewed 13 survivors of CRSV and documented two cases of sexual violence which may be conflict-related, including rape, gang rape, and sexual slavery. Perpetrators included government soldiers, a member of the National Security Service (NSS), members of non-state armed groups, and unidentified armed and unarmed men, including teenage boys. The cases dated from 2016 to February 2022. Amnesty International's identification of survivors of CRSV whose cases were undocumented, despite numerous reports on CRSV in the Greater Equatoria region since July 2016, highlights that the scale of these crimes is bigger than what has been documented. There is still acute need for comprehensive and effective investigations and prosecutions and a holistic government response to meet the wide array of victims' needs.

This report also exposes how guns are used to facilitate CRSV. Nine CRSV survivors told Amnesty International that their perpetrators raped them at gunpoint and threatened to kill them or their relatives with their gun if they did not comply.

CRSV has far-reaching consequences for a survivors' physical, sexual and reproductive and mental health. Survivors described to Amnesty International feeling depressed and having trouble sleeping. Survivors also described the stigma that is associated with CRSV and which forms a significant obstacle to reporting, preventing them from accessing critical services and seeking justice. The Government of South Sudan has chronically underinvested in health services and services are almost exclusively offered by non-governmental organisations (NGOs). Despite the need, availability and accessibility of mental health and psychosocial support services remains extremely limited. Amnesty International urges the Government of South Sudan to commit to the Abuja Declaration and progressively allocate at least 15 percent of the national budget to health.

In terms of the government's efforts to address CRSV, the report's scope is focused on two pillars of the 2021 action plan and concentrates on assessing the South Sudanese's efforts to prosecute CRSV and protect survivors, witnesses and judicial actors. It is based on 65 interviews. 30 interviews were conducted in South Sudan's Central Equatoria State in February and March 2022 with survivors' family members, South Sudanese civil society members working on CRSV, doctors who treated survivors of sexual violence, faith-based leaders, lawyers, a prosecutor, a judge, a member of the South Sudan People's Defence Forces (SSPDF), international NGO and UN staff working in South Sudan's justice sector and/or on CRSV and Sexual and Gender-Based Violence (SGBV) issues. Amnesty International also interviewed 35 women and girls affected by the conflict and reviewed documents including court verdicts, command orders, communiqués, resolutions, general comments, laws and conventions, the AP CRSV, media articles, and reports by the United Nations (UN), African Union (AU), and civil society organizations. The recommendations in the report include aspirations of the CRSV survivors that Amnesty International interviewed.

Amnesty International wrote to the South Sudanese government on 18 April 2022 to share the key findings of this research and to seek their response. The Ministry of Gender, Child and Social Welfare responded on

26 April 2022 and their response is reflected in the report. All other letters remained unanswered at the time of writing.

# 2. METHODOLOGY

This report is based on research by two Amnesty International female researchers in Central Equatoria State, South Sudan in February and March 2022. The geographical scope of the research covers the Greater Equatoria region in southern South Sudan, with a focus on Central Equatoria State. The research into government efforts to address CRSV covered January 2020 – February 2022 and focused on two pillars of the 2021 action plan and concentrates on assessing the South Sudanese’s efforts to prosecute CRSV and protect survivors, witnesses and judicial actors.

Amnesty International interviewed 65 people, including 35 women and girls affected by the conflict that spread to Central Equatoria State following the collapse of the Agreement for the Resolution of the Conflict in the Republic of South Sudan (ARCSS) in July 2016. Of these women, 15 were female survivors<sup>1</sup> of sexual violence that occurred within the conflict areas, comprising 13 individuals who experienced CRSV<sup>2</sup> and two cases of sexual violence which may be conflict-related. The incidents ranged from 2016 to February 2022. Except for one, all interviewees self-identified as members of one of Greater Equatoria’s many ethnic groups. All survivors had received psycho-social counselling before the interview and had these services available to them afterwards. None of them had been interviewed before. Survivors were informed about the possibility to share their testimony with Amnesty International researchers. All survivors Amnesty International researchers spoke to, proactively came to them. Researchers ensured that interviewees understood the purpose of the interview and how the information would be used. All interviewees consented to being interviewed and referenced in the report. Almost all interviews with survivors were conducted in Arabic and translated by two female translators into English.

Amnesty International also interviewed 30 other people, including South Sudanese civil society members and human rights defenders working on CRSV and SGBV and faith-based leaders, survivors’ family members, lawyers, a prosecutor, a judge, and a member of the SSPDF, international NGO and UN staff working in South Sudan’s justice sector and/or on CRSV and SGBV issues. Amnesty International also interviewed doctors who treated survivors of sexual violence. 12 of these were women. All interviews were in English and took place individually, except for four private meetings with family of victims, lawyers and UN staff.

Amnesty International also examined court documents and reviewed 88 reports by UN and AU bodies, intergovernmental and NGOs published between 1994 and 2022, communiqués, resolutions, general comments, laws and conventions, and media articles published between 2014 and 2022.

Amnesty International sent letters summarizing the report’s preliminary findings and requesting a response to the Minister of Presidential Affairs in South Sudan’s Office of the President, the Minister of Justice and Constitutional Affairs, the Chief Justice of South Sudan, the Minister of Gender, Child and Social Welfare, the Minister of Defense and Veterans Affairs, the Chief of Staff of the SSPDF, the Director of the SSPDF’s

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<sup>1</sup> Whilst international human rights law uses the term “victim”, Amnesty International will use the term “survivors” in this report when referring to individuals who were subjected to conflict-related sexual violence to acknowledge their agency and not define them by the harm that they have experienced.

<sup>2</sup> For purposes of this research, Amnesty International used the definition of CRSV as provided by the UNSRSG Sexual Violence in Conflict who defines CRSV as: “The term “conflict-related sexual violence”, as used in the present report, refers to rape, sexual slavery, forced prostitution, forced pregnancy, forced abortion, enforced sterilization, forced marriage, and any other form of sexual violence of comparable gravity perpetrated against women, men, girls or boys that is directly or indirectly linked to a conflict. This link may be evident in the profile of the perpetrator, who is often affiliated with a State or non-State armed group, including those designated as terrorist groups by the United Nations; the profile of the victim, who is frequently an actual or perceived member of a persecuted political, ethnic or religious minority, or targeted on the basis of actual or perceived sexual orientation or gender identity; a climate of impunity, which is generally associated with State collapse; cross-border consequences, such as displacement or trafficking; and/or violations of the provisions of a ceasefire agreement. The term also encompasses trafficking in persons for the purpose of sexual violence and/or exploitation, when committed in situations of conflict.” UN Secretary General (UNSG), Report: *Conflict-related sexual violence*, 29 March 2022, UN Doc. S/2022/272, para. 4.



Directorate of Military Justice, and the Commander in Chief of the SPLA-IO on 18 April 2022. On 26 April, Amnesty International received a response from the Minister of Gender, Child and Social Welfare. The answers, where they relate specifically to CRSV, are reflected throughout the report. All other letters remain unanswered at the time of writing.

Amnesty International thanks everyone who took part in the research. For some, this was at personal risk. Names and other identifying details, including locations of the interviews and incidents, have been omitted to protect identities of interviewees.

# 3. BACKGROUND

Conflict-related sexual violence has been a consistent feature of the conflict that broke out in South Sudan on 15 December 2013. Two and a half years after South Sudan gained independence in July 2011, soldiers loyal to President Salva Kiir Mayardit and then Vice President Riek Machar Teny Dhurgon clashed in the country's capital, igniting an armed conflict between the Sudan People's Liberation Army (SPLA), the national army, and armed opposition groups including the SPLA-IO.

All parties to the conflict, their allied militias as well as non-state armed groups who refused to sign the 2018 Revitalized Agreement on the Resolution of the Conflict in the Republic of South Sudan (R-ARCSS) have committed sexual violence, including rape and gang rape, sexual slavery, sexual mutilation including castration, and forced pregnancy.<sup>3</sup>

Throughout the course of the conflict, Amnesty International has documented acts of sexual violence that violate international humanitarian law and constitute war crimes.<sup>4</sup> The African Union Commission of Inquiry on South Sudan (AUCISS), the United Nations Mission in South Sudan (UNMISS) and the Office of the High Commissioner for Human Rights (OHCHR) have described sexual violence being committed in a widespread and systematic way, concluding that it may in some cases amount to crimes against humanity.<sup>5</sup>

Sexual violence does not take place in isolation and is often committed alongside other violations such as abductions, killing of civilians, looting and destruction of civilian property, forced displacement, use of child soldiers, arbitrary detention, and torture and other forms of ill-treatment. Most recently, in March 2022, after two years of investigating and analysing patterns and root causes of CRSV, the Commission on Human Rights in South Sudan (CHRSS or Commission) found four patterns that drive sexual violence in South Sudan, namely "attacks linked to military and political objectives; sexual and other forms of abusive exploitation of women and girls who are abducted by members of armed groups; a culture of entitlement to women and girls as the spoils of conflict, and criminal acts carried out by armed actors in the prevailing context of ongoing conflict, lawlessness and impunity."<sup>6</sup> It also found that armed groups have used sexual

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<sup>3</sup> AU Commission of Inquiry on South Sudan, Final report of the African Union Commission of Inquiry on South Sudan, 15 October 2014, [auciss.final.report.pdf \(peaceau.org\)](#); Amnesty International, "Do not remain silent": Survivors of sexual violence in South Sudan call for justice and reparations (Index: AFR 65/6469/2017, 14 July 2017, [South Sudan: "Do not remain silent": Survivors of sexual violence in South Sudan call for justice and reparations - Amnesty International](#); Commission on Human Rights in South Sudan (CHRSS), Conference room paper: *Conflict-related sexual violence against women and girls in South Sudan*, 21 March 2022, UN Doc. A/HRC/49/CRP.4; Amnesty International, *Nowhere Safe: Civilians under Attack in South Sudan* (Index: AFR 65/003/2014), 8 May 2014, [South Sudan: Nowhere safe: Civilians under attack in South Sudan - Amnesty International](#); Amnesty International, "We Are Still Running": *War Crimes in Leer, South Sudan* (Index: AFR 65/4486/2016), 28 July 2016, [South Sudan: 'We are still running': War crimes in Leer, South Sudan - Amnesty International](#); Amnesty International, "We did not believe we would survive": *Killings, Rape and Looting in Juba*, (Index: AFR 65/5028/2016), October 2016, [South Sudan: "We did not believe we would survive": Killings, rape and lootings in Juba - Amnesty International](#); Amnesty International, "Anything that was breathing was killed": *War crimes in Leer and Mayendit, South Sudan* (Index: AFR 65/8801/2018), 18 September 2018, [www.amnesty.org/en/documents/afr65/8801/2018/en/](#)

<sup>4</sup> Amnesty International, "Do not remain silent": *Survivors of sexual violence in South Sudan call for justice and reparations* (Index: AFR 65/6469/2017, 14 July 2017, [South Sudan: "Anything that was breathing was killed" - War crimes in Leer and Mayendit, South Sudan - Amnesty International](#)

<sup>5</sup> AU Commission of Inquiry on South Sudan, Final report of the African Union Commission of Inquiry on South Sudan, 15 October 2014, para. 809, [auciss.final.report.pdf \(peaceau.org\)](#); UN Mission in South Sudan (UNMISS), *Conflict in South Sudan: A Human Rights Report, 8 May 2014* | UNMISS ([unmissions.org](#)); Office of the UN High Commissioner for Human Rights (OHCHR), Report: *Assessment mission by the OHCHR to improve human rights, accountability, reconciliation and capacity in South Sudan: detailed findings*, 10 March 2016, UN Doc. A/HRC/31/CRP.6, para. 161.

<sup>6</sup> CHRSS, Conference room paper: *Conflict-related sexual violence against women and girls in South Sudan*, 21 March 2022, UN Doc. A/HRC/49/CRP.4, para. 122.

violence as a tactic of warfare in South Sudan, including forceful displacement of opposing ethnic groups, to build and sustain their forces, and to control local populations.<sup>7</sup>

In 2008, the United Nations Security Council (UNSC) recognized sexual violence as a security issue that can be used “as a tactic of war to humiliate, dominate, instil fear in, disperse and/or forcibly relocate civilian members of a community or ethnic group.”<sup>8</sup> Sexual violence has been referred to as a weapon of war in South Sudan’s conflict that erupted in December 2013<sup>9</sup>, implicating all parties to the conflict in committing sexual violence.<sup>10</sup> In its letter responding to the research findings, the Ministry of Gender, Child and Social Welfare acknowledges that “sexual violence has been used as a weapon of war in South Sudan, to the point that SGBV is comparable to an epidemic.”<sup>11</sup>

CRSV is not new in South Sudan. Whilst there is little documented evidence of CRSV during Sudan’s first civil war from 1958 – 1972, literature indicates that during Sudan’s second civil war from 1983 to 2005, the Sudanese Armed Forces, the SPLA, and other armed groups including pro-government militia committed abduction and sexual violence, rape, and sexual slavery.<sup>12</sup> During this period GBV increased among Southern Sudanese communities, including rape, early and forced marriage, and domestic violence.<sup>13</sup> According to a South Sudanese human rights lawyer, this may be related to weakening of family and societal structures and norms – which otherwise may have helped stem GBV – caused by displacement and separation of communities by the conflict, the availability of weapons, diminishing authorities of traditional leaders, the militarization of society, and the failure to punish perpetrators and provide survivors with redress.<sup>14</sup>

CRSV in South Sudan is grounded in historical and pervasive gender inequality and discrimination against women and a patriarchal and militarized society in which women and girls are subordinate to men and boys.<sup>15</sup> Despite being prohibited by the 2011 Transitional Constitution<sup>16</sup> and the 2008 Child Act<sup>17</sup>, child, early and forced marriage is pervasive. According to the United Nations Population Fund (UNFPA), “by age 18, 45 per cent of girls are married in South Sudan”.<sup>18</sup> These gender dynamics and perceptions also enable wife inheritance, deny women child custody and matrimonial property rights<sup>19</sup> and create a culture where marital rape is not criminalized.

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<sup>7</sup> CHRSS, Conference room paper: *Conflict-related sexual violence against women and girls in South Sudan*, 21 March 2022, UN Doc. A/HRC/49/CRP.4 paras. 123 and 124.

<sup>8</sup> UN Security Council (UNSC), Resolution 1820, adopted on 19 June 2008, UN Doc. S/RES/1820 (2008)

<sup>9</sup> Voice of America, “UN: Rape Used as a Weapon of War in S. Sudan Conflict”, 23 October 2014, [UN: Rape Used as Weapon of War in S. Sudan Conflict \(voanews.com\)](#); The Star, “Rape as a weapon of war”, 14 December 2015, [UN: Rape Used as Weapon of War in S. Sudan Conflict \(voanews.com\)](#); The New York Times, “Mass Rape, a Weapon of War, Traumatizes South Sudan”, 11 March 2016, [Mass Rape, a Weapon of War, Traumatizes South Sudan - The New York Times \(nytimes.com\)](#); Care, “Rape being used extensively as a weapon of war in South Sudan”, 7 July 2016, [Rape being used extensively as a weapon of war in South Sudan | CARE \(careinternational.org.uk\)](#)

<sup>10</sup> UNSG, Report: Conflict-related sexual violence, 13 March 2014, UN Doc. S/2014/181, paras. 45-49; UNSG, Report: Conflict-related sexual violence, 29 March 2022, UN Doc. S/2022/272, paras. 49-52.

<sup>11</sup> Minister of Gender, Child and Social Welfare of the Republic of South Sudan, Juba, letter to Amnesty International, 26 April 2022, on file with Amnesty International.

<sup>12</sup> UN Special Rapporteur on the Situation of Human Rights in the Sudan, Report, 1 February 1994, UN Doc. E/CN.4/1994/48, para. 121.

<sup>13</sup> Anyieth D’Awol, “‘Sibu ana, sibu ana’ (‘Leave Me, Leave Me’): Survivors of Sexual Violence in South Sudan” in Friederike Bubenzer and Orly Stern, eds., *Hope, Pain and Patience: The Lives of Women in South Sudan*, p. 59-62 in Amnesty International, “Do not remain silent”: *Survivors of sexual violence in South Sudan call for justice and reparations* (Index: AFR 65/6469/2017), 14 July 2017, p. 17, [South Sudan: “Do not remain silent”: Survivors of sexual violence in South Sudan call for justice and reparations - Amnesty International](#)

<sup>14</sup> Anyieth D’Awol, “‘Sibu ana, sibu ana’ (‘Leave Me, Leave Me’): Survivors of Sexual Violence in South Sudan” in Friederike Bubenzer and Orly Stern, eds., *Hope, Pain and Patience: The Lives of Women in South Sudan*, p. 58 in Amnesty International, “Do not remain silent”: *Survivors of sexual violence in South Sudan call for justice and reparations* (Index: AFR 65/6469/2017, 14 July 2017, p. 17, [South Sudan: “Do not remain silent”: Survivors of sexual violence in South Sudan call for justice and reparations - Amnesty International](#)

<sup>15</sup> Amnesty International, “Do not remain silent”: *Survivors of sexual violence in South Sudan call for justice and reparations* (Index: AFR 65/6469/2017, 14 July 2017, pg. 18, [South Sudan: “Do not remain silent”: Survivors of sexual violence in South Sudan call for justice and reparations - Amnesty International](#); CHRSS, Conference room paper: *Conflict-related sexual violence against women and girls in South Sudan*, 21 March 2022, UN Doc. A/HRC/49/CRP.4, paras. 27-29; For a general discussion of women’s status in South Sudanese society, see Anyieth D’Awol, “‘Sibu ana, sibu ana’ (‘Leave Me, Leave Me’): Survivors of Sexual Violence in South Sudan” in Friederike Bubenzer and Orly Stern, eds., *Hope, Pain and Patience: The Lives of Women in South Sudan*, pp. 59-62.

<sup>16</sup> Article 15 of the 2011 Transitional Constitution states that: “Every person of marriageable age shall have the right to marry a person of the opposite sex and to found a family according to their respective family laws, and no marriage shall be entered into without the free and full consent of the man and woman intending to marry”. Article 17(4) of the 2011 Transitional Constitution of the Republic of South Sudan defines a child to be “any person under the age of eighteen years”.

<sup>17</sup> Part of the Article 23(1) of the 2008 Child Act of the Republic of South Sudan reads “Every child has the right to be protected from early marriage [...]”. Article 26(1) of the 2008 Penal Code reads: “Every female child has a right to be protected from sexual abuse and exploitation and gender-based violence, including rape, incest, early and forced marriage, female circumcision and female genital mutilation.”

<sup>18</sup> UNFPA, “At risk of rape outside and violence in South Sudan PoC camp – will women and girls ever be safe”, 18 June 2020, [UNFPA ESARO | At risk of rape outside and violence in South Sudan POC camp – will women and girls ever be safe?](#)

<sup>19</sup> Amnesty International, Human Rights Watch, South Sudan Human Rights Defenders Network, *South Sudan: Human rights priorities for the government of South Sudan* (Index: AFR 65/5196/2022), 3 February 2022, [South Sudan: Human rights priorities for the government of South Sudan - Amnesty International](#)

The Comprehensive Peace Agreement (CPA) that brought an end to the second Sudanese civil war in 2005 did not provide for mechanisms to deal with the mass atrocities committed during the conflict,<sup>20</sup> arguably laying the foundations for another two decades of crimes against civilians, including sexual violence.

The 2015 and the 2018 (revitalized) peace agreements provide for a holistic process to address mass atrocities committed since the outbreak of the conflict in 2013 and, for the truth-telling process, since July 2005.<sup>21</sup> Chapter V provides for a Commission for Truth, Reconciliation and Healing (CTRH), a Compensation and Reparations Authority (CRA), and a Hybrid Court for South Sudan to address the legacy of past violence and provide justice, truth and reparations to victims of the conflicts.<sup>22</sup> However, at the time of writing, none of these mechanisms have been established and impunity for crimes under international law continues to be the norm.

The endemic impunity created by the government's failure to prosecute crimes against civilians, granting of blanket amnesties, individual amnesties, and promoting senior government and army officials implicated in violations of human rights and international humanitarian law<sup>23</sup> creates an environment in which crimes under international law, including CRSV, go unpunished and undeterred.

In 2014, the UN Secretary General listed the SSPDF, the SPLA-IO, the South Sudan National Police Service (SSNPS) and other armed groups in the annex to his annual reports on CRSV as parties suspected of committing, or being responsible for, patterns of sexual violence in conflict situations that are on the UNSC's agenda.<sup>24</sup>

Since 2014, both the army and the armed opposition have made commitments to address CRSV in communiqués signed with the Special Representative of the Secretary-General on Sexual Violence in Conflict (SRSV-SVC), ordered their forces to cease sexual violence, committed to hold suspects to account, and created action plans to address CRSV. These are elaborated on in chapter four of this report.

On 28 May 2021, the UN Security Council renewed the arms embargo on the territory of South Sudan<sup>25</sup> that it established in 2018, legally obliging all UN member states to prevent the direct or indirect supply, sale or transfer of arms and related materials - including ammunition, military vehicles and spare parts. The embargo also extends to technical support, training, financial or other assistance related to military activities.<sup>26</sup> It developed five benchmarks against which any change to the embargo would be reviewed.<sup>27</sup> The fifth benchmark is "the implementation of the Joint Action Plan for the Armed Forces on addressing conflict-related sexual violence, with an emphasis on the training, sensitization, accountability, and oversight of the defense and security forces"<sup>28</sup>. In the same resolution, the UNSC called on the Revitalized Transitional Government of National Unity (R-TGoNU) to set up the HCSS, the CTRH and the CRA.<sup>29</sup>

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<sup>21</sup> Chapter V of the 2015 Agreement on the Resolution of the Conflict in South Sudan (ARCSS) and the 2018 Revitalized Agreement on the Resolution of the Conflict in South Sudan (R-ARCSS), PDFB84C.tmp (jmeconsouthsudan.org). In addition to Chapter V, the (R)-ARCSS chapters include provisions for broader institutional reform processes as a guarantee for non-recurrence, including the development of a permanent constitution, and reforms of judicial, security and financial institutions.

<sup>22</sup> Chapter V of the 2015 ARCSS and 2018 R-ARCSS, PDFB84C.tmp (jmeconsouthsudan.org)

<sup>23</sup> Amnesty International, "Do you think we will prosecute ourselves?": No prospects for accountability in South Sudan (Index: AFR 65/1105/2019), 7 October 2019, South Sudan: "Do you think we will prosecute ourselves?" No prospects for accountability in South Sudan - Amnesty International

<sup>24</sup> UNSG, Report: *Conflict-related sexual violence*, 23 March 2015, UN Doc. S/2015/203, page 32.

<sup>25</sup> UNSC Resolution 2577, adopted on 28 May 2021, UN Doc. S/RES/2577(2021).

<sup>26</sup> UNSC Resolution 2428, adopted on 13 July 2018, UN Doc. S/RES/2428(2018).

<sup>27</sup> The first benchmark is the completion of the first three stages of South Sudan's strategic defence and security review including an assessment of the military and non-military security challenges facing South Sudan, the development of a security policy clarifying security agencies' responsibilities in responding to the security challenges, including oversight of the security sector, and revision of the defence policy including setting out the roles of various security actors and their visions for modernization. The second benchmark is the formation of a unified command structure and "redeployment" of the Necessary Unified Forces (NUF). The NUF combines members of military, police, other state security services and armed groups that are parties to the 2018 peace agreement. Individual members of these forces and services are not vetted for their possible involvement in violations of international humanitarian and human rights law. Progress on disarmament, demobilization and reintegration (DDR) of individuals deemed ineligible – based on military criteria – to be part of the army, police, national security and other services is the third benchmark. The fourth benchmark is progress on properly managing existing arms and ammunition stockpiles. For more see, Amnesty International, *UN Security Council's extension of arms embargo on South Sudan a welcome step but weak benchmarks a let-down* (Index: AFR 65/4291/2021), 24 June 2021, South Sudan: UN Security Council's extension of arms embargo on South Sudan a welcome step but weak benchmarks a let-down - Amnesty International

<sup>28</sup> Article 2(e), UNSC Resolution 2577, adopted on 28 May 2021, UN Doc. S/RES/2577(2021).

<sup>29</sup> Article 3, UNSC Resolution 2577, adopted on 28 May 2021, UN Doc. S/RES/2577(2021).

# 4. GOVERNMENT AND ARMED OPPOSITION RESPONSE

**“It’s all on paper, nothing is being implemented.”**

South Sudanese woman human rights defender, 24 February 2022, Central Equatoria State.

## 4.1 MANY PLANS, LITTLE ACTION

On 11 October 2014, the SRSB-SVC and South Sudan’s President, Salva Kiir Mayardit, signed a joint communiqué on addressing CRSV. In it, President Kiir committed the government to combat and address impunity for CRSV, develop action plans for the army and police which would include orders prohibiting sexual violence, investigations, including by special police units, and ensure accountability for sexual violence through the military justice system, strengthening the legal framework, training for military and police personnel, addressing sexual violence concerns in security sector reform processes, excluding anyone responsible for acts of sexual violence from the security sector, and ensuring access to medical, psycho-social and legal services for CRSV survivors.<sup>30</sup> On 18 December 2014, Riek Machar Teny, then Chairman and Commander-in-Chief of the SPLA-IO, issued a similar communiqué.<sup>31</sup>

On 1 December 2016, the army’s Chief of General Staff issued a command order to prevent and respond to sexual violence crimes within the SPLA, including instructing all SPLA elements to respect international human rights and humanitarian law, stop all acts of sexual violence, arrest all suspects of sexual violence crimes, protect all victims and witnesses of sexual violence and facilitate access to assistance for victims.<sup>32</sup> On 3 February 2019, Riek Machar Teny gave similar orders to the SPLA-IO.<sup>33</sup>

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<sup>30</sup> UN Special Representative of the Secretary-General on Sexual Violence in Conflict and Salva Kiir Mayardit, Joint Communiqué of the Republic of South Sudan and the United Nations on addressing Conflict-Related Sexual Violence, 11 October 2014, on file with Amnesty International.

<sup>31</sup> Sudan People’s Liberation Movement-In Opposition (SPLM-IO), Communiqué, The Sudan People’s Liberation Movement and Sudan People’s Liberation Army (SPLM/SPLA) on Prevention Conflict-Related Sexual Violence in South Sudan, 18 December 2014, [SPLA SPLM Communiqué on Sexual Violence in Conflict 2014.pdf](#)

<sup>32</sup> SPLA’s Office of the Chief of General Staff, Command order to prevent and respond to sexual violence crimes within the Sudan People’s Liberation Army (SPLA), 1 December 2016, on file with Amnesty International.

<sup>33</sup> SPLM/SPLA-IO Chairman and Commander-in-Chief, Command Order to Prevent and Respond to Conflict-Related Sexual Violence in South Sudan, 3 February 2019, on file with Amnesty International.

On 6 February 2019, Riek Machar Teny established the seven membered SPLM/SPLA-IO Action Plan Committee on Conflict Related Sexual Violence that would develop action plans to address CRSV as part of the 2014 commitments made in the communiqué.<sup>34</sup> The SPLM/A-IO launched its action plan to address CRSV on 29 June 2019. On 14 March 2019, the South Sudan People's Defence Forces (SSPDF, previously the SPLA) launched the SSPDF Action Plan on addressing CRSV that the President committed to in the 2014 joint communiqué. Five months later, on 5 August 2019, the then Chief of Defence Forces, General Gabriel Jok Riak, ordered the formation of a CRSV oversight implementation committee composed of nine members to oversee the implementation of the Action Plan.<sup>35</sup> The government's committee is tasked to receive and discuss reports by the SSPDF as well as civil society and the UN.

In October 2020, the SSPDF's Chief of Defence Forces in his capacity as the Chairperson of the Joint Defence Board (JDB), a body established under the R-ARCSS and composed of representatives of the NSS, SSNPS, "and all other organized forces"<sup>36</sup>, and the Minister of Defence and Veterans' Affairs in her capacity as Chair of the Strategic Defense and Security Review Board (SDSRB), another body established by the R-ARCSS, appointed the Joint CRSV Committee, composed of eleven members of the SSPDF, SPLA-IO, South Sudan Opposition Alliance and the Ministry of Defence and Veterans' Affairs, to merge the two action plans made by the army and SPLM/A-IO in 2019.<sup>37</sup>

In January 2021, the JDB launched the Action Plan for the Armed Forces on addressing Conflict Related Sexual Violence in South Sudan.<sup>38</sup> In it, the JDB commits to zero tolerance for CRSV and to hold to account all those who commit, command or condone sexual violence in line with national and international law, regardless of their ranks and to take a survivor-centred approach.<sup>39</sup> The action plan is composed of six pillars, namely (1) mainstreaming sexual violence considerations in the R-ARCSS's security arrangements; (2) external communication and outreach; (3) training, awareness raising and sensitization; (4) accountability and oversight; (5) protection of victims, witnesses and judicial actors; and (6) monitoring, evaluation and reporting. It has a matrix of time-bound activities from January 2021 to December 2023.

Amnesty International's research found that copies of the action plan are not easily accessible<sup>40</sup> and awareness about the action plan is close to non-existent among the survivors and most civil society members working on GBV and CRSV that Amnesty International interviewed,<sup>41</sup> suggesting that the implementation of the action plan is not done in line with a survivor-centred approach<sup>42</sup> the drafters committed to taking. International human rights law requires that victims and survivors of human rights violations should be able to participate in state decision-making processes on matters that affect them.<sup>43</sup> It is therefore important that the 2021 action plan is accessible for survivors, including for illiterate, visually impaired and non-English speaking survivors. This lack of awareness extends to the knowledge that the action plan is a benchmark against which the arms embargo will be reviewed. The Ministry of Gender, Child and Social Welfare confirms the lack of awareness of the 2021 action plan among survivors and writes that "awareness creation is a joint responsibility and therefore, there is need for robust sensitization forums across all levels of the Government."<sup>44</sup>

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<sup>34</sup> SPLM/SPLA-IO Chairman and Commander-in-Chief, Formation of SPLM/SPLA(IO) Action Plan Committee on Conflict Related Sexual Violence, 6 February 2019, on file with Amnesty International.

<sup>35</sup> South Sudan People's Defence Forces (SSPDF's) Office of the Chief of Defence Forces, Order for the Formation of CRSV Oversight Implementation Committee, 5 August 2019, on file with Amnesty International; SSPDF's Office of the Chief of Defence Forces, Formation of CRSV Oversight Implementation Committee, 5 August 2019, on file with Amnesty International.

<sup>36</sup> Article 2.4.2 of the 2018 R-ARCSS.

<sup>37</sup> The Republic of South Sudan Joint Defence Board (JDB), Action plan for the armed forces on addressing conflict-related sexual violence in South Sudan, January 2021, p. 8, on file with Amnesty International.

<sup>38</sup> The action plan was made with technical support from the UN Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict (SRSG-SVC), the UN Team of Experts on the Rule of Law and Sexual Violence in Conflict, and the UN Mission in South Sudan (UNMISS).

<sup>39</sup> The Republic of South Sudan JDB, Action plan for the armed forces on addressing conflict-related sexual violence in South Sudan, January 2021, p. 8, on file with Amnesty International.

<sup>40</sup> For instance, an online file type search for the AP CRSV yielded no results. Additionally, it was not shared with key South Sudanese CSOs working on CRSV.

<sup>41</sup> Only two South Sudanese civil society members working on CRSV interviewed by Amnesty International knew about the 2021 AP CRSV. Interview in person with South Sudanese woman human rights defender (name withheld for security reasons), 24 February 2022, Central Equatoria State; Interview in person with South Sudanese woman human rights defender (name withheld for security reasons), 24 February 2022, Central Equatoria State. None of the women interviewed by Amnesty International had heard about the 2021 AP CRSV.

<sup>42</sup> The drafters of the AP CRSV define a survivor-centred approach to be "at all times respect the wishes of the survivor as she/he identifies them. Explain the risks to the survivor, provide clear information, and do no harm. Ensure the survivor is protected from further harm. Make sure there is access for psycho-social support and medical services do not force the survivor to share details of the event. Be aware of the trauma's symptoms that might appear." The Republic of South Sudan JDB, Action plan for the armed forces on addressing conflict-related sexual violence in South Sudan, January 2021, p. 8, footnote 4, on file with Amnesty International.

<sup>43</sup> UN Special Rapporteur on the promotion of truth, justice, reparation, and guarantees of non-recurrence, Report, 27 December 2016, UN Doc. A/HRC/34/62, Section III B

<sup>44</sup> Minister of Gender, Child and Social Welfare of the Republic of South Sudan, Juba, letter to Amnesty International, 26 April 2022, on file with Amnesty International.

Since the launch of the 2019 action plans, the UN has trained SSPDF and SPLA-IO officers on relevant legal frameworks and the principle of command responsibility.<sup>45</sup> However, the adoption of these various action plans have been followed by little action in terms of accountability and protection of victims, witnesses and judicial actors (see following sections 4.2 and 4.3). A UN staff member told Amnesty International that the delay in unifying the joint command<sup>46</sup> was in part responsible for the delay in implementation of the 2021 action plan.<sup>47</sup> More than seven years after the signing of the communiquéés 2014, CRSV is still largely left unaddressed, perpetrators unpunished, survivors without redress.

## 4.2 PILLAR 4: IMPUNITY STILL REIGNS

Pillar four of the 2021 action plan includes activities aimed at holding military personnel who committed, commanded or condoned CRSV to account, regardless of their rank; disseminating command orders prohibiting CRSV and instructing commanders to take disciplinary action; strengthening internal institutional frameworks related to accountability and recruitment including strengthening vetting procedures and enhance the recruitment of women; training on CRSV for military justice investigators and prosecutors; the creation of localized early warning mechanisms; strengthening of internal reporting systems; and cooperation between military and civilian judicial authorities.<sup>48</sup>

### 4.2.1 CONFLICT-RELATED SEXUAL VIOLENCE NOT DOMESTICATED AS A WAR CRIMES

The 2011 Transitional Constitution of South Sudan contains a bill of rights, which commits South Sudan to “respect and promote human rights and fundamental freedoms” including the right to life, dignity and the integrity of his or her person<sup>49</sup>, the right to liberty and security of person<sup>50</sup>, and the freedom from torture and other ill-treatment.<sup>51</sup>

South Sudan’s 2008 Penal Code criminalizes sexual violence including the prohibition of bodily injury, kidnapping, abduction and other violations of personal liberty; rape; detaining a person for the purpose of engaging in unlawful sexual conduct, female genital mutilation and the deliberate transmission of sexually transmitted diseases and of HIV/AIDS.<sup>52</sup> South Sudan’s 2008 Child Act protects children from physical and psychological violence, injury, abuse or exploitation; abduction and trafficking; sexual abuse, exploitation and harassment; and child, early and forced marriage and criminalizes such acts.<sup>53</sup>

Article 247(1) of the 2008 Penal Code defines rape as “sexual intercourse or carnal intercourse with another person, against his or her will or without his or her consent”<sup>54</sup> thereby excluding other forms of penetration, such as oral penetration and penetration with objects. The Penal Code also does not include marital rape in its definition.<sup>55</sup> As such, like many other countries, South Sudan’s legal definition of rape has gaps and does not meet the highest international standards. International standards are continuously evolving making it important to subject the definition to periodic assessments.

A human rights compliant definition of rape includes “the human right of equality and non-discrimination in the enjoyment of physical and mental integrity<sup>56</sup> requires that there should be equality in weight given to the

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<sup>45</sup> UN Secretary General (UNSG), Report: *Conflict-related sexual violence*, 29 March 2022, UN Doc. S/2022/272, p. 33; UNSG, Report: *Conflict-related sexual violence*, 30 March 2021, UN Doc. S/2021/312, p.29; The Republic of South Sudan JDB, Action plan for the armed forces on addressing conflict-related sexual violence in South Sudan, January 2021, p. 7, on file with Amnesty International.

<sup>46</sup>

<sup>48</sup> The Republic of South Sudan JDB, Action plan for the armed forces on addressing conflict-related sexual violence in South Sudan, January 2021, pp. 14 – 16 and pp. 29 - 37, on file with Amnesty International.

<sup>49</sup> Article 11 of the 2011 Transitional Constitution of the Republic of South Sudan.

<sup>50</sup> Article 12 of the 2011 Transitional Constitution of the Republic of South Sudan.

<sup>51</sup> Article 18 of the 2011 Transitional Constitution of the Republic of South Sudan.

<sup>52</sup> Chapter XVIII “Rape, Other Sexual Offences and Offences Against Morality.”, 2008 Penal Code of the Republic of South Sudan.

<sup>53</sup> Articles 23, 22, 26, 30 of the 2008 Child Act of the Republic of South Sudan.

<sup>54</sup> Article 247(1) of the 2008 Penal Code of the Republic of South Sudan.

<sup>55</sup> Article 247(3) of the 2008 Penal Code of the Republic of South Sudan.

<sup>56</sup> In its General Recommendation 19, (11th session, 1992), paragraph 7, The Committee on the Elimination of All Forms of Discrimination against Women identified gender based violence, including rape and sexual violence, as a form of discrimination, and stated that: “Gender-based violence, which impairs or nullifies the enjoyment by women of human rights and fundamental freedoms under general international

free and full agreement to sexual contact of both or all parties to that contact, whether or not such sexual contact involves penetration. The use of force, or threat of force or coercion, by the perpetrator makes it impossible for the victim to exercise their right to physical and mental integrity, and therefore their sexual autonomy.”<sup>57</sup>

South Sudan has not yet domesticated crimes under international law. In 2016, the Ministry of Justice introduced a flawed<sup>58</sup> Penal Code amendment bill on these crimes to Parliament. Five years later, and despite numerous calls<sup>59</sup> and support primarily from UNMISS,<sup>60</sup> to domesticate crimes under international law, the 2008 Penal Code remains unamended and thus does not include war crimes or crimes against humanity. At the time of writing, the 2008 Penal Code was before the Law Review and Reform Commission for amendment.<sup>61</sup>

Command responsibility does not exist under South Sudanese law as a mode of criminal liability. The code of criminal procedure does not include any provision related to criminal responsibility of army commanders for having failed to prevent the commission of crimes by members of the armed forces under their command, or for having failed to punish them once crimes were committed that they knew, or should have known, about.<sup>62</sup>

## 4.2.2 CONFLICT-RELATED SEXUAL VIOLENCE UNDER INTERNATIONAL LAW

### AN OBLIGATION TO PROSECUTE CRSV OFFENCES UNDER INTERNATIONAL LAW

International humanitarian law is applicable to the situation of non-international armed conflict ongoing in South Sudan since December 2013.<sup>63</sup> Sexual violence is prohibited under international humanitarian law,

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law or under human rights conventions, is discrimination within the meaning of article 1 of the Convention. These rights and freedoms include: (a) The right to life; (b) The right not to be subject to torture or to cruel, inhuman or degrading treatment or punishment; (c) The right to equal protection according to humanitarian norms in time of international or internal armed conflict; (d) The right to liberty and security of person; (e) The right to equal protection under the law; (f) The right to equality in the family; (g) The right to the highest standard attainable of physical and mental health; (h) The right to just and favourable conditions of work.” The Committee added: “24. In light of these comments, the Committee on the Elimination of Discrimination against Women recommends that: [...] (b) States parties should ensure that laws against family violence and abuse, rape, sexual assault and other gender-based violence give adequate protection to all women, and respect their integrity and dignity.” In Amnesty International, *Rape and sexual violence: Human rights law and the standards in the International Criminal Court* (Index: IOR 53/001/2011), 1 March 2011, page 10, [Rape and sexual violence: Human rights law and standards in the International Criminal Court - Amnesty International](#)

<sup>57</sup> Amnesty International, *Rape and sexual violence: Human rights law and the standards in the International Criminal Court* (Index: IOR 53/001/2011), 1 March 2011, page 10-11, [Rape and sexual violence: Human rights law and standards in the International Criminal Court - Amnesty International](#)

<sup>58</sup> The definitions of war crimes, crimes against humanity and genocide did not conform with international law and the draft bill did not include provisions on torture, enforced disappearance and the non-applicability of amnesties and immunities. Amnesty International and seven other civil society organisations (CSOs), letter to Margret Samuel Aru Chairperson, Legislation and Justice Committee National Legislative Assembly, 1 February 2016, [South Sudan: Joint open letter to the National Legislative Assembly on the Penal Code \(Amendment\) Bill 2016 \(amnesty.org\)](#); Amnesty International, *“Do you think we will prosecute ourselves?”: No prospects for accountability in South Sudan* (Index: AFR/65/1105/2019), [South Sudan: “Do you think we will prosecute ourselves?” No prospects for accountability in South Sudan - Amnesty International](#)

<sup>59</sup> Amnesty International, Human Rights Watch, South Sudan Human Rights Defenders Network, *South Sudan: Human rights priorities for the government of South Sudan* (Index: AFR 65/5196/2022), 3 February 2022, [South Sudan: Human rights priorities for the government of South Sudan - Amnesty International](#); Amnesty reports and check UPR 2016 recommendations / Amnesty International, *“Do you think we will prosecute ourselves?”: No prospects for accountability in South Sudan* (Index: AFR/65/1105/2019), [South Sudan: “Do you think we will prosecute ourselves?” No prospects for accountability in South Sudan - Amnesty International](#); Amnesty International, *South Sudan: Human Rights in Review: Amnesty International submission for the UN Universal Periodic Review, 40<sup>th</sup> Session of the UPR Working Group, January – February 2022* (Index: AFR 65/4530/2021), p. 5, [South Sudan: Human rights in review: Amnesty International submission for the UN Universal Periodic Review, 40<sup>th</sup> session of the UPR Working Group, January – February 2022 - Amnesty International](#)

<sup>60</sup> “To promote accountability for conflict-related crimes, UNMISS supported the review by parliament of a draft bill to transpose provisions regarding international crime into national law. This included supporting representatives of parliament, the Ministry of Justice and civil society to collaborate with Ugandan authorities and the International Centre for Transitional Justice on lessons learned and comparative experiences and to ensure that the bill reflects international standards.” UNSG, Report: *Situation in South Sudan*, 10 September 2019, UN Doc. S/2019/722, para 54.

<sup>61</sup> Minister of Gender, Child and Social Welfare of the Republic of South Sudan, Juba, letter to Amnesty International, 26 April 2022, on file with Amnesty International

<sup>62</sup> Amnesty International, *“Do you think we will prosecute ourselves?”: No prospects for accountability in South Sudan*, page 10 (Index: AFR/65/1105/2019), [South Sudan: “Do you think we will prosecute ourselves?” No prospects for accountability in South Sudan - Amnesty International](#)

<sup>63</sup> South Sudan has ratified the 1949 and 1977 Geneva conventions and additional protocols in 2012. Customary international humanitarian law is also binding on all parties to the conflict.



under common article 3 of the Geneva conventions which prohibits violence to life and person as well as outrages upon personal dignity, and Rules 90 and 93 of customary international humanitarian law.<sup>64</sup>

Rape or other sexual violence committed by governmental forces or armed groups who are parties to the conflict are therefore serious violations of international humanitarian law. They constitute war crimes. Sexual violence is prohibited under international human rights law too, which remains applicable in times of peace and war. South Sudan has ratified several human rights treaties which contain such prohibition, including the African Charter on Human and Peoples' Rights<sup>65</sup>, UN Convention on the Rights of the Child (CRC)<sup>66</sup>, the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)<sup>67</sup> and the UN Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW).<sup>68</sup> The rights and freedoms enshrined in these international human rights treaties are integral to the country's bill of rights<sup>69</sup> and directly applicable before domestic courts.

Under international law, States are required to take comprehensive action to prevent sexual violence, protect those at risk, prosecute perpetrators, and ensure that survivors can access assistance and reparations. The 2005 UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law in its article 3 reminds States that they have the obligation to "investigate violations effectively, promptly, thoroughly and impartially" and in its article 4 that, where there is sufficient evidence that a violation constitutes a crime against international law, such as a war crime, the State has "the duty to submit to prosecution the person allegedly responsible for the violations".<sup>70</sup>

## AFRICAN NORMATIVE FRAMEWORK

Whilst South Sudan has not yet completed ratification<sup>71</sup> of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the Maputo Protocol), it signed the Protocol in 2013<sup>72</sup> meaning the government cannot act against its object and purpose. Article 11 of the Maputo Protocol contains important provisions that protect women in armed conflicts, including imposing on State parties obligations to ensure that acts of sexual violence in times of armed conflict are considered "war crimes, genocide and/or crimes against humanity and that their perpetrators are brought to justice before a competent criminal jurisdiction"<sup>73</sup>.

The African normative framework applicable to sexual violence, including CRSV, is also influenced by soft law including, but not limited to, the African Commission on Human and Peoples' Rights' (ACHPR) Guidelines on combating sexual violence and its consequences in Africa, in particular part 4(c) which sets out guidelines for investigating and prosecuting crimes of sexual violence as international crimes specifically in situations of conflict and crisis.<sup>74</sup> Article 44 specifies that "States must take all measures to enable the prosecution of crimes of sexual violence committed in situations of conflict and crisis as international crimes,

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<sup>64</sup> International Committee of the Red Cross (ICRC), Customary International Humanitarian Law, Rules 90 and 93.

<sup>65</sup> Articles 4 and 5 of the ACHPR. South Sudan ratified the ACHPR on 23 October 2013.

<sup>66</sup> Article 19 of the CRC. South Sudan ratified the CRC on 23 January 2015.

<sup>67</sup> South Sudan ratified the CAT on 30 April 2015.

<sup>68</sup> Article 1 of CEDAW. South Sudan ratified the CEDAW on 30 April 2015. Article 1 of CEDAW should be read in conjunction with CEDAW, General comment 35: Gender-based violence against women, updating general recommendation No. 19, 14 July 2017, CEDAW /C/GC/35.

<sup>69</sup> Article 9(3) of the 2011 Transitional Constitution of the Republic of South Sudan.

<sup>70</sup> UN General Assembly (UNGA), Resolution 60/147: Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, adopted on 21 March 2006, UN Doc. A/RES/60/147. Other articles of the resolution are relevant too. See, for instance, article 11 on victims' right to remedy, including "equal and effective access to justice" and "adequate, effective and prompt reparation".

<sup>71</sup> Information on South Sudan's ratification status of the Maputo Protocol is conflicting. According to NGO Equality Now, South Sudan has passed a parliamentary motion for ratification of the Maputo Protocol but is yet to complete the ratification process. Equality Now, "The Maputo Protocol Turns 18 Today. But what does this mean for women and girls in Africa?", 11 July 2021, [The Maputo Protocol turns 18 today. But what does this mean for women and girls in Africa? - Equality Now](#). On 15 November 2021, the UN Committee on the Elimination of Discrimination against Women (CEDAW) recommended that South Sudan ratify the Maputo Protocol. CEDAW, *Concluding observations on the initial report of South Sudan*, 15 November 2021, CEDAW/C/SSD/CO/1, para. 12(d).

Three days later, on 18 November 2021, the Government of South Sudan reports that the government had submitted the Maputo Protocol to the National Legislative Assembly for accession. The Republic of South Sudan, Report: National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21, 18 November 2021, UN Doc. A/HRC/WG.6/40/SSD/1, para. 15. On 4 May 2022, the African Union reports that South Sudan has ratified the Maputo Protocol but is yet to deposit the instrument of accession with the AU Commission. AU Information and Communication Directorate, "Saharawi Arab Democratic Republic becomes 43<sup>rd</sup> African Union Member State to ratify the Protocol on Women's Rights", 4 May 2022, [41764-pr-Maputo\\_Protocol\\_Ratification.pdf \(au.int\)](#)

<sup>72</sup> African Union, List of countries which have signed, ratified/acceded to the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, 16 October 2019, [37077-sl-PROTOCOL TO THE AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS ON THE RIGHTS OF WOMEN IN AFRICA.pdf \(au.int\)](#); CHRSS, Conference room paper: *Conflict-related sexual violence against women and girls in South Sudan*, 21 March 2022, UN Doc. A/HRC/49/CRP.4, para. 167.

<sup>73</sup> Article 11 of the Protocol to the 2005 African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol).

<sup>74</sup> Part 4(c) of the ACHPR, The Guidelines on Combating Sexual Violence and its Consequences in Africa, [achpr\\_eng\\_guidelines\\_on\\_combating\\_sexual\\_violence\\_and\\_its\\_consequences.pdf](#)

providing for them to be prosecuted as crimes of genocide, crimes against humanity and war crimes in their domestic legislation, in accordance with international criminal law.”<sup>75</sup> Part 5 sets out general principles for the right to reparation.<sup>76</sup> The ACHPR’s 2007 resolution 111 on the Right to a Remedy and Reparation for Women and Girls Victims of Sexual Violence offers an important framework for victims’ rights to truth, justice and reparation and access to medical assistance and psychological support and also considers sexual violence in times of armed conflict.<sup>77</sup>

On 23 July 2019, the AUPSC dedicated its 862<sup>nd</sup> meeting to sexual violence in armed conflicts in which the Council expressed concern about the persistence of CRSV in Africa and called on all member states, which includes South Sudan, to “sign, ratify and fully domesticate all AU and international instruments relating to sexual violence”.<sup>78</sup> The Council furthermore stressed the importance that member states end the culture of impunity, foster survivor-centred responses and address root causes of CRSV, “including structural gender-based inequalities”<sup>79</sup>. In September 2013, three months before a non-international armed conflict engulfed the country, South Sudan endorsed the Declaration of Commitment to End Sexual Violence in Conflict that was launched on the sidelines of the 68<sup>th</sup> UN General Assembly.<sup>80</sup> In its letter, the Ministry of Gender, Child and Social Welfare lists South Sudan’s endorsement as one of several measures taken by the Government of South Sudan to end all forms of CRSV.<sup>81</sup>

South Sudan has also not ratified the African Charter on the Rights and Welfare of the Child (African Children’s Charter), which is an important instrument to advance the rights of children. Article 22 of the African Children’s Charter offers protection for children in times of armed conflict including by imposing obligations on State Parties “to ensure the protection and care of children who are affected by armed conflicts”.<sup>82</sup> In September 2020, the African Committee of Experts on the Rights and Welfare of the Child (ACERWC) issued a general comment on article 22 of the African Children’s Charter, laying down a set of principles and rules and offering states guidance and standards on how to deal with children in armed conflict. Section 6.3 offers guidance on sexual abuse, violence and exploitation and states that State Parties have an obligation to “take legislative, administrative, social and educational measures to protect the child from all forms of maltreatment including sexual abuse, exploitation and violence.”<sup>83</sup> It furthermore states that sexual abuse of children can be considered torture or cruel, inhuman and degrading treatment.<sup>84</sup> The General Comment also provides guidance on other rights that are affected by CRSV including the right to health and the right to education.<sup>85</sup>

The South Sudanese authorities should review the country’s legal framework to ensure it is compliant with its obligations under international human rights and humanitarian law, including the incorporation of crimes under international law in its Penal code.

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<sup>75</sup> Article 44 of the ACHPR, The Guidelines on Combating Sexual Violence and its Consequences in Africa, [achpr\\_eng\\_guidelines\\_on\\_combating\\_sexual\\_violence\\_and\\_its\\_consequences.pdf](#)

<sup>76</sup> Part 5 of the ACHPR, The Guidelines on Combating Sexual Violence and its Consequences in Africa, [achpr\\_eng\\_guidelines\\_on\\_combating\\_sexual\\_violence\\_and\\_its\\_consequences.pdf](#)

<sup>77</sup> ACHPR, Resolution 111: Resolution on the Right to a Remedy and Reparation for Women and Girls Victims of Sexual Violence, adopted on 28 November 2007, ACHPR/Res. 111(XXXII)07.

<sup>78</sup> AUPSC, “Press statement of the 862<sup>nd</sup> meeting of the PSC held on 23 July 2019, dedicated to an open session on the theme: “Sexual Violence in Armed Conflicts in Africa””, 23 July 2019, [Press Statement of the 862nd meeting of the PSC, held on 23 July 2019, dedicated to an open session on the theme: “Sexual Violence in Armed Conflicts in Africa”-African Union - Peace and Security Department \(peaceau.org\)](#)

<sup>79</sup> AUPSC, “Press statement of the 862<sup>nd</sup> meeting of the PSC held on 23 July 2019, dedicated to an open session on the theme: “Sexual Violence in Armed Conflicts in Africa””, 23 July 2019, [Press Statement of the 862nd meeting of the PSC, held on 23 July 2019, dedicated to an open session on the theme: “Sexual Violence in Armed Conflicts in Africa”-African Union - Peace and Security Department \(peaceau.org\)](#)

<sup>80</sup> Declaration of Commitment to End Sexual Violence in Conflict, September 2013, [Declaration of Commitment to End Sexual Violence In Conflict \(ohchr.org\)](#); Office of the UN Special Representative of the Secretary-General on Sexual Violence in Conflict, “Joint Communiqué of the Republic of South Sudan and the United Nations on the Prevention of Conflict-Related Sexual Violence”, 12 October 2014, [Joint Communiqué of the Republic of South Sudan and the United Nations on the Prevention of Conflict-Related Sexual Violence. - United Nations Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict](#)

<sup>81</sup> Minister of Gender, Child and Social Welfare of the Republic of South Sudan, Juba, letter to Amnesty International, 26 April 2022, on file with Amnesty International.

<sup>82</sup> Article 22 of the 1999 African Charter on the Rights and Welfare of the Child (African Children’s Charter).

<sup>83</sup> African Committee of Experts on the Rights and Welfare of the Child (ACERWC), General Comment on article 22 of the African Charter on the Rights and Welfare of the Child (section 6.3), September 2000, [General-Comment-on-Article-22-of-the-ACRWC\\_English\\_Web\\_version\\_final-1.pdf \(acerwc.africa\)](#)

<sup>84</sup> ACERWC, General Comment on article 22 of the African Charter on the Rights and Welfare of the Child (section 6.3, para. 65), September 2000, [General-Comment-on-Article-22-of-the-ACRWC\\_English\\_Web\\_version\\_final-1.pdf \(acerwc.africa\)](#)

<sup>85</sup> ACERWC, General Comment on article 22 of the African Charter on the Rights and Welfare of the Child (section 6.3, para. 65), September 2000, [General-Comment-on-Article-22-of-the-ACRWC\\_English\\_Web\\_version\\_final-1.pdf \(acerwc.africa\)](#)

## 4.2.3 A HANDFUL OF TRIALS BEFORE INCOMPETENT COURTS AND INADEQUATE CHARGES

### A HANDFUL OF TRIALS

In 2019, Amnesty International's research found that the government had violated its legal obligations to investigate and prosecute suspects of violations of international human rights and humanitarian law since the start of the 2013 conflict and to punish those found responsible.<sup>86</sup> It attributed this failure to the lack of independence of both the civilian<sup>87</sup> and military court systems<sup>88</sup> and the lack of political will to hold perpetrators of serious crimes accountable. This was reflected in the President's decision to grant blanket amnesties and promote individuals sanctioned by the UN Security Council for their involvement in serious crimes. It also found that government-led investigation committees lacked independence and impartiality and, with one exception, had not resulted in prosecutions of serious crimes. It concluded that the government had blocked the establishment of the HCSS enshrined in the peace agreements.<sup>89</sup>

The UN Secretary General reports that, in 2020, civilian and military courts convicted 16 SSPDF members, five police, and five SPLA-IO members of CRSV offences including rape and gang rape of minors.<sup>90</sup> In 2020, 13 SSPDF soldiers were convicted by an *ad hoc* district court martial for rape (see textbox below). For 2021, the UN Secretary General reports that civilian courts convicted one SSPDF member and four police for rape and gang rape. It does not specify the connection to the conflict.<sup>91</sup> These handful of convictions<sup>92</sup> do not match the high number of CRSV cases.<sup>93</sup> In 2020 and 2021, the UN documented 387 CRSV cases.<sup>94</sup> Prosecution of suspects of CRSV remains the exception and impunity remains the norm.

In 2019, the government established a Gender-Based Violence and Juvenile Justice court with support from the United Nations Development Programme (UNDP) and the Netherlands to deal with GBV. The court is based in the capital Juba and has three mobile units that extend its reach beyond Juba.<sup>95</sup> At the time of writing, the Ministry of Gender, Child and Social Welfare reports that, in 2020, 600 SGBV cases has been registered with the courts, "of which only 2 per cent (13 cases) were concluded, 2 per cent (12 cases) resulted in convictions [...] and one case dismissed."<sup>96</sup> In its letter, the Ministry of Gender, Child and Social Welfare did not provide statistics for 2021.<sup>97</sup> Precise information about the cases as well as judgements, from these cases is difficult to obtain. While judgments are public in theory, they are not made available to the public online nor on paper. Amnesty International also requested information about the CRSV cases from a judge who was unable to provide it.<sup>98</sup> Our organization has not been able to independently ascertain

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<sup>86</sup> Amnesty International, "Do you think we will prosecute ourselves?": No prospects for accountability in South Sudan (Index: AFR/65/1105/2019), South Sudan: "Do you think we will prosecute ourselves?" No prospects for accountability in South Sudan - Amnesty International

<sup>87</sup> The civilian court system was found to not be independent because prosecutors follow the directives of the executive and judges experience political interference. Amnesty International, "Do you think we will prosecute ourselves?": No prospects for accountability in South Sudan (Index: AFR/65/1105/2019), South Sudan: "Do you think we will prosecute ourselves?" No prospects for accountability in South Sudan - Amnesty International

<sup>88</sup> Military courts are not independent as the President has the power to confirm or reject judicial decisions. Amnesty International, "Do you think we will prosecute ourselves?": No prospects for accountability in South Sudan (Index: AFR/65/1105/2019), South Sudan: "Do you think we will prosecute ourselves?" No prospects for accountability in South Sudan - Amnesty International

<sup>89</sup> Amnesty International, "Do you think we will prosecute ourselves?": No prospects for accountability in South Sudan (Index: AFR/65/1105/2019), South Sudan: "Do you think we will prosecute ourselves?" No prospects for accountability in South Sudan - Amnesty International

<sup>90</sup> UNSG, Report: *Conflict-related sexual violence*, 30 March 2021, UN Doc. S/2021/312, para. 50.

<sup>91</sup> UNSG, Report: *Conflict-related sexual violence*, 29 March 2022, UN Doc. S/2022/272, para. 51.

<sup>92</sup> On 3 May 2022, the UN Secretary General reported that a total of 31 CRSV or SGBV cases have been heard by UNMISS-supported courts, resulting in 28 convictions. It is unclear whether these are the same cases reported by the UNSG in his CRSV annual reports (see above). On 3 May 2022, the UNSG also reports that UNDP-facilitated mobile courts heard 18 cases, of which 16 cases resulted in convictions. The report does not specify the nature of the cases or convictions. UNSG, Report: *Assessment of progress achieved on the key benchmarks established in paragraph 2 of resolution 2577 (2021)*, 3 May 2022, S/2022/370, para. 52.

<sup>93</sup> For comparison, in 2021 UNMISS documented 194 cases of CRSV. UNSG, Report: *Conflict-related sexual violence*, 29 March 2022, UN Doc. S/2022/272, p. 33. In 2020 UNMISS documented 193 cases of CRSV. UNSG, Report: *Conflict-related sexual violence*, 30 March 2021, UN Doc. S/2021/312, p. 29.

<sup>94</sup> UNSG, Report: *Conflict-related sexual violence*, 30 March 2021, UN Doc. S/2021/312, para. 47; UNSG, Report: *Conflict-related sexual violence*, 29 March 2022, UN Doc. S/2022/272, para. 50.

<sup>95</sup> CHRSS, Conference room paper: *Conflict-related sexual violence against women and girls in South Sudan*, 21 March 2022, UN Doc. A/HRC/49/CRP.4, para. 179. More specific details on the mode of establishment and jurisdiction of the court are difficult to obtain.

<sup>96</sup> Minister of Gender, Child and Social Welfare of the Republic of South Sudan, Juba, letter to Amnesty International, 26 April 2022, on file with Amnesty International.

<sup>97</sup> Minister of Gender, Child and Social Welfare of the Republic of South Sudan, Juba, letter to Amnesty International, 26 April 2022, on file with Amnesty International.

<sup>98</sup> Interview in person with a judge (name withheld for security reasons), 10 March 2022, Central Equatoria State.

whether cases of rape or other sexual violence committed by government soldiers or members of armed groups were brought to this court.

In its report to the UN Human Rights Council for the Universal Periodic Review (UPR) in November 2021, the government reports that it issued a standing order to commanders to observe rules of engagement, distributed a leaflet on ending sexual violence and “directed the military court martial to order arrest, prosecute any military personnel involved in the commission of an offence.”<sup>99</sup> At the time of writing, Amnesty International’s request to the SSPDF’s military justice directorate to receive a copy remained unanswered.

#### **AD HOC DISTRICT COURT MARTIAL IN YEI**

Between July and September 2020, an *ad hoc* district court martial in Yei, southern South Sudan, convicted 26 SSPDF soldiers for multiple crimes against civilians. 13 soldiers were convicted for rape,<sup>100</sup> sentenced to prison terms of up to 14 years in Juba Central Prison and dismissed from service in the army.<sup>101</sup> Amnesty International is concerned that none of the defendants were represented by legal counsel, in clear violation of their right to a fair trial.<sup>102</sup> The trials were held in public and attended by residents of Yei town. Victims were in the courtroom together with the defendants and were asked to identify their attackers.<sup>103</sup>

The Yei *ad hoc* district court martial ordered the sexual violence survivors to be compensated between 200,000 - 500,000 South Sudanese Pounds (equivalent of around 475 - 1190 USD) and one or two bulls each.<sup>104</sup> At the time of writing, the survivors of the Yei *ad hoc* district court martial’s cases are yet to be compensated and have received no reparations of any sort.<sup>105</sup>

An SSPDF official told Amnesty International that since the 2020 military tribunal trials in Yei, the SSPDF established at least four other mobile court martials, but military justice investigators did not find sexual violence cases.<sup>106</sup> In 2019, a UN official told Amnesty International that prosecutors do not act if there are no complaints.<sup>107</sup>

In conclusion, the number of court cases in 2020 and 2021 are negligible compared to the suspected scale of CRSV committed in the context of the conflict in South Sudan in those same years and since December 2013.

<sup>99</sup> The Republic of South Sudan, Report: National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21, 18 November 2021, Un Doc. A/HRC/WG.6/40/SSD/1, para. 75 and 112.

<sup>100</sup> UNSG, Report: *Conflict-related sexual violence*, 30 March 2021, UN Doc. S/2021/312, p. 29; UNSG, Report: *Situation in South Sudan*, 9 December 2020, UN Doc. S/2020/1180, para. 61; Radio Tamazuj, “Over 25 government soldiers convicted for crimes against civilians in Yei”, 9 September 2020, [Over 25 government soldiers convicted for crimes against civilians in Yei | Radio Tamazuj](#). Amnesty International obtained two documents by the SSPDF Chief of Defence Forces confirming verdicts by the district court martial in Yei which contain nine of the 13 convictions for rape. SSPDF Chief of Defence Forces, Confirmation of District Court Martial (DCM) Verdicts, 8 September 2020, SSPDF/CDF/J/09/2020/000120, on file with Amnesty International; SSPDF Chief of Defence Forces, Confirmation of District Court Martial (DCM) Verdicts, 4 August 2020, SSPDF/CDF/J/08/2020/00097, on file with Amnesty International.

<sup>101</sup> Interview in person with SSPDF member (name withheld for security reasons), 25 February 2022, Central Equatoria State; Interview in person with South Sudanese lawyer (name withheld for security reasons), 9 March 2022, Central Equatoria State; SSPDF Chief of Defence Forces, Confirmation of District Court Martial (DCM) Verdicts, 8 September 2020, SSPDF/CDF/J/09/2020/000120, on file with Amnesty International; SSPDF Chief of Defence Forces, Confirmation of District Court Martial (DCM) Verdicts, 4 August 2020, SSPDF/CDF/J/08/2020/00097, on file with Amnesty International.

<sup>102</sup> SSPDF Military Justice, *Government of South Sudan v. (names of the two accused SSPDF members withheld for security reasons)*, District Court Martial, 29 July 2020, on file with Amnesty International. Interview in person with three family members of CRSV survivor (names withheld for security reasons), 4 March 2022, Central Equatoria State. Interview in person with civil society court observer (name withheld for security reasons), 7 March 2022, Central Equatoria State; Interview in person with South Sudanese lawyer (name withheld for security reasons), 9 March 2022, Central Equatoria State. Section 88(1) of the 2019 SPLA Act states that “Appeals from District Court Martial shall lie to a General Court Martial.”

<sup>103</sup> Interview in person with civil society court observer (name withheld for security reasons), 7 March 2022, Central Equatoria State; Interview in person with South Sudanese lawyer (name withheld for security reasons), 9 March 2022, Central Equatoria State.

<sup>104</sup> SSPDF Chief of Defence Forces, Confirmation of District Court Martial (DCM) Verdicts, 8 September 2020, SSPDF/CDF/J/09/2020/000120, on file with Amnesty International; SSPDF Chief of Defence Forces, Confirmation of District Court Martial (DCM) Verdicts, 4 August 2020, SSPDF/CDF/J/08/2020/00097, on file with Amnesty International.

<sup>105</sup> Interview in person with three family members of CRSV survivor (names withheld for security reasons), 4 March 2022, Central Equatoria State; Interview in person with civil society court observer (name withheld for security reasons), 7 March 2022, Central Equatoria State; Interview in person with South Sudanese lawyer (name withheld for security reasons), 9 March 2022, Central Equatoria State.

<sup>106</sup> Interview in person with SSPDF member (name withheld for security reasons), 25 February 2022, Central Equatoria State.

<sup>107</sup> Amnesty International, “Do you think we will prosecute ourselves?: No prospects for accountability in South Sudan (Index: AFR/65/1105/2019), [South Sudan: “Do you think we will prosecute ourselves?” No prospects for accountability in South Sudan - Amnesty International](#)

## INADEQUATE CHARGES AND INCOMPETENT COURTS

In addition, and in part due to the gaps in South Sudanese legal framework (see section above), these cases of rape were neither prosecuted as war crimes nor as torture.

“[CRSV] is not treated as conflict-related, but as rape which leaves a gap”, a South Sudanese women human rights defender working with CRSV survivors told Amnesty International.<sup>108</sup> “To prosecute CRSV as a war crime is still not heard of. They are prosecuting them [CRSV incidents] as a common crime under the Penal Code Act”<sup>109</sup> said a South Sudanese lawyer. “Civilian courts are not empowered enough to look into CRSV,” another South Sudanese lawyer said,<sup>110</sup> explaining that the civilian justice system is under-staffed, judges lack training in international humanitarian law, and the South Sudanese legal framework does not allow for crimes committed in relation to the conflict to be tried as war crimes.

Recognizing that these crimes may be war crimes or acts of torture, and prosecuting them as such, is important to take into account the full gravity and context in which the crime was perpetrated. Crimes under international law, such as war crimes and torture<sup>111</sup>, must also be imprescriptible and must not be the subject of any amnesties.

Moreover, while welcoming their trials as a step towards justice for survivors, Amnesty International opposes South Sudanese military courts dealing with cases of crimes and serious human rights violations against civilians. Section 37(4) of the 2009 SPLA Act stipulates that “Whenever a military personnel commits an offence against a civilian or civilian property, the civil court shall assume jurisdiction over such an offence.”<sup>112</sup> Military courts in South Sudan do not have jurisdiction over crimes against civilians committed by the army. In addition to their lack of legal jurisdiction, Amnesty International also has serious concerns over the independence and impartiality of military courts because judicial proceedings are only initiated with approval from the highest military and/or political authority and the President has veto power over verdicts and sentences passed by court martials<sup>113</sup> and over the ability of these courts to ensure defence rights are respected. There is also growing acceptance under international law that military courts should not have jurisdiction to try members of the military and security forces for human rights violations or other crimes under international law.<sup>114</sup>

When asked why the SSPDF creates court martials to try crimes against civilians despite their lack of legal jurisdiction, an SSPDF official explained that the SSPDF establishes court martials in areas without the presence of a high court because “justice delayed is justice denied.”<sup>115</sup>

While Amnesty International notes that the 2021 action plan places a responsibility on the SSPDF Military Justice Directorate to investigate and prosecute CRSV, we also note that the 2021 action plan includes activities and the establishment of mechanisms to enhance collaboration between military and civilian justice systems. Interviews with three individuals working directly on prosecuting sexual violence in both systems, where Amnesty International researchers asked interviewees to describe collaboration between military and civilian justice systems revealed no evidence of such collaboration that would enable a transition to prosecution of crimes committed against civilians exclusively in civilian courts in the near future, as required by South Sudanese law.<sup>116</sup>

## DELAYS IN ESTABLISHING THE HYBRID COURT FOR SOUTH SUDAN

Accountability efforts at the domestic level do not meet the justice-related needs of CRSV survivors, which have become more acute since the start of the 2013 conflict. To address this situation, the signatories to the 2015 and 2018 peace agreements committed to several measures including the establishment of the HCSS, the CTRH, the CRA, and judicial and security sector reform. However, almost seven years later, only

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<sup>108</sup> Interview in person with South Sudanese woman human rights defender (name withheld for security reasons), 24 February 2022, Central Equatoria State.

<sup>109</sup> Interview in person with South Sudanese lawyer (name withheld for security reasons), 24 February 2022, Central Equatoria State.

<sup>110</sup> Interview in person with South Sudanese lawyer (name withheld for security reasons), 25 February 2022, Central Equatoria State.

<sup>111</sup> For more on the importance of prosecuting acts of rape and sexual violence as torture, see Chapter 6 in Amnesty International, *Rape and sexual violence: Human rights law and the standards in the International Criminal Court* (Index: IOR 53/001/2011), 1 March 2011, [Rape and sexual violence: Human rights law and standards in the International Criminal Court - Amnesty International](#)

<sup>112</sup> Section 37(4) of the 2009 SPLA Act.

<sup>113</sup> Section 36 and 89 of the 2009 SPLA Act.

<sup>114</sup> Principle 29 of the UN Updated Set of principles for the protection and promotion of human rights through action to combat impunity, 2005, UN Doc. E/CN.4/2005/102/Add.1. See also jurisprudence and conclusions of the Special Rapporteur on torture, the UN Committee against Torture, the UN Special Rapporteur on extrajudicial executions and the UN Human Rights Committee.

<sup>115</sup> Interview in person with SSPDF member (name withheld for security reasons), 25 February 2022, Central Equatoria State.

<sup>116</sup> Interview in person with SSPDF member (name withheld for security reasons), 25 February 2022, Central Equatoria State; Interview in person with a judge (name withheld for security reasons), 10 March 2022, Central Equatoria State; Interview in person with UNMISS staff working on justice issues (name withheld for confidentiality reasons), 9 March 2022, Central Equatoria State.

marginal progress has been made towards establishment of the CTRH.<sup>117</sup> The government has repeatedly shown that it has no intention to establish the HCSS soon, arguing that reconciliation must precede accountability.<sup>118</sup>

A member of the SSPDF told Amnesty International that the mobile court martials only respond to incidents of recent and ongoing crimes against civilians across the country, not those committed in the earlier years of the conflict because “those fall under the jurisdiction of the HCSS.”<sup>119</sup> This understanding of the HCSS’s temporal mandate leaves an accountability gap and justice elusive for the countless victims, including those of CRSV. Article 5.3.1.1 of the 2018 R-ARCSS stipulates that the temporal jurisdiction of the HCSS will run from 15 December 2013 through to the end of the transitional period.<sup>120</sup>

## 4.3 PILLAR 5: VICTIMS, WITNESSES AND JUDICIAL ACTORS REMAIN UNPROTECTED

Pillar five of the 2021 action plan consists of three activities: develop measures to protect victims, witnesses and judicial actors; disseminate and train commanders on protection guidelines and taking a survivor-centred approach; and to “institute” practical measures to protect victims and witnesses from potential threats to their life which is envisioned to be implemented in partnership with the civilian justice system and “other relevant partners”.<sup>121</sup> South Sudan lacks legislation on protection of victims and witnesses. In its absence, other legislative provisions obliging the government to protect the right to life, bodily integrity and freedoms of individuals confer legal obligations on the government to protect victims, witnesses and judicial actors.

In practice, the Terrain trial<sup>122</sup> set a precedent for victim and witness protection in the court room. Measures were taken to protect witnesses’ identities and victims were able to participate and testify by video link.<sup>123</sup> Other courts are however yet to make use of this precedent for victim and witness protection.

14 individuals, including South Sudanese lawyers, a member of the SSPDF, a prosecutor, a judge and UN staff working in the justice sector, told Amnesty International that South Sudan lacks effective protection mechanisms for victims and witnesses.<sup>124</sup> “There is no physical structure to bring victims. They’ll just remain in their homes”, a lawyer told Amnesty International.<sup>125</sup> South Sudan only has two safe houses in the entire country.<sup>126</sup> Another individual involved in supporting CRSV and SGBV survivors said: “they’re staying with

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<sup>117</sup> At the time of writing, the government had only reconstituted the technical committee for the establishment of the CTRH, a UN agency had trained committee members, and the government started the consultations that are to inform the enabling legislation of the CTRH. Eyerradio, “Kiir launches public consultations for establishment CTRH”, 5 April 2022, [Kiir launches public consultations for establishment of CTRH - Eye Radio](#); Radio Tamazuj, “Truth and reconciliation technical committee in W. Equatoria State for public consultations”, 11 May 2022, [Truth and reconciliation technical committee in W. Equatoria State for public consultations | Radio Tamazuj](#)

<sup>118</sup> President Salva Kiir Mayardit, “Press Statement”, 28 March 2022, on file with Amnesty International; S. Kiir and R. Machar, “South Sudan Needs Truth, not Trials”, New York Times op-ed, 7 June 2016, [Opinion | South Sudan Needs Truth, Not Trials - The New York Times \(nytimes.com\)](#). Four days after publication, Machar claimed he had not been consulted and disavowed the op-ed.

<sup>119</sup> Interview with SSPDF member (name withheld for security reasons), 25 February 2022, Central Equatoria State.

<sup>120</sup> Art. 5.3.1.1 of the 2018 R-ARCSS.

<sup>121</sup> JDB, Action plan for the armed forces on addressing conflict-related sexual violence in South Sudan, January 2021, pp. 37-39, on file with Amnesty International.

<sup>122</sup> On 6 September 2018, a military court convicted 10 soldiers in connection with the killing of a journalist and rape and sexual assault of aid workers during a July 2016 attack in Juba. Amnesty International, “Do you think we will prosecute ourselves?": No prospects for accountability in South Sudan (Index: AFR/65/1105/2019), [South Sudan: "Do you think we will prosecute ourselves?" No prospects for accountability in South Sudan - Amnesty International](#). At the time of writing, the case file is still lost, preventing the victims and accused from exercising their right to appeal.

<sup>123</sup> Amnesty International, “Do you think we will prosecute ourselves?": No prospects for accountability in South Sudan (Index: AFR/65/1105/2019), [South Sudan: "Do you think we will prosecute ourselves?" No prospects for accountability in South Sudan - Amnesty International](#)

<sup>124</sup> Interview in person with South Sudanese woman human rights defender (name withheld for security reasons), 24 February 2022, Central Equatoria State; Interview in person with South Sudanese woman human rights defender (name withheld for security reasons), 24 February 2022, Central Equatoria State; Interview in person with South Sudanese lawyer (name withheld for security reasons), 24 February 2022, Central Equatoria State; Interview in person with SSPDF member (name withheld for security reasons), 25 February 2022, Central Equatoria State; Interview in person with UNMISS staff working on CRSV (name withheld for confidentiality reasons), 25 February 2022, Central Equatoria State.

<sup>125</sup> Interview in person with South Sudanese lawyer (name withheld for security reasons), 24 February 2022, Central Equatoria State.

<sup>126</sup> Interview in person with South Sudanese woman human rights defender (name withheld for security reasons), 24 February 2022, Central Equatoria State; The Republic of South Sudan, Report: National report submitted in accordance with paragraph 5 of the annex to

their perpetrators, anything can happen.”<sup>127</sup> He continued to describe the fear of exposure and repercussions deterred a sexual violence survivor from stepping forward.<sup>128</sup>

Individuals closely involved in the 2020 Yei military tribunals’ trials told Amnesty International that survivors were not given any protection during the trials and had to identify their perpetrators in the same room, putting them at risk of re-traumatization and reprisal attacks.<sup>129</sup> In February 2022, the CHRSS reported that, according to survivors and their representatives, there is uncertainty whether the perpetrators are still in prison or have been released and redeployed.<sup>130</sup>

Judicial actors also face risks including threats to their life, body and livelihoods. “We received a lot of threats”, said a prosecutor involved in prosecuting SGBV cases.<sup>131</sup> Describing his interaction with a public prosecutor about the prospects of submitting a CRSV case as a war crime, a lawyer told Amnesty International “it’ll be seen as a political thing. He’ll [the public prosecutor] likely lose his job. He’ll be reported to the National Security Service. [...] As a common crime, he can entertain rape. It won’t spoil the name of the army.”<sup>132</sup>

The lack of protection mechanisms extends to human rights defenders (HRDs) working on GBV and CRSV. HRDs working on GBV and CRSV told Amnesty International that they face threats and harassment by alleged perpetrators and/or their family members of survivors that they support. “When we try to push for justice, we’re told to drop the cases” one Woman Human Rights Defender (WHRD) told Amnesty International.<sup>133</sup> She continued: “We can’t take legal action because it’s [the suspect] is a person of power.”<sup>134</sup> Another WHRD told Amnesty International that it is difficult to know exactly who works on CRSV, in part because activists fear speaking about it amid the shrinking civic space.<sup>135</sup> Amnesty International has documented the systematic harassment of civil society, journalists, and government critics by the National Security Service and other government actors.<sup>136</sup>

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Human Rights Council resolution 16/21, 18 November 2021, Un Doc. A/HRC/WG.6/40/SSD/1, para. 51. In November 2021, the government reported that it established 12 “One Stop Centers” in all of South Sudan’s ten states to “provide protection, medical, psychosocial, legal services and shelters” to survivors. The Republic of South Sudan, Report: National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21, 18 November 2021, Un Doc. A/HRC/WG.6/40/SSD/1, para. 51.

<sup>127</sup> Interview in person with NGO worker (name withheld for security reasons), 1 March 2022, Central Equatoria State.

<sup>128</sup> Interview in person with NGO worker (name withheld for security reasons), 1 March 2022, Central Equatoria State.

<sup>129</sup> Interview in person with South Sudanese lawyers (names withheld for security reasons), 9 March, Central Equatoria State; Interview in person with civil society court observer (name withheld for security reasons), 7 March 2022, Central Equatoria State.

<sup>130</sup> CHRSS, Conference room paper: *Conflict-related sexual violence against women and girls in South Sudan*, 21 March 2022, UN Doc. A/HRC/49/CRP.4, para. 186.

<sup>131</sup> Interview in person with public prosecutor (name withheld for security reasons), 10 March 2022, Central Equatoria State.

<sup>132</sup> Interview in person with South Sudanese lawyer (name withheld for security reasons), 24 February 2022, Central Equatoria State.

<sup>133</sup> Interview in person with South Sudanese woman human rights defender (name withheld for security reasons), 24 February 2022, Central Equatoria State.

<sup>134</sup> Interview in person with South Sudanese woman human rights defender (name withheld for security reasons), 24 February 2022, Central Equatoria State.

<sup>135</sup> Interview in person with South Sudanese woman human rights defender (name withheld for security reasons), 24 February 2022, Central Equatoria State.

<sup>136</sup> Amnesty International, “*These walls have ears*”: *The chilling effect of surveillance in South Sudan* (Index: AFR 65/3577/2021), 2 February 2021, [South Sudan: “These walls have ears”: The chilling effect of surveillance in South Sudan - Amnesty International](#)

# 5. CONFLICT-RELATED SEXUAL VIOLENCE

## 5.1 INCIDENTS OF CONFLICT-RELATED SEXUAL VIOLENCE

**“All these cases of rape that are happening, the government is keeping silent.”**

Jacqueline (pseudonym), CRSV survivor, 4 March 2022, Central Equatoria State

Since the conflict that broke out in December 2013 spread to the Greater Central Equatoria region in July 2016, multiple reports by the CHRSS, UNMISS and civil society organizations, including Amnesty International, have documented CRSV in South Sudan.<sup>137</sup> The Office of the Chairperson of the African Union Commission too has expressed its dismay at the persistent use of sexual violence as a weapon of war and called for greater protection and accountability.<sup>138</sup> Amnesty International’s identification of survivors of CRSV who had not recounted their experience to these organizations highlights that the scale of these crimes is bigger than what has been documented. There is still acute need for comprehensive and effective investigations, prosecutions and a holistic government response to addressing sexual violence that meets

<sup>137</sup> CHRSS, Conference room paper: *Conflict-related sexual violence against women and girls in South Sudan*, 21 March 2022, UN Doc. A/HRC/49/CRP.4; UNMISS and OHCHR, *Attacks on civilians in Tambura county, June – September 2021*, 01 March 2022, [Attacks on civilians carried out by SPLA-IO and Pro-James Nando armed elements in Tambura County \(ohchr.org\)](#); UNMISS and OHCHR, *Conflict-related violations and abuses in Central Equatoria, September 2018 – April 2019*, 3 July 2019, [report on central equatoria - 3 july 2019.pdf \(ohchr.org\)](#); UNMISS and OHCHR, *Violations and abuses against civilians in Gbudue and Tambura states (Western Equatoria), April – August 2018*, 18 October 2018, [ReportWesternEquatoria17Oct2018.pdf \(ohchr.org\)](#); UNMISS and OHCHR, *Human rights violations and abuses in Yei July 2016 – January 2017*, 19 May 2017, [UNMISSReportJuly2016-January2017.pdf \(ohchr.org\)](#); Amnesty International, *“Do not remain silent”: Survivors of sexual violence in South Sudan call for justice and reparations* (Index: AFR 65/6469/2017), 14 July 2017, [South Sudan: “Do not remain silent”: Survivors of sexual violence in South Sudan call for justice and reparations - Amnesty International](#); OHCHR and UNMISS, *A report on violations and abuses of international human rights law and violations of international humanitarian law in the context of the fighting in Juba, South Sudan, in July 2016*, January 2017, [ReportJuba16Jan2017.pdf \(ohchr.org\)](#); Amnesty International, *“We did not believe we would survive”: Killings, Rape and Looting in Juba*, (Index: AFR 65/5028/2016), October 2016, [South Sudan: “We did not believe we would survive”: Killings, rape and lootings in Juba - Amnesty International](#)

<sup>138</sup> African Union Commission, *“AU dismayed by continued cases of sexual violence against women and children in South Sudan, calls for greater protection and accountability”*, 30 July 2016, [Microsoft Word - auc pr S Sudan 30.07.2016 \(peaceau.org\)](#)



survivors' medical, psycho-social and socio-economic needs, addresses root causes of the violence, including attitudinal and social norm change, and involves survivors in decision-making affecting them.

### 5.1.1 RAPE, GANG RAPE, ABDUCTIONS, SEXUAL SLAVERY

15 survivors told Amnesty International that state security actors, including government soldiers and a member of the NSS, members of the SPLA-IO, the National Salvation Front (NAS), armed men, men they called 'rebels', or unarmed men, including teenage boys, raped them. Eight survivors said that they were raped by multiple men. Three survivors told Amnesty International that they bore children following the rape.<sup>139</sup>

**Angelina** (pseudonym) told Amnesty International that in February 2022, government soldiers came to her house at night, demanded she come outside, and when she did, raped her. "When the first one was done, the second started. When the second finished, the first one came back. [...] They were using me like their own wife," she described.<sup>140</sup> **Elizabeth** (pseudonym) said she was raped by seven government soldiers outside her home in 2019, accusing her of feeding rebels.<sup>141</sup>

Three of the survivors described how they were abducted, forced to work and used as sex slaves, in two cases for extended periods of time lasting between two to at least four years. **Keji** (pseudonym) told Amnesty International that "rebels" took her and six other women to the bush in May 2016, brought them to a barracks and locked them inside a room. That night, the men raped them one by one, she said. "When this lady started crying, I also began to cry because I know I'll be the next person,"<sup>142</sup> she said. She told Amnesty International that she spent two years with the group after she was abducted and that she was repeatedly raped and beaten during that time and witnessed fighters raping other women. Fighters made her clean the area where the armed group was staying and took her and at least six others against their will from location to location. "We were tied with one rope, six of us ladies and one man. Seven of us, we were tied like slaves all."<sup>143</sup>

Abductions, resulting in sexual violence, often take place as women collect firewood on their way to cultivate their fields or at their fields.<sup>144</sup> **Tabitha** (pseudonym) told Amnesty International that between late 2016 and early 2017, she and three of her neighbours, all women, were cultivating their fields when around 15 men, some wearing different styles of uniforms and others in civilian clothes, took them to the bush and raped them after threatening to kill them. She said she was raped by at least two men. "I cannot cultivate now", she said, speaking about the impact the experience had on her.<sup>145</sup>

"They took me, removed my clothes and put pieces of clothes in my mouth so that I would not scream. One of them forced me down to the floor, and the other two raped me,"<sup>146</sup> **Emmanuella** (pseudonym) told Amnesty International. She said SPLA-IO fighters raped her in October 2016 when she and her husband were collecting vegetables. According to Emmanuella, the fighters separated her from her husband. In 2020 she heard from an escaped abductee that her husband was killed on the border with Uganda. She told Amnesty International that in 2020 she was raped again as she was collecting vegetables, this time by government soldiers.<sup>147</sup>

CRSV affects children too.<sup>148</sup> Five of the survivors whose cases Amnesty International documented were children at the time of the incident.<sup>149</sup> **Martha's** (pseudonym) aunt - in whom Martha had confided - told

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<sup>139</sup> Interview in person with "Margaret" (name changed for security reasons), CRSV survivor, 3 March 2022, Central Equatoria State; Interview in person with "Keji" (name changed for security reasons), CRSV survivor, 5 March 2022, Central Equatoria State; Interview in person with CRSV survivor (name withheld for security reasons), 4 March 2022, Central Equatoria State.

<sup>140</sup> Interview in person with "Angelina" (name changed for security reasons), CRSV survivor, 7 March 2022, Central Equatoria State.

<sup>141</sup> Interview in person with "Elizabeth" (name changed for security reasons), CRSV survivor, 4 March 2022, Central Equatoria State.

<sup>142</sup> Interview in person with "Keji" (name changed for security reasons), CRSV survivor, 3 March 2022, Central Equatoria State.

<sup>143</sup> Interview in person with "Keji" (name changed for security reasons), CRSV survivor, 3 March 2022, Central Equatoria State.

<sup>144</sup> CHRSS, Conference room paper: *Conflict-related sexual violence against women and girls in South Sudan*, 21 March 2022, UN Doc. A/HRC/49/CRP.4; Amnesty International, *"Do not remain silent": Survivors of sexual violence in South Sudan call for justice and reparations* (Index: AFR 65/6469/2017), 14 July 2017, South Sudan: "Do not remain silent": Survivors of sexual violence in South Sudan call for justice and reparations - Amnesty International

<sup>145</sup> Interview in person with "Tabitha" (name changed for security reasons), CRSV survivor, 3 March 2022, Central Equatoria State.

<sup>146</sup> Interview in person with "Emmanuella" (name changed for security reasons), CRSV survivor, 4 March 2022, Central Equatoria State.

<sup>147</sup> Interview in person with "Emmanuella" (name changed for security reasons), CRSV survivor, 4 March 2022, Central Equatoria State.

<sup>148</sup> CHRSS, Conference room paper: *Conflict-related sexual violence against women and girls in South Sudan*, 21 March 2022, UN Doc. A/HRC/49/CRP.4; UNMISS and OHCHR, Attacks on civilians in Tambura county, June – September 2021, 01 March 2022, [Attacks on civilians carried out by SPLA-IO and Pro-James Nando armed elements in Tambura County](https://www.unmiss.org/press-releases/attacks-on-civilians-carried-out-by-spla-io-and-pro-james-nando-armed-elements-in-tambura-county) ([ohchr.org](https://www.unmiss.org/))

<sup>149</sup> Interview in person with CRSV "Martha's" (name changed for security reasons) aunt and "Martha", 4 March 2022, Central Equatoria State; Interview in person with "Joyce" (name changed for security reasons), CRSV survivor, 3 March 2022, Central Equatoria State; Interview in person with "Margaret" (name changed for security reasons), CRSV survivor, 3 March 2022, Central Equatoria State; Interview in person with "Diana" (name changed for security reasons), survivor, 3 March 2022, Central Equatoria State; Interview in person with survivor and survivors' mother (names withheld for security reasons), 3 March 2022, Central Equatoria State

Amnesty International how, in September 2019, when her niece was still a teenager, an armed man in uniform, captured Martha as she was on her way from the village to the market. According to her aunt, the man threatened to shoot Martha with his gun if she did not “lie down”.<sup>150</sup> Martha’s aunt told Amnesty International that she took her niece to the hospital where the medical examination confirmed a tear in her vagina resulting from the rape.

**Joyce** (pseudonym) told Amnesty International that government soldiers raped her in May 2018. “I was then 14 years old. I was taken by two big men [...] both of them had guns”, she said.<sup>151</sup> **Margaret** (pseudonym) described to Amnesty International that the commander of the “rebels” that she said abducted her when she was 15 years old gave her to his son as his “wife”. “I was forced to have sex with Wani [pseudonym] until I got pregnant of my first child. I had to cook and clean the house, and we were constantly moving around to different locations in the bush.”<sup>152</sup> She told Amnesty International that, during the estimated four years that she was held captive by the fighters, she gave birth to a second child. She said that at the time she was abducted, the same rebels also abducted her 16-year-old cousin, who, at the time of the interview, was still missing.<sup>153</sup> **Diana** (pseudonym) described to Amnesty International that four unarmed teenagers wearing civilian clothes dragged her to a nearby school building when she was walking home from a funeral in 2021. “They undressed me. From there they raped me,” she said.<sup>154</sup>

CRSV goes underreported and even more so when it affects men and boys.<sup>155</sup> Despite this, Amnesty International and UN bodies have over the past years documented CRSV against men and boys.<sup>156</sup> Most recently, **Jacqueline** (pseudonym), a CRSV survivor, described to Amnesty International that she witnessed armed men rape her male neighbour in March 2019: “[They] undressed him, [told him] that he should squat down, when he kneeled down, they started raping him from behind.”<sup>157</sup> According to Jacqueline, the man later committed suicide by hanging himself.

## 5.2 IMPACT OF CONFLICT-RELATED SEXUAL VIOLENCE, STIGMA AND LACK OF SERVICES

CRSV has far-reaching consequences for a survivors’ physical, sexual and reproductive and mental health. Survivors said after they had been raped, they feared they had been exposed to sexually transmitted infections, including HIV. Survivors reported they had accessed some medical services, saying that they had been tested and were given medication, but were unable to provide further information about the type of services of medication. **Jacqueline** (pseudonym) told Amnesty International that her hand got broken as the result of the beatings that her suspected perpetrators subjected her to.

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<sup>150</sup> Interview in person with CRSV “Martha’s” (name changed for security reasons) aunt and “Martha”, 4 March 2022, Central Equatoria State.

<sup>151</sup> Interview in person with “Joyce” (name changed for security reasons), CRSV survivor, 3 March 2022, Central Equatoria State. This alleged rape took place during an attack in May 2018 by the SSPDF’s Tiger Battalion on a civilian compound that housed Emmanuel Christian College. In July 2018, the Ceasefire and Transitional Security Arrangements Monitoring Mechanism (CTSAMM) – a body established by the 2015 ARCSS and tasked to, among others, monitor and report on breaches of the ceasefire – investigated the attack and reported that “soldiers also committed rape”, including a young girl. CTSAMM, CTSAMM Report 2018/23 – Murder and rape in Goli, Central Equatoria State, 7 July 2018, [file \(jmeccsouthsudan.com\)](http://file:jmeccsouthsudan.com). In March 2019, the CHRSS reported that, among other violations that were allegedly committed by a large group of then SPLA Tiger Battalion when they attacked the Emmanuel Christian College compound, it “documented two cases of rape by SPLA soldiers, one of them involving two soldiers.” CHRSS, Report: *Report of the Commission on Human Rights in South Sudan*, 12 March 2019, UN Doc. A/HRC/40/69, paras. 78-82. Both organizations report that a boy was shot and killed in his bed and was found with a stick in his anus. “Joyce” said she was never interviewed before, indicating that her case is in novel information to what the CHRSS and CTSAMM have documented.

<sup>152</sup> Interview in person with “Margaret” (name changed for security reasons), CRSV survivor, 3 March 2022, Central Equatoria State.

<sup>153</sup> Interview in person with “Margaret” (name changed for security reasons), CRSV survivor, 3 March 2022, Central Equatoria State.

<sup>154</sup> Interview in person with “Diana” (name changed for security reasons), survivor, 3 March 2022, Central Equatoria State.

<sup>155</sup> Amnesty International, *“Do not remain silent”: Survivors of sexual violence in South Sudan call for justice and reparations* (Index: AFR 65/6469/2017, 14 July 2017, pg. 41, [South Sudan: “Do not remain silent”: Survivors of sexual violence in South Sudan call for justice and reparations - Amnesty International](http://www.amnesty.org/en/documents/AFR65/6469/2017/01)

<sup>156</sup> Amnesty International, *“Do not remain silent”: Survivors of sexual violence in South Sudan call for justice and reparations* (Index: AFR 65/6469/2017, 14 July 2017, pg. 41 - 44, [South Sudan: “Do not remain silent”: Survivors of sexual violence in South Sudan call for justice and reparations - Amnesty International](http://www.amnesty.org/en/documents/AFR65/6469/2017/01); CHRSS, Report: *Report of the Commission on Human Rights in South Sudan*, 21 February 2019, A/HRC/40/CRP.1, para. 475.

<sup>157</sup> Interview in person with “Jacqueline” (name changed for security reasons), CRSV survivor, 4 March 2022, Central Equatoria State.

The Government of South Sudan has chronically underinvested in health services and services are almost exclusively offered by non-governmental organizations.<sup>158</sup> Medical professionals whose job includes providing treatment and care to survivors of sexual violence told us that the government pays them between 4500 – 11,000 South Sudanese Pounds (the equivalent of 10 – 26 US Dollars) and sometimes they do not receive salaries for several months. They said that NGOs supplement their salaries.<sup>159</sup> In 2018, the UN reported on the lack of access to services for CRSV and GBV victims.<sup>160</sup>

CRSV can lead to mental health issues including Post-Traumatic Stress Disorder (PTSD).<sup>161</sup> Survivors described to Amnesty International feeling depressed and having trouble sleeping.<sup>162</sup> “Currently when I see a gun, I feel like running away. Sometimes even if I am sleeping, these thoughts, immediately I wake up.” **Jacqueline** (pseudonym) said.<sup>163</sup> “After the incident, I isolated myself, I felt not worthy, I did not want to share this with my friends, I took the decision of marrying just because I could not sustain myself,” **Joyce** said after she told Amnesty International that she had been raped by two government soldiers when she was 14 years old.<sup>164</sup> **Keji** said she used to think of committing suicide.<sup>165</sup> Despite the need, availability and accessibility of mental health and psychosocial support services remains extremely limited.<sup>166</sup>

The stigma that is still associated with CRSV forms a significant obstacle to reporting, preventing survivors from accessing critical services and seeking justice.<sup>167</sup> “We felt ashamed of the incident”, **Tabitha** (pseudonym) said.<sup>168</sup> “I am unable to go to the community because of stigmatization”, **Jacqueline** (pseudonym) told Amnesty International. “My husband decided to abandon me,”<sup>170</sup> she said, leaving her without a livelihood and to fend for her children by herself. **Jacqueline** (pseudonym) told Amnesty International that, in March 2019, four armed men in civilian clothing who she described to be part of a larger, non-state group with weapons, had taken her and four other women whom she had been tending to her casava crops with, beat them with sticks and forced them to walk into the bush where they locked them inside a *tukul*<sup>171</sup> with other abductees. She said the men later took the women to different locations near the *tukul* and raped them. **Jacqueline** (pseudonym) described to Amnesty International how she was raped by four men who would occasionally beat her with their gun.<sup>172</sup> “If my arm would have not gotten broken, I could have done, petty, petty work,” **Jacqueline** (pseudonym) told Amnesty International.<sup>173</sup>

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<sup>158</sup> Amnesty International, Human Rights Watch, South Sudan Human Rights Defenders Network, *South Sudan: Human rights priorities for the government of South Sudan* (Index: AFR 65/5196/2022), 3 February 2022, [South Sudan: Human rights priorities for the government of South Sudan - Amnesty International](#)

<sup>159</sup> Ref to the interviews with medical staff / Interview in person with a medical professional overseeing support to sexual violence survivors (name withheld for security reason), 7 March 2022, Central Equatoria State; Interview in person with a medical professional treating sexual violence survivors (name withheld for security reason), 7 March 2022, Central Equatoria State; Interview in person with a medical professional treating sexual violence survivors (name withheld for security reason), 8 March 2022, Central Equatoria State.

<sup>160</sup> UNMISS and OHCHR, Access to health for survivors of conflict-related sexual violence in South Sudan, May 2020, [access to health for survivors of conflict-related sexual violence in south sudan.pdf \(ohchr.org\)](#)

<sup>161</sup> CHRSS, Conference room paper: *Conflict-related sexual violence against women and girls in South Sudan*, 21 March 2022, UN Doc. A/HRC/49/CRP.4; UNMISS and OHCHR, Access to health for survivors of conflict-related sexual violence in South Sudan, May 2020, [access to health for survivors of conflict-related sexual violence in south sudan.pdf \(ohchr.org\)](#), paras. 42 – 44; Amnesty International, “Do not remain silent”: *Survivors of sexual violence in South Sudan call for justice and reparations* (Index: AFR 65/6469/2017), 14 July 2017, *South Sudan: “Do not remain silent”: Survivors of sexual violence in South Sudan call for justice and reparations - Amnesty International*; Amnesty International, “Our hearts have gone dark”: *The mental health impact of South Sudan’s conflict* (Index: AFR 65/3203/2016), 6 July 2016, *South Sudan: “Our hearts have gone dark”: The mental health impact of South Sudan’s conflict - Amnesty International*

<sup>162</sup> Interview in person with “Keji” (name changed for security reasons), CRSV survivor, 3 March 2022, Central Equatoria State; Interview in person with “Gloria” (name changed for security reasons), CRSV survivor, 3 March 2022, Central Equatoria State; Interview in person with “Jacqueline” (name changed for security reasons), CRSV survivor, 4 March 2022, Central Equatoria State.

<sup>163</sup> Interview in person with “Jacqueline” (name changed for security reasons), CRSV survivor, 4 March 2022, Central Equatoria State.

<sup>164</sup> Interview in person with “Joyce” (name changed for security reasons), CRSV survivor, 3 March 2022, Central Equatoria State.

<sup>165</sup> Interview in person with “Keji” (name changed for security reasons), CRSV survivor, 3 March 2022, Central Equatoria State.

<sup>166</sup> Amnesty International, Human Rights Watch, South Sudan Human Rights Defenders Network, *South Sudan: Human rights priorities for the government of South Sudan* (Index: AFR 65/5196/2022), 3 February 2022, [www.amnesty.org/en/documents/afr65/5196/2022/en/](#)

<sup>167</sup> CHRSS, Conference room paper: *Conflict-related sexual violence against women and girls in South Sudan*, 21 March 2022, UN Doc. A/HRC/49/CRP.4; UNMISS and OHCHR, Access to health for survivors of conflict-related sexual violence in South Sudan, May 2020, [access to health for survivors of conflict-related sexual violence in south sudan.pdf \(ohchr.org\)](#); Amnesty International, “Do not remain silent”: *Survivors of sexual violence in South Sudan call for justice and reparations* (Index: AFR 65/6469/2017), 14 July 2017, *South Sudan: “Do not remain silent”: Survivors of sexual violence in South Sudan call for justice and reparations - Amnesty International*

<sup>168</sup> Interview in person with “Tabitha” (name changed for security reasons), CRSV survivor, 3 March 2022, Central Equatoria State.

<sup>169</sup> Interview in person with “Jacqueline” (name changed for security reasons), CRSV survivor, 4 March 2022, Central Equatoria State.

<sup>170</sup> Interview in person with “Jacqueline” (name changed for security reasons), CRSV survivor, 4 March 2022, Central Equatoria State.

<sup>171</sup> A traditional-style house with thatched roofing.

<sup>172</sup> Interview in person with “Jacqueline” (name changed for security reasons), CRSV survivor, 4 March 2022, Central Equatoria State.

<sup>173</sup> Interview in person with “Jacqueline” (name changed for security reasons), CRSV survivor, 4 March 2022, Central Equatoria State.

Almost all the CRSV survivors shared with Amnesty International their desire for their children to access education and the pain and feelings of despair and failure when they could not meet these needs.<sup>174</sup>

Responding to the need for effective investigations, prosecutions and holistic government response, the Ministry of Gender, Child and Social Welfare wrote: “the Ministries of Gender and Health with support from UNFPA established one-stop centres, where SGBV survivors are able to receive medical care, counselling and legal support”<sup>175</sup> In March 2022, Amnesty International visited a one-stop centre in Central Equatoria State. It found that the funding for the NGOs providing legal services had ended, resulting in a discontinuation of legal services.<sup>176</sup> The funding for the NGO providing psycho-social services had been cut, resulting in further limitation of the availability of the service.<sup>177</sup> Neither NGO received funding from the Government of South Sudan.<sup>178</sup> In March 2022, the CHRSS reported that the one stop centres are too few to deal with the vast needs of survivors.<sup>179</sup>

Amnesty International conducted its investigation amid fighting between government forces and NAS, a non-state armed group that has not signed the 2018 R-ARCSS, in Central Equatoria State. In the week that Amnesty International investigators visited a town in Central Equatoria State, they received days-old reports of CRSV. Amnesty International researchers chose to not investigate these reports because the women had not yet had access to psycho-social services.

## 5.3 GUNS USED TO FACILITATE CRSV

While arms are not always directly used to commit CRSV, their presence and threat of use can facilitate its commission. This is reflected in the Arms Trade Treaty which obliges states to consider whether proposed transfers of arms could be used to commit or facilitate serious acts of GBV or serious acts of violence against women and girls.<sup>180</sup>

“The more weapons we [South Sudanese] have, the more violations”, said a WHRD.<sup>181</sup> She continued to say: “the gun is their strength to rape women.”<sup>182</sup> This was echoed by a South Sudanese lawyer who works with CRSV survivors. They said: “When someone sees a gun, it is a symbol of fear and intimidation. There is no choice but to comply.”<sup>183</sup> A senior UN staffer working on CRSV identified the availability of small arms to be a “huge contributing factor to CRSV” in South Sudan.<sup>184</sup>

Nine survivors of CRSV told us that their perpetrators raped them at gunpoint and threatened to kill them or their relatives with their gun if they did not comply.

“Two government soldiers took us at gunpoint to an abandoned house. [...] The soldier who took me, order[ed] me to remove my clothes, I first refused, I was resisting and he was threatening to kill me with his gun. [...] When he stood up, I managed to run away from the house and he realized I was escaping. He took the gun and shot after me”, said **Emmanuella** (pseudonym). She told Amnesty International that her sister-

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<sup>174</sup> Interview in person with “Emmanuella” (name changed for security reasons), CRSV survivor, 4 March 2022, Central Equatoria State; Interview in person with “Gloria” (name changed for security reasons), CRSV survivor, 3 March 2022, Central Equatoria State; Interview in person with “Tabitha” (name changed for security reasons), CRSV survivor, 3 March 2022, Central Equatoria State; Interview in person with “Jacqueline” (name changed for security reasons), CRSV survivor, 4 March 2022, Central Equatoria State; Interview in person with CRSV survivor (name withheld for security reasons), 4 March 2022, Central Equatoria State.

<sup>175</sup> Minister of Gender, Child and Social Welfare of the Republic of South Sudan, Juba, letter to Amnesty International, 26 April 2022, on file with Amnesty International.

<sup>176</sup> Interview in person with South Sudanese lawyers (names withheld for security reasons), 9 March, Central Equatoria State; Interview in person with a medical professional treating sexual violence survivors (name withheld for security reason), 7 March 2022, Central Equatoria State.

<sup>177</sup> Interview in person with a former psycho-social counsellor working with survivors (name withheld for security reason), 28 February 2022, Central Equatoria State; Interview in person with a medical professional treating sexual violence survivors (name withheld for security reason), 7 March 2022, Central Equatoria State.

<sup>178</sup> Interview in person with a former psycho-social counsellor working with survivors (name withheld for security reason), 28 February 2022, Central Equatoria State; Interview in person with South Sudanese lawyers (names withheld for security reasons), 9 March, Central Equatoria State.

<sup>179</sup> CHRSS, Conference room paper: *Conflict-related sexual violence against women and girls in South Sudan*, 21 March 2022, UN Doc. A/HRC/49/CRP.4, para. 223.

<sup>180</sup> Article 7(4), United Nations, The Arms Trade Treaty, 24 December 2014, [Etpu \(amazonaws.com\)](https://www.un.org/press/en/2014/attp014.docstxt)

<sup>181</sup> Interview in person with South Sudanese woman human rights defender (name withheld for security reasons), 24 February 2022, Central Equatoria State.

<sup>182</sup> Interview in person with South Sudanese woman human rights defender (name withheld for security reasons), 24 February 2022, Central Equatoria State.

<sup>183</sup> Interview in person with South Sudanese lawyer (name withheld for security reasons), 24 February 2022, Central Equatoria State.

<sup>184</sup> Interview in person with UNMISS staff working on CRSV (name withheld for confidentiality reasons), 25 February 2022, Central Equatoria State.

in-law was also raped during this incident that took place in 2020.<sup>185</sup> According to **Martha's** (pseudonym) aunt, the man in uniform who raped her teenage niece threatened to shoot Martha with his gun if she did not "lie down".<sup>186</sup> Describing the use of guns by the "rebels" who abducted her in 2016, submitted her to sexual slavery, and repeatedly raped her and other women, **Keji** (pseudonym) told Amnesty International that "They will say if you don't comply with me, if you don't cooperate, I'll gun you down. So, we fear, we have to accept what they want."<sup>187</sup>

On her journey from the Democratic Republic of Congo back to South Sudan in 2016, **Gloria** (pseudonym) encountered armed men. She said: "They are five of them, all of them have guns. So the other one picked the gun and then placed the gun down and then he started tearing my clothes. Then the soldier asked me, that you choose one thing whether I will have sexual intercourse with you or I will kill you and your children all," she said. She told Amnesty International that one of the soldiers raped her. Describing events after she and a neighbour encountered armed men in June 2021 who self-identified as NAS as they went to collect firewood, **Gloria** (pseudonym) said: "The other one ran to the roadside coming to monitor. And then the two remain with us where they have arrested us. They're all with gun. Again, also they raped us that time, they're two. After that time, I really felt bad. I said maybe I will not reach to 2022 because of all these incidents happening to me."<sup>188</sup>

In one incident Amnesty International documented, the survivor told Amnesty International that government soldiers shot her husband after they forced him to watch them rape her and he had objected to the rape. "Seven of them raped me. I was lightly unconscious, and my husband became aggressive, started speaking, then they shot him dead," **Elizabeth** (pseudonym) told Amnesty International. Deliberately targeting and killing civilians are war crimes. In another incident Amnesty International documented, the survivor told Amnesty International that soldiers who had raped her in the presence of her husband used their guns to beat her husband, whom she described as "very old", "until he was bleeding from the head."<sup>189</sup>

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<sup>185</sup> Interview in person with "Emmanuella" (name changed for security reasons), CRSV survivor, 4 March 2022, Central Equatoria State.

<sup>186</sup> Interview in person with CRSV "Martha's" (name changed for security reasons) aunt and "Martha", 4 March 2022, Central Equatoria State.

<sup>187</sup> Interview in person with "Keji" (name changed for security reasons), CRSV survivor, 5 March 2022, Central Equatoria State.

<sup>188</sup> Interview in person with "Gloria" (name changed for security reasons), CRSV survivor, 3 March 2022, Central Equatoria State.

<sup>189</sup> Interview in person with "Elizabeth" (name changed for security reasons), CRSV survivor, 4 March 2022, Central Equatoria State.

# 6. CONCLUSION AND RECOMMENDATIONS

## 6.1 CONCLUSION

Pillars 4 and 5 of the AP CRSV are insufficiently implemented to meet the fifth benchmark established by the UN Security Council in May 2021. Impunity for CRSV remains the norm and CRSV survivors, witnesses of CRSV, and judicial actors, as well as civil society members working on CRSV, are left unprotected and exposed to threats and harassment by suspected perpetrators. CRSV continues to be a persistent feature in South Sudan's conflict. Perpetrators include government security actors, non-state armed groups, militias, and armed and unarmed men. Guns are used to facilitate the commission of CRSV by threatening women and girls impacted to comply.

Survivors are left without redress and have inadequate access to critical services. CRSV survivors are not given an opportunity to participate meaningfully in the implementation of the 2021 action plan. This violates South Sudan's legal obligation to investigate and prosecute suspects of violations of international human rights and humanitarian law and to punish those found responsible. It also violates South Sudan's obligations under international law to ensure victims' rights to truth, justice and reparations.

## 6.2 RECOMMENDATIONS

Survivors offered recommendations to the Government of South Sudan, including:

- Soldiers must stop raping women;
- Acknowledge the harm done to CRSV survivors, take responsibility for the actions of individuals under their command and offer protection to the survivors;
- Arrest all individuals suspected of CRSV and prosecute them;
- Increase access to education for the survivors' children;
- Support family reunification programmes;
- Support women's empowerment programmes to increase access to income and livelihoods.

## **TO THE SOUTH SUDANESE AUTHORITIES**

### **TO THE PRESIDENT:**

- Publicly acknowledge the role of government actors in perpetrating sexual violence, speak out publicly against sexual violence, and make public apologies to victims;
- Sign the Memorandum of Understanding for the Hybrid Court for South Sudan and adopt the Draft Statute of the Hybrid Court for South Sudan, and ensure that the court becomes rapidly operational;
- Until independent, impartial and effective investigations are concluded, suspend public officials or prevent the appointment to public positions of individuals allegedly responsible for violations of international humanitarian or human rights law;
- Complete ratification of and domesticate the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) and the African Charter on the Rights and Welfare of the Child (African Children's Charter);
- Order the National Security Service (NSS) to allow civil society and media to operate freely, to speak out critically, and to document and investigate sexual violence;
- Commit to the Abuja Declaration and progressively allocate at least 15 percent of the national budget to health.

### **TO THE MINISTRY OF JUSTICE AND CONSTITUTIONAL AFFAIRS, LAW REVIEW AND REFORM COMMISSION AND THE REVITALISED TRANSITIONAL LEGISLATIVE ASSEMBLY:**

- Amend the 2008 Penal Code to ensure it is consent-based and expand the definition of rape to include marital rape and other forms of penetration including oral penetration and penetration with objects;
- Amend the 2008 Penal Code to include crimes under international law, including war crimes, crimes against humanity and genocide, in conformity with definitions of international law and include provisions on command responsibility and the non-applicability of amnesties and immunities.

### **TO THE JOINT DEFENSE BOARD:**

- Raise more awareness among the general public, civil society and survivors about the 2021 Action Plan for the Armed Forces on Addressing Conflict-related Sexual Violence in South Sudan and involve survivors of CRSV in the implementation and monitoring of the plan;
- Establish a vetting mechanism to remove from the ranks and not recruit anyone suspected of ordering, committing or facilitating violations of international human rights law and international humanitarian law, including acts of sexual violence, until independent, impartial and effective investigations are concluded;
- Ensure the meaningful participation and consultation of survivors in the implementation and monitoring of the 2021 Action Plan for the Armed Forces on Addressing Conflict-related Sexual Violence in South Sudan.

### **TO THE PUBLIC PROSECUTOR:**

- Initiate prompt, independent and impartial investigations into allegations of crimes under international law and other violations of human rights, including rape and other sexual violence, and charge cases of conflict-related sexual violence also as torture and war crimes when relevant;
- Bring those suspected of criminal responsibility to justice in open, accessible civilian courts and in fair trials without recourse to the death penalty.

#### **TO THE SSPDF:**

- Ensure that members immediately cease all violations of international human rights law and international humanitarian law, including sexual violence by putting in place mechanisms to adequately monitor the conduct of forces;
- Refer all cases of crimes committed against civilians by members of the SSPDF to the civilian courts, in accordance with section 37(4) of the 2009 SPLA Act and international standards.

#### **TO THE MINISTRY OF JUSTICE AND CONSTITUTIONAL AFFAIRS:**

- Establish a victim and witness protection program and ensure the meaningful design, participation and consultation of survivors in the creation of such a programme;
- Implement all provisions of Chapter V and other relevant judicial reform provisions the 2015 and 2018 peace agreements, including those related to the Hybrid Court for South Sudan and the Commission on Truth Reconciliation and Healing and the Compensation and Reparation Authority.

#### **TO THE MINISTRY OF HEALTH AND THE MINISTRY OF GENDER, CHILD AND SOCIAL WELFARE:**

- Ensure that survivors of sexual violence can access comprehensive and confidential health care services, including sexual and reproductive health services and information as required, including emergency contraception, HIV counselling, testing and post-exposure prophylaxis, safe and legal abortion, and maternal health support;
- Establish more safe houses where CRSV and SGBV survivors can seek shelter, protection and from where they can access psycho-social, medical and legal services;
- Develop programmes aimed at eradicating stigma and discrimination against sexual violence survivors and at breaking cycles of victimization and disempowerment of women and girls, including for example through public education campaigns and training programs;
- Ensure that children of survivors of CRSV are able to access education and special measures are taken to ensure female headed households have access to livelihood opportunities.

#### **TO THE SPLA-IO AND OTHER ARMED GROUPS**

- Ensure that members immediately cease all abuses of international humanitarian law, including sexual violence by issuing clear orders prohibiting sexual violence, providing their forces with appropriate training, and by putting in place mechanisms to adequately monitor the conduct of forces;
- Remove from the ranks and not recruit anyone suspected of ordering, committing or facilitating violations of international humanitarian law, including acts of sexual violence, until independent, impartial and effective investigations are concluded.



## TO THE UNITED NATIONS

### TO THE UNITED NATIONS SECURITY COUNCIL:

- Renew the arms embargo on the territory of South Sudan;
- Maintain the implementation of the Action Plan for the armed forces on addressing conflict-related sexual violence in South Sudan as a benchmark against which any future amendment of the arms embargo will be reviewed, with an emphasis on protection of victims, witnesses and judicial actors and criminal accountability, including transitioning from using military courts to civilian courts to prosecute crimes committed against civilians;
- Urge the parties to the R-ARCSS to implement Chapter V of the 2015 and 2018 peace agreements in a holistic manner by simultaneously establishing the HCSS and the CTRH, closely followed by the CRA;
- If investigations and prosecutions are not initiated in the near future before independent, impartial and competent courts with regards to crimes under international law committed in the context of the conflict in South Sudan since 15 December 2013, either before domestic or international/internationalized courts, consider referring the situation of South Sudan to the International Criminal Court or establishing an *ad hoc* court under Chapter VII of the UN Charter.

### TO THE UNITED NATIONS IN SOUTH SUDAN:

- Strengthen the civilian justice system and support a transition from using the military justice system to prosecute crimes committed against civilians to prosecuting such cases before competent civilian courts;
- Provide technical assistance and urge the Government of South Sudan to domesticate crimes under international law;
- Support the Government of South Sudan to disseminate and make accessible the 2021 Action Plan for the Armed Forces on Addressing Conflict-related Sexual Violence in South Sudan to civil society and CRSV survivors and actively support their participation in its implementation.

## TO THE AFRICAN UNION

### TO THE AFRICAN UNION PEACE AND SECURITY COUNCIL:

- Convene a briefing session on the situation in South Sudan and, in particular, the role of CRSV, availability of small arms, and lack of accountability as destabilising factors and causes of insecurity in South Sudan;
- Reiterate and follow-up on its previous calls to the Revitalized-Transitional Government of National Unity and the African Union Commission to expedite the establishment of the Hybrid Court for South Sudan, including by urgently signing the Memorandum of Understanding, adopting the Draft Statute of the Court, and ensuring that the Court becomes rapidly operational.

### TO THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS:

- Issue a public statement or resolution condemning the prevalence of CRSV in South Sudan and the government's lack of response to addressing it. The statement or resolution should also highlight the root causes of CRSV specifically and violence against women more broadly in South Sudan, the role of small arms in the commission of CRSV and violence against women, and urge the Government of South Sudan to strengthen its response to address CRSV and violence against women by, but not limited to, domesticating crimes under international law, strengthening the

civilian justice system and prosecution of CRSV in the civilian system, and establishing protection mechanisms for victims, witnesses, judicial actors, and human rights defenders;

- Urge the Government of South Sudan to amend the 2008 Penal Code to domesticate crimes under international law and to amend the definition of rape so that it meets international standards;
- Urge the Government of South Sudan to complete ratification of and domesticate the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol).

#### **TO THE SPECIAL ENVOY OF THE AFRICAN UNION COMMISSION CHAIRPERSON ON WOMEN, PEACE AND SECURITY IN AFRICA:**

- Conduct a visit to South Sudan to assess the levels and patterns of CRSV; the use of small arms to facilitate CRSV; the root causes of violence against women; efforts taken by the government to address CRSV specifically and violence against women more broadly; and the consequences of these factors for security in South Sudan, and issue a public report containing findings of the visit and recommendations to the government on how to improve the situation;
- Urge the Government of South Sudan to complete ratification of and domesticate the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol).

#### **TO THE AFRICAN COMMITTEE OF EXPERTS ON THE RIGHTS AND WELFARE OF THE CHILD**

- Issue a public statement on the impact of CRSV on children and the specific needs of children born out of rape and offer the government recommendations to respond to these needs;
- Urge the Government of South Sudan to ratify and domesticate the African Charter on the Rights and Welfare of the Child (African Children's Charter).

# 7. ANNEXES

	addressing CRSV	<ul style="list-style-type: none"> <li>5,000 copies of the Action Plan printed and distributed among military personnel</li> </ul>	Public Relations Directorate)			
<b>Pillar 4: Accountability and Oversight</b>						
<b>Internal Oversight and Accountability</b>						
Output	Activities	Indicator of Achievement	Responsible Party	Timeline		
				Year 1	Year 2	Year 3
Output 6: Internal oversight and accountability of the national armed forces strengthened	Activity 6.1: Develop and issue command orders expressly prohibiting the commission of sexual violence	<ul style="list-style-type: none"> <li>Existing command orders reviewed, revised and re-issued upon need</li> </ul>	Army / Joint CRSV Committee/ Chief of Defence Forces	X		
	Activity 6.2: Review, revise and re-issue the Army Code of Conduct, including disciplinary measures for sexual violence crimes.	<ul style="list-style-type: none"> <li>Code of Conduct revised and re-issued</li> </ul>	Army Legal advisor, Joint CRSV Committee	X		

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*Pillar 4 and 5 of the 2021 action plan for the armed forces on addressing conflict-related sexual violence in South Sudan*

Activity 6.3: Review guidelines and procedures to ensure all aspects and forms of sexual violence are promptly and appropriately addressed in Army Rules and Regulations and Rules of Engagement.	<ul style="list-style-type: none"> <li>Rules and Regulations and Rules of Engagement revised</li> <li>Number of actions against perpetrators taken</li> </ul>	Army Military Justice	X		
Activity 6.4: Translate, print and disseminate command orders as well as precise disciplinary and administrative actions to be taken in case of breach of command orders prohibiting the commission of sexual violence crimes through the chain of command	<ul style="list-style-type: none"> <li>Number of copies of command orders published and distributed</li> </ul>	Army (Information and Public Relations Directorate)	X	X	X
Activity 6.5: Translate, print and disseminate undertakings requiring respect for international human rights, international humanitarian, and national	<ul style="list-style-type: none"> <li>Number of undertakings disseminated</li> </ul>	Army (Information and Public Relations Directorate)	X	X	X

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laws as they relate to sexual violence to be signed by military personnel		te)			
Activity 6.6: Military personnel sign undertakings alongside training	<ul style="list-style-type: none"> <li>Percentage of undertakings signed by military personnel</li> </ul>	Army personnel	X	X	X
Activity 6.7: Undertakings stored within HQ	<ul style="list-style-type: none"> <li>Undertaking tracking system established</li> </ul>	Army Archive	X	X	X
Activity 6.8: Develop an early warning system to predict, identify, mitigate and respond to situations that may result in the commission of sexual violence	<ul style="list-style-type: none"> <li>Early warning mechanism developed</li> </ul>	Army (Military Justice Directorate, Division / Brigade commanders	X	X	X
Activity 6.9: Develop a monitoring system to track sexual violence incidents and perpetrators	<ul style="list-style-type: none"> <li>Monitoring system developed at Division and HQ levels</li> </ul>	Division / Brigade commanders, CRSV Focal	X		

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			Points, Joint CRSV Committ ee			
	<b>Activity 6.10:</b> Develop guidelines and protocols for the mandatory reporting by military personnel of sexual violence cases committed by the Army and other parties to the conflict	<ul style="list-style-type: none"> <li>Guidelines and protocol for mandatory reporting developed and disseminated</li> </ul>	Army (Training Department, Military Justice Directorate)	X		
	<b>Activity 6.11:</b> Develop guidelines, policies, and procedures for the screening of candidates for recruitment into the national armed forces and promotions to ensure they have not been implicated in the commission of violations of international human rights, international humanitarian, or national laws, including sexual violence crimes	<ul style="list-style-type: none"> <li>Guidelines developed and implemented in the screening of military personnel</li> </ul>	Army (Human Resources Department, Military Justice Directorate, Female affairs' Department)	X		

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	<b>Activity 6.12:</b> Hold regular consultations with the Directorate of Military Justice and other relevant sources before, during and after the recruitment/promotion process to identify perpetrators of sexual violence	<ul style="list-style-type: none"> <li>Number of consultations between staff of Human Resources with Military Justice and relevant sources</li> </ul>	Army (Human Resources Department, Military Justice Directorate)	X	X	X
	<b>Activity 6.13</b> Integrate the recruitment, retention and deployment of military personnel with targeted measures to promote greater gender inclusivity and undertake measures to increase women's representation in the national armed forces at all levels	<ul style="list-style-type: none"> <li>Adoption of targeted measures</li> <li>Number of female military personnel</li> </ul>	Army (Female affairs' Department; Human Resources Department)	X	X	X
<b>Investigation and Prosecution of Sexual Violence</b>						
Output	Activities	Indicator of Achievement	Responsible Party	Timeline		
				Year 1	Year 2	Year 3
<b>Output 7:</b> Capacity of the	<b>Activity 7.1:</b> Undertake a capacity needs assessment	<ul style="list-style-type: none"> <li>Needs assessment</li> </ul>	Army (Military	X		

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national armed forces to investigation and prosecute sexual violence crimes strengthened	of Military Justice investigators and prosecutors to identify areas of training and support	completed	Justice Directorate)			
	Activity 7.2: Develop training strategy on CRSV for military justice investigators and prosecutors	<ul style="list-style-type: none"> <li>Training strategy developed</li> </ul>	Army (Military Justice Directorate, Training Directorate)	X		
	Activity 7.3: Train and mentor military justice investigators and prosecutors on the investigation and prosecution of sexual violence crimes	<ul style="list-style-type: none"> <li>Percentage of military justice investigators and prosecutor trained</li> </ul>	Army (Military Justice Directorate)	X	X	X
	Activity 7.4: Develop a case tracking system for sexual violence investigations and prosecutions	<ul style="list-style-type: none"> <li>Case tracking system established</li> </ul>	Army (Military Justice Directorate)	X		
	Activity 7.5: Enhance mechanisms that facilitate access by military justice	<ul style="list-style-type: none"> <li>Issuance of command order that</li> </ul>	Army / Criminal Justice	X		

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	personnel and other investigators, including civilian investigators, to military personnel wherever the personnel is situated	gives access to military justice personnel <ul style="list-style-type: none"> <li>Number of military personnel prosecuted by military or civilian authorities for sexual violence crimes</li> </ul>	System)			
	Activity 7.6: Enhance mechanisms to ensure military authorities, particularly commanders, respect and implement decisions by military justice and other competent civilian authorities on cases of sexual violence	<ul style="list-style-type: none"> <li>Commanders abide by military justice systems or decisions</li> </ul>	Army (Military Justice Directorate, Office of the CDF)	X	X	X
<b>Collaboration between military and civilian justice</b>						
Output	Activities	Indicator of Achievement	Responsible Party	Timeline		
				Year 1	Year 2	Year 3

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<b>Output 8:</b> Coordination between military and civilian justice enhanced at national and subnational levels	<b>Activity 8.1:</b> Establish a mechanism for engagement between military justice and civilian justice	• Regular meetings established	Army / Criminal Justice System	X		
	<b>Activity 8.2:</b> Organize joint monthly meetings to discuss cooperation, challenges, and the status of investigations and prosecutions	• Number of meetings conducted	Army / Criminal Justice System	X	X	X
	<b>Activity 8.3:</b> Develop / clarify guidelines to facilitate the joint investigation by civilian and military investigators into incidents of sexual violence	• Guidelines on joint investigations adopted	Army / Criminal Justice System	X		
	<b>Activity 8.4:</b> Develop / clarify guidelines to facilitate cooperation between civilian and military justice regarding cases of sexual violence	• Guidelines on cooperation adopted	Army / Criminal Justice System	X		
	<b>Activity 8.5:</b> Military prosecutors to regularly undertake field visits to engage with field commanders on specific	• Number of field visits conducted	Army Military Justice Directorate	X	X	X

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	cases					
	<b>Activity 8.6:</b> Contribute to mobile joint civilian and military justice mechanisms to address sexual violence case in the field	• Support Joint Mobile Civilian mechanism	Army / Criminal Justice System	X	X	X
<b>Pillar 5: Protection of Victims, Witnesses and Judicial Actors</b>						
Output	Activities	Indicator of Achievement	Responsible Party	Timeline		
				Year 1	Year 2	Year 3
<b>Output 9:</b> Capacity of armed forces, in coordination with SSNPS and the Ministry of Justice, to ensure the security of victims, witnesses and judicial actors enhanced	<b>Activity 9.1:</b> Develop measures to protect victims, witnesses and judicial actors or parties who either directly or indirectly play role in the judicial process	<ul style="list-style-type: none"> <li>• Protection and safety measures developed and adopted</li> <li>• Laws protecting judicial actors implemented</li> </ul>	Army (Military Justice Directorate, Office of the CDF)	X		
	<b>Activity 9.2:</b> Disseminate and train commanders on the protection guidelines and survivor-centered approach	• Knowledge of protection guidelines by Commanders	Army (Moral Orientation Directorate, Military	X	X	X

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			Justice Directorate)			
	Activity 9.3: In partnership with civilian justice and other relevant partners, institute practical measures to protect victims and witnesses from any potential threats to their life	<ul style="list-style-type: none"> <li>Victim and witness protection measures in place</li> </ul>	Army (Military Justice Directorate)	X		
<b>Pillar 6: Monitoring and Evaluation</b>						
Output	Activities	Indicator of Achievement	Responsible Party	Timeline		
				Year 1	Year 2	Year 3
Output 10: Capacity of the Army to monitor and report on progress in addressing sexual violence enhanced	Activity 10.1: Develop a monitoring and evaluation framework which will constitute the main tool for reporting progress on the implementation the Unified Army Action Plan.	<ul style="list-style-type: none"> <li>Monitoring and evaluation framework established</li> </ul>	Joint CRSV Committee	X		
	Activity 10.2: Produce and submit quarterly reports on the implementation of the Unified Army Action Plan to the senior leadership of the JDB and to the Office	<ul style="list-style-type: none"> <li>Number of quarterly reports produced</li> </ul>	Joint CRSV Committee	X	X	X

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	of the Special Representative of the Secretary General on Sexual Violence in Conflict					
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# **“IF YOU DON’T COOPERATE, I’LL GUN YOU DOWN”**

## **CONFLICT-RELATED SEXUAL VIOLENCE AND IMPUNITY IN SOUTH SUDAN**

More than seven years after the army and Sudan People’s Liberation Army-In Opposition (SPLA-IO) first committed to addressing conflict-related sexual violence (CRSV) in 2014, CRSV is still largely left unaddressed, perpetrators unpunished, survivors without protection and redress, and South Sudan’s legal framework with gaps. Guns are used to commit CRSV that is still ongoing.