



# General Assembly

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## Human Rights Council

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Albania, Austria,\* Belgium, Canada,\* Croatia,\* Czechia,\* Denmark,\* Finland,\* Germany, Ireland,\* Italy,\* Latvia, Lithuania,\* Luxembourg,\* Norway,\* Paraguay, Poland,\* Romania,\* Slovakia,\* Sweden,\* United Kingdom of Great Britain and Northern Ireland, United States of America: draft resolution

### S-26/... Situation of human rights in South Sudan

*The Human Rights Council,*

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

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

*Emphasizing that States have the primary responsibility for the promotion and protection of human rights,*

*Recalling* Human Rights Council resolution 31/20 of 23 March 2016, in which the Council established the Commission on Human Rights in South Sudan, and all other previous Human Rights Council and Security Council resolutions and President's statements on South Sudan,

*Recalling also* all relevant decisions and communiqués of the African Union and the Intergovernmental Authority on Development,

*Acknowledging* that the Government of the Republic of South Sudan has committed to cooperating with the Office of the United Nations High Commissioner for Human Rights, United Nations special procedures, and the Commission on Human Rights in South Sudan in the fulfilment of its mandate,

*Deeply concerned* by the allegations of human rights violations and abuses in the reports of the Secretary-General on South Sudan, the reports of the United Nations Mission

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\* State not a member of the Human Rights Council.



in South Sudan, the interim report of the Panel of Experts on South Sudan<sup>1</sup> and the reports of the United Nations High Commissioner for Human Rights,<sup>2</sup>

*Deeply alarmed* by the initial view of the Commission on Human Rights in South Sudan of 1 December 2016 that there is already a steady process of ethnic cleansing under way in several areas of South Sudan using starvation, gang rape and the burning of villages, and deeply alarmed also by the statement of the Special Adviser of the Secretary-General on the Prevention of Genocide of 11 November 2016 that there is a strong risk of violence escalating along ethnic lines, with the potential for genocide, in South Sudan,

*Concerned* by ethnically motivated hate speech by all sides, reports of targeting of civilians based on ethnicity, and sexual and gender-based violence becoming increasingly widespread,

*Deeply alarmed* that more than 1,900 structures have been destroyed in Central Equatoria since September 2016, and that the Government of the Republic of South Sudan has mobilized at least 4,000 irregular ethnic militia and deployed them to Central Equatoria, thereby increasing the likelihood of more clashes with armed opposition groups and attacks against civilians,

*Deeply concerned* about the deteriorating situation in South Sudan, which is marked by increasing fragility in the political, security and economic spheres, amid a deepening humanitarian crisis and atrocities committed since the outbreak of violence in December 2013, acute food insecurity, producing mass displacements within South Sudan and outside the country, access restrictions and other impediments to humanitarian assistance, while commending humanitarian agencies for their continued assistance to the affected populations, and urging all actors concerned to cooperate fully with humanitarian agencies,

*Noting with grave concern* the conclusions of the United Nations Mission in South Sudan in its reports dated 8 May 2014 and 4 December 2015 and the report of the African Union Commission of Inquiry on South Sudan of 15 October 2014 that the violations and abuses of human rights and the violations of international humanitarian law that have been committed may constitute war crimes and crimes against humanity,

*Gravely concerned* about ongoing reports of increased levels of sexual and gender-based violence and instances of conflict-related rape and gang rape, coupled with beating and abductions, including as reported by the Secretary-General to the Security Council in February 2016,<sup>3</sup> and including the sexual and gender-based violence committed against women and girls in July and August 2016 during the outbreak of fighting in Juba,

*Expressing grave concern* at the wholesale destruction of villages, targeting of civilians and health-care facilities, attacks on places of worship, the attack on the protection-of-civilians site of the United Nations Mission in South Sudan in Malakal on 17 and 18 February 2016, sexual violence against women exiting protection-of-civilians sites throughout the country, the continued obstruction and extortion of humanitarian assistance convoys and the wholesale looting and destruction of humanitarian compounds in the Greater Pibor Administrative Area, Unity and Upper Nile States and Juba,

*Condemning in the strongest terms* the violence that broke out between the Government and the armed opposition in early July 2016, and the Government's military pursuit of former Vice-President Riek Machar out of South Sudan in early August 2016,

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<sup>1</sup> See S/2016/963.

<sup>2</sup> A/HRC/31/49 and A/HRC/31/CRP.6.

<sup>3</sup> S/2016/138.

*Condemning in the strongest terms also* all attacks against humanitarian personnel and facilities that resulted in the death of at least 67 humanitarian personnel since December 2013, including the attack on the Terrain compound on 11 July 2016 and attacks against medical workers and facilities,

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

*Expressing concern* that civilians who sought safety in the protection-of-civilians site of the United Nations Mission in South Sudan have been attacked, killed, traumatized and displaced, and that serious damage was caused to the entire site, including to medical clinics and schools, which were burned down and destroyed,

*Recalling* the need for all parties to the conflict to allow and facilitate, pursuant to United Nations guiding principles of humanitarian assistance, including humanity, neutrality, impartiality and independence, the full, safe and unhindered access of relief personnel, equipment and supplies and the timely delivery of humanitarian assistance to all those in need, in particular to internally displaced persons and refugees,

*Recognizing* the importance of providing timely assistance and protection to survivors of sexual violence, including sexual and reproductive health, psychosocial, legal, and livelihood support and other multi-sectoral services for survivors of sexual violence, taking into account the specific needs of persons with disabilities,

*Emphasizing* the importance of the rule of law as one of the key elements of conflict prevention, peacekeeping, conflict resolution and peacebuilding,

*Expressing concern* that the situation in South Sudan continues to be characterized by impunity,

*Expressing particular concern* at the severe reduction of democratic space in South Sudan, including through the heightened restrictions on freedom of expression, peaceful assembly and association, including attacks on journalists and media workers, and limitations on the operations of civil society, human rights defenders and the media, and stressing the responsibility of the Government to address these issues in accordance with the Agreement on the Resolution of the Conflict in the Republic of South Sudan,

*Recognizing* that transitional justice mechanisms are important elements in a national reconciliation process and in implementing the Agreement, including by addressing accountability, reparations, truth-seeking and guarantees of non-recurrence,

*Welcoming* the African Union Peace and Security Council communiqué of 26 September 2015, which, inter alia, reaffirmed the commitment of the African Union to combating impunity, reiterated condemnation of the violence and abuses committed by armed actors in South Sudan, agreed to the establishment of an independent hybrid court pursuant to the Agreement and, in this regard, inviting the Chairperson of the African Union Commission to take all steps necessary to establish this body,

*Underlining* the role that domestic, regional and international accountability mechanisms can play in assisting South Sudan to ensure accountability,

1. *Condemns* the ongoing violations and abuses of human rights and violations of international humanitarian law in South Sudan, including those involving alleged targeted killings, ethnically targeted violence, rape and other forms of sexual and gender-based violence, the widespread recruitment and use of children, arbitrary arrests and detention, alleged torture, arbitrary denial of humanitarian access and attacks on schools, places of worship, hospitals and United Nations and associated peacekeeping personnel, by all parties, also condemns the harassment and violence directed at civil society, human rights defenders, humanitarian personnel and journalists, and emphasizes that those

responsible for violations and abuses of human rights and violations of international humanitarian law must be held accountable;

2. *Demands* that all actors put a halt to all violations and abuses of human rights and all violations of international humanitarian law, and strongly calls upon the Government of the Republic of South Sudan to ensure the protection and promotion of human rights and fundamental freedoms;

3. *Welcomes* the report of the Office of the United Nations High Commissioner for Human Rights assessment team,<sup>2</sup> and takes note of the recommendations contained therein;

4. *Recognizes* the important role of the Joint Monitoring and Evaluation Commission, chaired by Festus Mogae, in monitoring and overseeing the implementation of the Agreement on the Resolution of the Conflict in the Republic of South Sudan and its ceasefire provisions, and urges all parties and international partners to constructively engage with the Commission and other bodies created by the Agreement;

5. *Welcomes* the African Union Peace and Security Council communiqué of 26 September 2015, which, inter alia, reaffirmed the commitment of the African Union to combating impunity and reiterated its condemnation of the violence and abuses committed by armed actors in South Sudan;

6. *Stresses* that perpetrators of violations of international humanitarian law and violations and abuses of human rights, including any that amount to war crimes or crimes against humanity, should be held accountable;

7. *Calls upon* the Government of the Republic of South Sudan to investigate all violations and abuses of human rights and violations of international humanitarian law and to hold those responsible to account, while affording fair trial protections to the accused and supporting victims and protecting potential witnesses before, during and after legal proceedings;

8. *Urges* the Government of the Republic of South Sudan to take steps immediately to protect the rights to freedom of expression, peaceful assembly and association in accordance with its international human rights obligations and to, among other things, ensure that members of civil society organizations and the media can operate freely and without intimidation;

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

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

11. *Supports* the establishment of transitional justice institutions, including an independent hybrid court, and calls upon all parties to cooperate fully in the implementation of chapter V of the Agreement on the Resolution of the Conflict in the Republic of South Sudan;

12. *Calls upon* the Government of the Republic of South Sudan to cooperate fully and constructively with, and to provide unhindered access to, the Office of the High Commissioner and the United Nations Mission in South Sudan, including its Regional

Protection Force, as well as regional, subregional and international mechanisms on the ground;

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

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

(b) To investigate alleged **violations and abuses of human rights and related crimes, including those involving sexual and gender-based violence and ethnic violence**, to establish the facts and circumstances thereof, and to identify alleged perpetrators of such alleged violations and abuses and of crimes perpetrated with a view to avoiding impunity and ensuring accountability;

(c) To assess past reports on the situation of human rights since December 2013 in order to establish a factual basis for transitional justice;

(d) To **provide guidance on transitional justice, including accountability, and reconciliation and healing, as appropriate**, and – once the Government commits to ending the violence against the civilian population and to cooperating with the hybrid court for South Sudan – to make recommendations on technical assistance to the Government to support accountability, reconciliation and healing;

(e) To engage with the Government of the Republic of South Sudan, international and regional mechanisms, including the United Nations, the United Nations Mission in South Sudan, the African Union and its African Commission on Human and Peoples' Rights, the Joint Monitoring and Evaluation Commission Chair and civil society, with a view to providing information based on its engagement with relevant stakeholders, and to provide support to national, regional and international efforts to promote accountability for human rights violations and abuses, including those involving sexual and gender-based violence and ethnic violence;

(f) To **make recommendations on technical assistance and capacity-building**, as appropriate, in the promotion and protection of human rights, including on addressing sexual and gender-based violence and ethnic violence;

14. ***Requests the Commission on Human Rights in South Sudan, in response to the present special session, and as soon as feasibly possible, working with the wider United Nations system, to make concrete recommendations on how to end sexual and gender-based violence, which the Government of the Republic of South Sudan should consider an immediate priority, and urges relevant United Nations actors to assist in such implementation as appropriate;***

15. *Requests* the Office of the High Commissioner to provide the full administrative, technical and logistical support needed to enable the Commission on Human Rights in South Sudan to carry out its mandate;

16. *Acknowledges* that the Government of the Republic of South Sudan has cooperated with the Office of the High Commissioner, United Nations special procedures, and the Commission on Human Rights in South Sudan in the fulfilment of its mandate, including by authorizing travel to and within the country and providing meetings and relevant information, and calls upon the Government to continue to cooperate with the Office of the High Commissioner, United Nations special procedures, and the Commission in the fulfilment of its mandate;

17. *Requests* that representatives of the Office of the High Commissioner, the African Union, the Joint Monitoring and Evaluation Commission, the African Commission on Human and People's Rights and other stakeholders, as appropriate, be invited to discuss the situation of human rights in South Sudan and steps taken by the Government of the Republic of South Sudan to ensure accountability for human rights violations and abuses in an enhanced interactive dialogue at the thirty-sixth session of the Human Rights Council;

18. ***Reiterates its request for the Commission on Human Rights in South Sudan to present a comprehensive written report, in an interactive dialogue, to the Human Rights Council at its thirty-fourth session, and also requests the Commission to present a comprehensive written report, in an interactive dialogue, to the Council at its thirty-seventh session;***

19. *Reiterates its request* that the reports of the Commission on Human Rights in South Sudan be submitted to the Human Rights Council and then shared with the General Assembly, the Security Council and the African Union;

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

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