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August 08, 2014

Open Letter to the UN Security Council from Human Rights Watch on Human Rights Abuses in South Sudan

Dear Ambassador,

We write in advance of your trip to South Sudan to highlight key human rights concerns we hope you will be in a position to address.

Human Rights Watch has been researching human rights abuses in South Sudan for more than 20 years including during the 1983-2005 civil war in Sudan.

The past months have seen some of the worst crimes against civilians that South Sudanese have ever experienced. Our research in South Sudan since this latest conflict began in December 2013 has found that both sides are openly using tactics such as targeted killings of civilians on the basis of their ethnicity or presumed allegiances, mass looting and destruction to fight this war.

Our new report, "*South Sudan's New War: Abuses by Government and Opposition Forces*," released this week, documents how unlawful killings of civilians and the destruction and pillage of civilian property including their homes, food and the hospitals and markets they need to survive have dominated much of the violence in the capital Juba and then in the three main towns of Bor, Malakal and Bentiu. Government and SPLA/M-in Opposition (the opposition) forces have, together with allied forces, since December committed extraordinary acts of cruelty that amount to war crimes and in some cases potential crimes against humanity.

The high levels of abuse have been fueled by impunity that has plagued South Sudan. South Sudan's leaders have time and again failed to hold abusive forces to account during Sudan's civil war, as well as during brutal violence that continued during peacetime. The country's history is a devastating illustration of how *de facto* blanket amnesties do not lead to lasting peace.

Experience by Human Rights Watch over the past 20 years in many different countries also suggests that the impact of justice is too often undervalued when weighing objectives in resolving an armed conflict. Prosecutions send the message, especially to would-be perpetrators, that no one is above the law. Making provision for and underscoring the importance of the rule of law helps cement peace and stability, in addition to giving redress to victims.

South Sudanese victims, but also authorities, civil society and others from all ethnicities repeatedly told Human Rights Watch that the current conflict is proof that accountability is needed. While justice for the serious crimes will not be sufficient – national healing and truth telling, changes in governance, and military reform will be crucial as well – it is clearly necessary.

On the occasion of your visit, we would thus like to urge that you ***press the parties to the conflict to immediately end these abuses and to take steps to hold perpetrators to account fairly and effectively.*** There is little indication that either side has made any meaningful moves in this direction. The government should as a priority make public the findings of various government investigations into killings and other abuses committed during the first days of the conflict in Juba and investigate those who planned or carried out attacks on civilians, including the attack on the UN base in Bor, Jonglei State, on April 17, 2014. For its part, the opposition should investigate and provide a public report about abuses of civilians, including the killings of civilians in Bentiu, Unity State, during their April 15 attack on the town, and suspend and punish those responsible.

Security Council members should also ***press leaders from both sides to immediately commit to excluding amnesty for serious crimes from any peace agreement and a justice process that meets international standards*** for the most serious crimes committed during the conflict.

Given the current limited capacity of the South Sudanese justice system, it is unrealistic for trials for serious crimes to take place through a purely domestic initiative. Trials could be pursued instead through a hybrid international-national judicial mechanism, or before the International Criminal Court (ICC). As South Sudan is not a state party to the ICC's Rome Statute, the ICC could only open an investigation if the government of South Sudan voluntarily accepted the ICC's jurisdiction by submitting a declaration consistent with article 12(3) of the ICC's Rome Statute, or the UN Security Council referred the situation in South Sudan to the ICC.

We also urge that you act quickly to ***impose an arms embargo and establish a panel of experts to fully monitor the embargo on South Sudan to halt the flow of weapons into the country.*** As detailed extensively in our new report, this war should not be understood as simply a conflict between two armies but one in which there is a pattern of both sides attacking civilians and civilian properties, with devastating results. Therefore the risk that weapons supplied to either party will be used to perpetrate further violations against civilians and other serious violations of the laws of war is entirely foreseeable. ***In addition, we urge you to impose targeted sanctions including travel bans and asset freezes against individuals or entities that violate the embargo or commit serious violations of international humanitarian law.***

With regard to the UN Mission in South Sudan, we urge the Security Council to ***closely monitor and to condemn violations by the parties to the conflict of the status of forces agreement*** and attacks on UN bases, property or staff. We also urge the Security Council help ensure ***the swift deployment of additional troops*** to South Sudan authorized in December, and ensure the UN peacekeepers ***increase the frequency and extent of their protection activities in areas where they are deployed, including around their bases.*** Within

their capacity, UN peacekeepers should be *prepared to use force* when necessary to protect civilians under threat of attack. The Security Council should also press the UN mission to issue public reports on the December 19, 2013, attack on the UN base in Akobo and the April 17, 2014, attack on the UN base in Bor. These reports should assess the response of UN peacekeepers during the attacks.

We hope that during the visit Council members will send a clear message that the abuses that have characterized this conflict will not be tolerated, that action will be taken to prevent further abuse and that South Sudanese aspirations for a lasting peace and justice have the full support of the UN Security Council.

Should you have any further questions please do not hesitate to reach out to me or to my colleague, Senior Researcher Jehanne Henry at henryj@hrw.org, +1 917 443 2724.

Sincerely yours,



Daniel Bekele
Executive Director, Africa Division



Peggy Hicks
Global Advocacy Director