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Independent Investigation of Human Rights Violations in South Sudan Must Start Now *Citizens for Peace and Justice (CPJ) Urge the AU Commission of Inquiry to Begin its Work*

Juba, 21 February 2014—On 30 December 2014, two weeks after the outbreak of violence in South Sudan, the African Union Peace and Security Council (AUPSC) called for the creation of a Commission of Inquiry to investigate human rights violations and other abuses committed in South Sudan, and to make recommendations on the best ways to ensure accountability, reconciliation and healing among South Sudanese communities. The AUPSC requested the Commission of Inquiry to submit a report of its findings within three months.

Almost eight weeks later, the members of the Commission have yet to be named and the terms of reference have not been published, leaving doubt as to when and if the Commission will actually commence its work.

“Each day that the Commission delays, evidence disappears, survivors and witnesses are exposed to increased risk of intimidation and violence, and the prospect of justice being served for the serious crimes committed by all sides of the conflict becomes less and less likely,” said Wani Mattias, Secretary General of the South Sudan Law Society (SSLS) and a member of Citizens for Peace and Justice (CPJ).

CPJ calls on the African Union (AU) to quickly develop the terms of reference for the Commission of Inquiry, appoint its members, and ensure that it begins investigations immediately. It should release a public report upon conclusion of its work.

In a February 2014 statement to the United Nations Human Rights Council (UNHRC), CPJ also called on the UNHRC and its member states to provide robust technical support to the AU Commission of Inquiry, to encourage UN Special Rapporteurs to visit South Sudan, especially the Special Rapporteur on the human rights of internally displaced persons (IDPs) and the Special Rapporteur on the rights to freedom of peaceful assembly and of association, and to establish an independent expert mandate on the human rights situation in South Sudan.

Importance of Documentation

Independent bodies should investigate and document events now, while the evidence is still fresh, in order to build a body of information that can be used to design appropriate accountability mechanisms and inform eventual criminal investigations and prosecutions.

Documentation also provides acknowledgement of the crimes that have been committed, thereby helping affected individuals and groups come to terms with their experiences. Until credible and objective accounts are compiled and made public, parties to the conflict will continue to manipulate narratives to serve their own narrow interests.

“Truth must come before reconciliation and healing,” said Pio Ding, a member of CPJ. “We can’t expect people to forgive others for wrongs committed against them when they don’t know the facts.”

Need for Justice

Past peace initiatives in South Sudan have prioritized reconciliation at the expense of justice, and have failed to secure remedies for people affected by conflict. The 2005 Comprehensive Peace Agreement (CPA) was silent the issue of accountability for past human rights violations, and its provision for national reconciliation was never implemented. Time and again, efforts to negotiate with rebel groups in Jonglei, Unity and Upper Nile states have been initiated with offers of blanket amnesties and attractive political and military appointments. Truth and justice have never been a part of the discussion.

“Impunity has become a habit, a way of plastering over discontent,” said Ding. “But in reality, failing to hold individuals accountable for their actions simply breeds more discontent. People lose confidence in the ability of the justice system to protect them, and decide that their only option is to revenge the crimes themselves.”

The atrocities that have taken place since 15 December 2014 would present a serious challenge to any justice system. The difficulty of holding people accountable is that much greater in South Sudan, where courts have repeatedly fallen short in addressing even commonplace crimes. Without robust international support, there is little hope that the perpetrators of the violence will be held to account and that people will know the truth of what happened to their loved ones. Truth and justice can only be secured with the direct support of international investigators, prosecutors and judges with experience handling war crimes and crimes against humanity.

“Mediators and supporters of the peace process should not view justice as something that can be bartered and traded in exchange for other commitments from belligerent parties,” said Ding. “The call for accountability is loud and clear. This time justice is non-negotiable.”

Government-led Investigations

The government has initiated multiple investigations into the violence, including an eight-person Human Rights Abuses Investigation committee established by presidential decree and headed by a former chief justice of the Supreme Court. Approximately 100 individuals have reportedly been arrested for the targeted killings that took place in Juba during the early days of the conflict.

Little information has been provided about the identities of the detainees, the nature of the investigations, or the charges that have been brought. It is unclear whether the trials will take place in civilian courts and be open to the public or whether the accused will instead be tried

behind closed doors in military courts, where their right to a fair trial cannot be independently monitored.

In cases of such overwhelming public interest, the independence and transparency of proceedings is critical to building trust and to reassuring the public that justice is indeed taking its course. The government should keep the public informed about the nature of charges brought against accused persons and the status of proceedings. But past experience has shown that government-led investigations alone are not sufficient to secure justice, especially when government personnel stand accused as perpetrators.

“Aside from the fact that members of its security forces have been implicated in many of the alleged crimes, parts of South Sudan’s territory remain under the control of opposition forces,” said Priscilla Nyagoah, advocacy officer for the SSLS and a member of CPJ. “Only an independent inquiry, such as that called for by the African Union, can ensure that investigations are conducted in an impartial and thorough manner.”

Other Initiatives

In addition to the AU Commission of Inquiry, there are other initiatives underway to document violations of international human rights and humanitarian law in South Sudan. The UN Office of the High Commissioner for Human Rights (OHCHR) has promised a report on the rights violations that have occurred. Through the UNMISS human rights section, OHCHR has access to some of the most comprehensive reports on the human rights situation that currently exist. This information is critical to providing affected populations with a better understanding of events and to revealing to the international community the seriousness of the crimes that have taken place.

Since the earliest days of the conflict, South Sudanese human rights organizations have also worked to document human rights abuses in the country, but they have faced serious difficulties as a result of obstruction by government personnel and other armed groups. A number of human rights defenders have been forced to flee the country due to threats and acts of violence targeted against people who criticize the government’s failings in handling the crisis. The public space for engaging the government on issues relating to human rights and fundamental freedoms has been shrinking for several years and the outbreak of this crisis looks set to close off what little space was left. CPJ calls upon the Government to take remedial measures in this respect and ensure that civic space is protected in the interests of peace and democracy.

About Citizens for Peace and Justice (CPJ)

CPJ is a broadbased coalition of individuals and more than 40 organizations from South Sudanese civil society formed to promote a peaceful and just resolution to the conflict in South Sudan through social, political and economic transformation.