

AMNESTY INTERNATIONAL PUBLIC STATEMENT

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Human Rights Council must keep pressure on South Sudan to reform intelligence agency and ensure justice for victims

Speaking at the UN Human Rights Council today, Amnesty International said it remained concerned about the human rights situation in South Sudan and the lack of accountability for international crimes committed in relation to the conflict that erupted in December 2013. It said the impunity and the report of the Commission on Human Rights in South Sudan (“the Commission”) makes clear the need for continued scrutiny of the situation.

In an oral statement delivered during the formal session in Geneva, Amnesty acknowledged that the appointment of five vice presidents including opposition figures on 22 February as an important step towards ending the six-year conflict but said that until the system-wide reforms agreed by the parties are implemented, including in the security and justice sectors, the Council must ensure the Commission is able to continue its work.

In its statement, the organization pointed out that efforts to reform the security sector have failed to include the National Security Service (NSS) - South Sudan’s most abusive and repressive security sector institution - which has arbitrarily arrested, detained, tortured and ill-treated hundreds, if not thousands, of people since December 2013 and continues to muzzle all forms of dissent, also since 22 February. The statement also reiterated Amnesty’s call for the security agency’s constitutive act – the 2014 NSS Act – to be amended to bring it in line with the country’s Constitution and international human rights law.

Amnesty International expressed concern that the South Sudanese government has consistently failed to investigate and prosecute suspects of crimes under international law committed during the 2013 conflict, owing to lack of political will and a lack of independence of its justice systems. The organization urged the Council to fully renew the mandate of the Commission until the Hybrid Court for South Sudan is set up and becomes fully operational and functional.

Background

This public statement is based on an oral statement Amnesty International delivered to the Human Rights Council on 9 March 2020, during the interactive dialogue with the UN Commission on Human Rights in South Sudan.

Reform intelligence agency

A critical first step in the reform of the abusive intelligence agency is the reform of the 2014 NSS Act. Among many problems in the act is its bestowing on the NSS broad powers which exceed its constitutional mandate without providing adequate safeguards against abuse of these powers.

The 2011 Transitional Constitution provides in section 159 that the NSS should focus on “information gathering, analysis and advice to the relevant authorities.” The 2011 Transitional Constitution therefore envisions the NSS’s role to be confined to classic intelligence activities and does not vest the NSS with police powers. The powers granted to the NSS to arrest, detain, conduct searches and seize property fall outside of this limited constitutional mandate. The power to use force, though not explicitly listed in the Act, is implied in the granting of other police powers, and also falls outside the NSS’s constitutional mandate.

The September 2018 Revitalized Agreement for the Resolution of the Conflict in the Republic of South Sudan (R-ARCSS) provides that specific laws, including the NSS Act, must be amended before the formation of the Revitalized Transitional Government of National Unity (RTGoNU).

Justice for victims of the conflict

Justice remains elusive for victims of the brutal six-year conflict in South Sudan.

In its report [*“Do you think we will prosecute ourselves?” Prospects for accountability in South Sudan*](#), Amnesty International investigated the entrenched impunity in South Sudan. The report shows that civilian courts are crippled by a severe lack of independence, that prosecutors follow the directives of the executive and that judges experience political interference.

Military courts also do not offer a viable avenue for victims because they lack jurisdiction to prosecute soldiers for crimes committed against civilians. Even if they were competent to prosecute such crimes, they too lack independence as the President has the power to confirm or reject judicial decisions.

The government lacks political will to hold perpetrators of serious crimes accountable. Government-led investigation committees lack independence and impartiality and, except one, have not resulted in prosecutions of serious crimes. Blanket amnesties were granted, and individuals sanctioned by the UN Security Council for their involvement in serious crimes have been appointed and promoted within government. The government has also blocked the establishment of the Hybrid Court for South Sudan enshrined in the 2015 and 2018 peace agreements.

Recommendations

- The South Sudanese authorities must urgently amend the 2014 NSS Act to curb the agency’s unchecked powers that contravene the 2011 Transitional Constitution and reform it in line with international human rights standards.
- President Salva Kiir must ensure that no individuals sanctioned by the UN Security Council for their role in human rights violations become part of the RTGoNU. Instead, suspects of grave crimes committed in relation to the 2013 conflict must be prosecuted.
- The South Sudanese authorities must promptly sign the Memorandum of Understanding with the African Union and enact the Statute for the Hybrid Court for South Sudan.
- The UN Human Rights Council must renew in full the mandate of the Commission on Human Rights in South Sudan during its current session.

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