

Mandates of the Special Rapporteur on extrajudicial, summary or arbitrary executions; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

REFERENCE:
UA SSD 1/2021

5 July 2021

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on extrajudicial, summary or arbitrary executions; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 44/5 and 43/20.

We would like to bring to the attention of your Excellency's Government information we have received concerning the alleged unlawful killing of at least twenty-five individuals, reportedly as a response to the escalating wave of violence in Warrap state.

According to the information received:

Between March and June 2021, at least twenty-five persons (male individuals, including one boy and two elderly men) allegedly accused of involvement in common crimes and cattle thefts in Tonj North and Tonj East counties were reportedly killed at the orders of the local authorities.

The alleged victims were reportedly arrested by law enforcement officers or community leaders, summarily "tried" without access to any formal legal proceeding, "sentenced" to death and executed.

According to eyewitnesses' reports, in some instances, victims were allegedly executed by a firing squad. They were reportedly tied to trees before being shot on site and their bodies were left exposed thereafter to serve as an example to local communities.

According to reports, the executions were carried out by members of the South Sudan People's Defence Forces (SSPDF) under order of local Government authorities. In one case, on 20 June 2021, three male youths, from Kirik, Marial Lou and Yaak *payams*, were allegedly killed by members of security forces in Paliang *payam* (Tonj East county), also at the orders of local Government authorities. The alleged victims had been accused of involvement in cattle thefts and arrested by a group of approximately fifteen members of the "community police", an *ad hoc* law enforcement group operating in the Romic area reportedly established to supplement the South Sudan National Police Service (SSNPS). The victims had been briefly detained at the Romic police station before being removed for execution.

It is reported that, since September 2018, Warrap has been one of the most violent states in South Sudan, with at least 1,975 civilians killed or injured, accounting for 25 per cent of all victims attributed to civil defence groups in South Sudan. Within this context, on 28 January 2021, the authorities appointed a new Governor to restore law and order in the territory.

It is alleged that the security environment in Warrap state is rapidly deteriorating, with the local population trapped in a climate of growing fear, due to increasing risks of loss of life and other life-threatening situations, within a generalised context of impunity.

While we do not wish to prejudge the accuracy of these allegations, we are concerned that, if confirmed, they could amount to violations of the right to life, liberty and security of persons, as set forth in Article 3 of the Universal Declaration of Human Rights (UDHR); Article 6 of the International Covenant on Civil and Political Rights (ICCPR)¹; Article 4 of the African Charter on Human and People's Rights (ACHPR), ratified by South Sudan in 2013; and as also guaranteed in South Sudan's Constitution².

They could also be in violation of the absolute prohibition of torture, established in Article 5 of the UDHR; Article 7 of the ICCPR; Article 1 of the Convention against Torture and other cruel, inhuman or degrading treatment or punishment, ratified by South Sudan in 2015; and Article 5 of the ACHPR.

Furthermore, they could be in violation of the right of everyone not to be arbitrarily arrested, as protected in Articles 9 of the UDHR and the ICCPR as well as in Article 6 of the ACHPR; and the right to access to justice, which encompasses the right to a fair trial, including equal access to and equality before the courts, and to seek and obtain just and timely remedies for rights violations, as guaranteed by Article 10 of the UDHR, Article 14 of the ICCPR and Article 7 of the ACHPR.

Mindful of the complexity of the local context, we nevertheless wish to respectfully call on your Excellency's Government **to urgently take effective measures to prevent arbitrary deprivations of life and to adequately address the reportedly escalating wave of violence and impunity in Warrap state.**

In particular, we respectfully call on your Excellency's Government to ensure that all allegedly potentially unlawful deprivations of life are duly **investigated**, in accordance with relevant international standards, including the *Minnesota Protocol on the Investigation of Potentially Unlawful Death* and that **those responsible are brought to justice.**

We wish to emphasize that the investigations should explore, inter alia, the legal responsibility of **superior officials** with regard to violations of the right to life committed by their subordinates; and should always be independent, impartial, prompt, thorough, effective, credible and transparent.

The authorities should disclose relevant details about the investigation to the victims' next of kin, allow the next of kin to present evidence, afford the next of kin

¹ South Sudan has not yet acceded to the International Covenant on Civil and Political Rights (ICCPR), which protects the right to life in Article 6. However, the Government has taken domestic steps to accede to the ICCPR and has maintained that the fact that it has not yet acceded to the treaty is "not a lack of will to adhere to international standards". On this, see Report of the Commission on human rights in South Sudan A/HRC/40/CRP.1 <https://undocs.org/pdf?symbol=en/A/HRC/40/CRP.1>

² See South Sudan, National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21, A/HRC/WG.6/26/SSD/1: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/187/04/PDF/G1618704.pdf?OpenElement>

legal standing in the investigation, and make public information about the investigative steps taken and the findings, conclusions and recommendations emanating from the investigation.

Steps should also be taken to ensure **adequate protection of witnesses, victims' relatives, as well as persons conducting the investigation, from threats, attacks and any act of retaliation.**

In the event that a violation is found, **full reparation should be provided to victims' families**, including adequate measures of compensation, rehabilitation and satisfaction; and adequate steps must be taken **to prevent the occurrence of similar violations in the future.**

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned person(s) in compliance with international instruments.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please indicate whether any step was undertaken or is envisaged to be undertaken to investigate the above-mentioned allegations in compliance with international standards. Please provide information on the current status of such investigation and explain whether it has led to any outcome, particularly in terms of establishing truth and accountability, including any assessment of whether there exists a pattern of violations of the right to life, and other human rights, and the role of local authorities, as well as local justice representatives, in this respect. If no investigation has been launched/is being conducted, please indicate why and explain how this is compatible with South Sudan's international human rights obligations.
3. Please provide information on whether any measure of support and/or reparation may be envisaged for the victims' families, as appropriate.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

Please accept, Excellency, the assurances of our highest consideration.

Morris Tidball-Binz

Special Rapporteur on extrajudicial, summary or arbitrary executions

Nils Melzer

Special Rapporteur on torture and other cruel, inhuman or degrading treatment or
punishment