



NO CHOICE BUT TO FLEE

2022

STARVATION AND DISPLACEMENT IN CENTRAL EQUATORIA, SOUTH SUDAN



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The findings contained in this report are the result of a year-long investigation by GRC and build upon legal research and analysis in GRC's 2019 Policy Paper titled [Accountability for Starvation Crimes: South Sudan](#). This report also utilises the findings of an investigation by the [Centre for Information Resilience](#) (CIR), which supported GRC as open-source consultants to independently investigate select incidents using their expertise and OSINT methods and tools, focusing on those key examples of egregious starvation/humanitarian access crimes that pose the greatest opportunity for further investigation.

Global Rights Compliance is an international legal foundation based in The Hague, Netherlands (with additional presence in the United Kingdom, Ukraine, and Washington DC) which was founded by international lawyers with a mission to enable people and communities to achieve justice through the innovative application of international law. We have established a reputation as a leading supplier of humanitarian and human rights legal services across the

spectrum of technical legal and policy advice, litigation, capacity-building and advocacy. GRC offers: (i) decades of proven expertise in International Human Rights Law (IHRL), International Humanitarian Law (IHL) (the law of armed conflict), and International Criminal Law (ICL); (ii) an exhaustive understanding of documentation and how to use it for legal action; and (iii) proven experience in transforming data into relevant and probative evidence and international advocacy to generate measurable policy and justice outcomes. We possess unrivalled global expertise and granular knowledge on the crime of starvation and right to food violations, derived from a dedicated starvation portfolio established in 2017.

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EXECUTIVE

SUMMARY

War and horrific violence against civilians have ravaged South Sudan for almost a decade. While the most recent peace agreement was signed more than four years ago, civilians continue to suffer the dangerous tactics and violent policies of both Government and opposition forces. South Sudan continues to hold the title of the most dangerous place in the world for humanitarian workers to operate, in attempting to provide lifesaving aid to a civilian population on its knees. In a first-of-its-kind report focusing on starvation and mass forcible displacement in Central Equatoria, Global Rights Compliance (GRC) presents this landmark report, as a result of a year-long investigation, reinforced by innovative OSINT analysis provided by the Centre for Information Resilience (CIR). This analysis establishes a clear link between the use of civilian starvation as a method of warfare, targeted attacks on humanitarian aid workers and the mass forcible displacement of civilians from Central Equatoria to northern Uganda. As noted by the UN Commission on Human Rights for South Sudan, “the resultant physical and food insecurity left the civilians with no option but to flee elsewhere.”¹

The conflict in South Sudan erupted in 2013 between Government forces, namely the Sudan People’s Liberation Army (SPLA), later renamed the South Sudan People’s Defence Forces (SSPDF), and allied militias such as the Mathiang Anyoor, and various opposition groups, such as the Sudan People’s Liberation Army-in-Opposition.

While the Central Equatoria region (except for Juba) was mainly spared from armed violence in the first few years of the conflict, by mid-2015 various troop movements began in the region. As the first peace agreement failed in early July 2016, the region was plunged into widespread conflict and armed violence, with the Government carrying out intense counterinsurgency operations, including by targeting civilians, their livelihoods, crops and foodstuffs allegedly perceived, largely falsely, as supporting or affiliated with opposition groups. The latter, on the other hand, conducted guerrilla warfare and ambushes. Extensive insecurity and fighting kept spreading south to counties including Yei, Kajo Keji, Lainya and Morobo, with Government forces generally controlling the towns and main roads and opposition forces spread out in surrounding areas in the countryside.

South Sudanese civilians bore the brunt of the conflict and were subjected to widespread violence, including direct attacks, murder, starvation tactics, sexual and gender-based violence, torture, and mass forcible displacement. Various ceasefires have been false promises and have only held intermittently. There has been a tendency in recent years to minimize the ongoing violence as “sub-national,” rather than “national” (with these terms not defined), but for the massive numbers of civilian victims, this is, at best, a meaningless distinction.

All parties to the conflict, including to the present day, have committed widespread human rights abuses and gross violations of International Humanitarian Law (IHL), including large-scale and systematic burning and destruction of homes and property, depriving civilians of objects indispensable to their survival (OIS), including through the destruction of food crops and markets, and impeding humanitarian access to the most vulnerable, ultimately forcibly displacing hundreds of thousands of civilians, mainly to northern Uganda. In particular, the passage of humanitarian aid has been severely impeded by warring parties, including through direct attacks on humanitarian aid workers, convoys and facilities.

The term “starvation” refers to the intentional deprivation of objects indispensable to survival (again, OIS) and the desire to bring about the outcome of starvation, which occurs when actors impede the capacity of targeted civilians to access the means necessary to sustain life. Deprivation of OIS may take many forms in addition to attacking, destroying, and rendering useless the protected objects. Examples include the killing, intimidation or arrest of aid workers, attacks on humanitarian personnel and convoys, the destruction of aid and the denial of access to aid.

The right to life and the right to food are clearly protected under International Human Rights Law (IHRL), and IHL plainly prohibits the starvation of civilians as a method of warfare. Under International Criminal Law (ICL), where the requisite elements are met, starvation-related conduct may constitute the war crime of starvation as a method of warfare, as well as other war crimes and crimes against humanity. In 2018, the UN Security Council (UNSC) unanimously adopted UNSC Resolution 2417, which recognised the intrinsic link between conflict and hunger and strongly condemned the use of starvation as a weapon of war.

The use of starvation tactics, including attacks on OIS, constraints on humanitarian access and attacks on humanitarian personnel, throughout the conflict in South Sudan and in Central Equatoria, has created widespread food insecurity and unconscionable hunger. Protracted conflict, insecurity, and mass displacement have severely disrupted civilians’ access to livelihoods and food, with conflict being the main driver of food insecurity. The latest 2022 food security assessments show Central Equatoria’s population plunged into acute food insecurity, with 653,000 people in Crisis and 154,000 at the

Catastrophe level, involving starvation, death, destitution and extremely critical acute malnutrition levels, according to the Integrated Food Security Phase Classification (IPC) Assessment.

Collaborating with OSINT experts from the CIR, GRC developed an innovative investigative methodology to uncover information and conduct a deep dive into starvation-related conduct committed in South Sudan's Central Equatoria region. In addition to a broader survey, GRC's methodology included targeting several select incidents: a deadly attack on a market in Mondikolok which prompted thousands to flee; attacks on humanitarian convoys, including one involving Médecins Sans Frontières (MSF) and another concerning the World Food Programme (WFP) and its partner ACROSS; and the resulting mass displacement from Kajo Keji and Yei counties in Central Equatoria to refugee camps in northern Uganda, with civilians left with no choice but to flee.

Based on extensive research and analysis, observed conduct, independent UN reports and CIR's findings, GRC concludes:

Conclusion #1 Both the Government (and its allied forces and militias) and opposition groups have been, and are responsible for, involved and/or associated with the destruction, deprivation and looting of OIS, such as markets and crops, to such an extent that they became non-operational.

Government forces bear particular responsibility for the widespread destruction and looting of OIS and specifically markets in the Yei and Kajo Keji areas in 2016 and continuing through January 2017. The UN Commission on Human Rights in South Sudan (CHRSS) found that the Mondikolok market attack was attributable to Government soldiers from the Mundari barracks. These attacks appear to be part of a much larger pattern of repetitive attacks on OIS, such as markets, which in turn severely impacted civilians' access to food.

Conclusion #2 Government forces and opposition groups, including the Sudan People's Liberation Army-in-Opposition (SPLA-IO) and National Salvation Front (NAS), have obstructed the delivery of lifesaving humanitarian assistance to the vulnerable civilian population in Kajo Keji and Yei counties, by conducting targeted attacks on humanitarian convoys. The CHRSS stated that the September 2021 attack on the WFP and ACROSS aid convoy was conducted "in a manner bearing all the hallmarks of a NAS attack." Pervasive violence and insecurity, as well as the risk of targeted ambushes and attacks, impeded or hindered humanitarian programming, thereby depriving civilians of desperately needed OIS.

While it was challenging to attribute responsibility for specific incidents of targeted attacks through available open-source intelligence, it is well documented that all parties to the conflict created an insecure and coercive environment, unconducive to the safe delivery of humanitarian aid, directly impeding and hindering humanitarian programming, with

direct and targeted attacks on humanitarian personnel, in violation of the prohibition of starvation of civilians as a method of warfare.

Conclusion #3 Widespread violence, violations and abuses against civilians, including the deprivation of OIS and the obstruction of humanitarian access, together with attacks on humanitarian operations have left civilians in Central Equatoria with no option but to flee, providing them with no alternative shelter or alternative supplies of food, water and more generally no access to livelihoods.

The conduct of both Government and opposition forces appears to satisfy all indicia that the use of starvation of civilians as a method of warfare, combined with other massive violence, caused such civilians to flee, through the obstruction of humanitarian access, attacks on humanitarian operations and personnel, and destruction of OIS, severely impeding civilians' ability to access food and livelihoods, caused such civilians to move away or otherwise be displaced to northern Uganda.

To date, the Government and other parties to the conflict have failed to meet their obligations to investigate and prosecute these devastating crimes. There are a range of tools to address such crimes, including, but not limited to international and/or domestic criminal investigations and prosecutions, involving various transitional justice measures outlined in this report. For transitional justice to have meaningful and long-term impacts, it is essential that it take on a context-specific and victim-centred approach, addressing the pervasive nature with which starvation has been deliberately used by the warring parties. There can be no genuine or durable peace and political stability in South Sudan without acknowledging, guaranteeing, and implementing comprehensive transitional justice efforts and mechanisms to address far too many years of gross impunity and to guarantee the non-recurrence of horrific conflict.

GRC RECOMMENDATIONS

Steps should be taken by the parties to the conflict, the UN, the African Union, the international community and the International Criminal Court (ICC) to ensure that perpetrators of starvation-related conduct are held accountable and that victims can effectively access remedies and reparations. GRC recommends:

To the South Sudanese Government and other parties to the conflict:

1. Cease (a) all IHRL and IHL violations, including acts of violence committed against civilians and civilian objects; (b) attacking, destroying, removing and rendering useless OIS; as well as (c) all other actions that impede access to food and water and that exacerbate the humanitarian crisis, including those that restrict the delivery of and access to humanitarian relief for civilians.

2. Take proactive steps to adhere to the fundamental principles of IHL, including the prohibition on the use of starvation as a method of warfare; the prohibitions on attacks on civilians, civilian objects and OIS and other conduct that causes disproportionate harm to civilians; and to comply with obligations to take all feasible precautions to avoid and, in any event, to minimize harm to civilians and OIS; and to take proactive steps to prevent further harm to civilians, including by proactively seeking to prevent further damage to OIS.
3. End all humanitarian obstruction, including by proactively facilitating unimpeded access and movement of humanitarian aid, supplies essential to the functioning of humanitarian operations, medical supplies, humanitarian workers, and other life-saving goods and services without interference or discrimination throughout Central Equatoria.
4. Support, cooperate fully with, and contribute to efforts to ensure prompt, effective and adequate reparations, as well as other forms of amends, to impacted civilians, including by ensuring the right of return for the displaced population, including refugees, and other forms of reparation for the devastating harms suffered as a result of the conflict.
5. Ensure the establishment without further delay of the transitional justice mechanisms provided for under Chapter V of the September 2018 peace agreement (R-ARCSS) to address violations and abuses of IHRL and violations of IHL, including with regard to the use of deliberate starvation of civilians as a method of warfare, adopting transparent, inclusive and fair procedures, and gender-aware and intersectional approaches to peace-building and accountability processes, with sufficient and transparent information publicly released for independent monitoring, and finally offering meaningful reparations and amends to civilians.
6. Cooperate fully with the CHRSS, UN special procedure mandate holders (including the UN Special Rapporteur on the Right to Food and the UN Special Rapporteur on the Human Rights to Safe Drinking Water and Sanitation) and other UN and non-UN entities, where appropriate, so that allegations of violations and abuses committed by all parties to the conflict in South Sudan's Central Equatoria region can be properly investigated, documented and the perpetrators brought to account.

To the African Union:

In line with the African Union's objective of promoting and protecting human rights, facilitating peace, security and stability on the continent, and resolving conflicts:

1. In accordance with Article 7 of the 2002 Protocol Relating to the Establishment of the Peace and Security Council of the African Union,² take necessary action to: establish peace-making, peacebuilding and/or peace-support missions, undertake humanitarian action, impose sanctions or implement other solutions necessary to alleviate the humanitarian crisis, facilitate lasting peace and hold perpetrators of violations of IHL and violations and abuses of IHRL accountable.
2. Where it is clear that the Government of South Sudan lacks the political will and *bona fide* intention to establish (and in fact continues to oppose the establishment of) the transitional justice mechanisms envisaged under Chapter V of the R-ARCSS, including the Hybrid Court, the

Commission for Truth, Reconciliation and Healing (CTRH) and a Compensation and Reparation Authority (CRA), the African Union should proceed and establish these essential mechanisms without the South Sudanese authorities' cooperation, if necessary, to guarantee justice, accountability and reparations to the countless victims of the South Sudanese conflict.

To the United Nations:

With a view to both facilitating and accomplishing a range of preventative and accountability-oriented tools available under UN Security Council (UNSC) Resolution 2417 and UNSC Resolution 2573, as well as other relevant UNSC resolutions, the UNSC should:

1. Refer the situation in South Sudan to the ICC to conduct a full investigation into alleged international crimes committed by the parties to the conflict and to prosecute those most responsible for such crimes and the suffering inflicted on the South Sudanese people.
2. Examine the extent to which various actors are responsible, with a view to extending sanctions to all parties responsible for starvation-related conduct in South Sudan, in line with operative paragraph 9 of UNSC 2417.
3. Provide full and active support to the CHRSS and the UNSC South Sudan-related Panel of Experts by extending their mandates, ensuring independent, impartial, full, prompt, and effective investigations into alleged violations and abuses of IHRL and IHL by all parties to the conflict, as well as those providing support to such parties. The CHRSS's mandate should be extended in March 2023 during the Human Rights Council's 52nd Session.

To the International Criminal Court:

With a view to the aforementioned recommendations, to overcome deep-seated impunity and to hold those most responsible for heinous crimes to account, the International Criminal Court should:

1. On the basis of the Bangladesh-Myanmar jurisdictional decisions, immediately open a preliminary examination into the South Sudan situation in order to hold accountable the senior persons most responsible for violations of IHL and crimes under the Rome Statute committed in South Sudan since December 2013.



1 BACKGROUND: CENTRAL EQUATORIA

1.1 CONFLICT CONTEXT

Less than three years after gaining its independence in 2011, a civil war erupted in South Sudan in December 2013 following an ongoing political power struggle that led the President of South Sudan, Salva Kiir, from the Dinka ethnic group, to remove most of the country's Government including the country's then Vice-President, Riek Machar, from the Nuer ethnic group.³ The root causes of the conflict were, and are clearly linked to previous hostilities in the region, characterized by unresolved political, economic, ethnic and social differences and conflicts.⁴

Armed clashes escalated between the Government's national army, the Sudan People's Liberation Army (SPLA) (in later years, the South Sudan People's Defence Forces (SSPDF),⁵ and opposition forces, primarily the Sudan People's Liberation Army-in-Opposition (SPLA-IO), which respectively supported Kiir and Machar.⁶ The civil war started with a largely Dinka-on-Nuer massacre in Juba, the capital city,⁷ quickly spread to the Greater Upper Nile region, and evolved into a conflict with "political power and the monopolization of resources for personal gain [becoming] the principal aims of the belligerents".⁸ Tragically, ethnic divisions were (and continue to be) weaponised to serve these aims.

Central Equatoria is home to predominantly Bari speaking communities, including Kakwa, Bari and Pojulu. For the first 14 months of the conflict in South Sudan, Central Equatoria, along with most parts of the greater Equatoria region, remained largely unaffected by hostilities, except for Juba.⁹ However, by mid-2015, various mobilization efforts and troop movements began in the Equatorias, increasing ethnic and other tensions in the region.

In August 2015, the principal warring parties signed the Agreement on the Resolution of the Conflict in the Republic of South Sudan (ARCSS), supported by northeast Africa's regional development body, the Intergovernmental Authority on Development (IGAD). While the agreement envisaged a permanent ceasefire, a power-sharing transitional Government of national unity¹⁰ and three transitional justice institutions (including a hybrid war crimes court), it failed to produce the desired results. Both principal sides and their associated belligerents consistently violated the ceasefire and targeted civilians based on their ethnic identity, all of which resulted in a drastically worsening humanitarian crisis.¹¹

The 2015 ARCSS finally collapsed in early July 2016, shortly after Riek Machar's return to Juba, with major fighting in Juba and the southern part of the country, plunging South Sudan once again into large-scale violence, involving heightened insecurity and indiscriminate killings.¹² Machar and his forces fled through Central Equatoria to the Democratic Republic of Congo (DRC), with part of the SPLA-IO remaining in Central Equatoria, triggering an intense upsurge in armed violence in the region.

The SPLA's Sixth Division, supported by the Government's Mathiang Anyoor militia¹³ and all under the command of the Government military's then-Chief of Staff, Lt. Gen. Paul Malong, carried out an intense campaign against the SPLA-IO around the new Yei River State, throughout the months of July, August, and September 2016.¹⁴ Central Equatoria became highly militarised with Government forces mainly controlling the towns and main roads and the SPLA-IO and other opposition forces spread out in surrounding areas in the countryside.¹⁵

The first round of Government actions, in July-September 2016, treated Yei's civilians as enemy accomplices. There were many direct attacks on civilians, including the burning of houses and other property, driving people from their homes and the destruction of food crops, with massive civilian displacement, mainly to northern Uganda. At the same time, Yei town was besieged with an estimated 100,000 IDPs confined in the town, unable to pursue agricultural or other livelihoods.¹⁶ Actual and feared attacks, including massive violence, killings, rape and torture, prevented civilians from developing and harvesting their crops.¹⁷ Elements of the dangerous and repressive National Security Service were, and have been deployed in Yei town, resulting in arbitrary arrests and detentions.

By the end of 2016, SPLA-IO forces had an established presence in Lasu, from where they conducted guerrilla warfare and ambushes around Yei and Lainya counties. The SPLA countered with counter-insurgency operations against civilians allegedly perceived (whether true or not) as supporting or affiliated with opposition forces. Civilians in Central Equatoria bore the brunt of hostilities as Government forces and the Mathiang Anyoor militia targeted those perceived as loyal to Machar. Governor Lokonga's menacing statement to the people of Yei, telling them that "if you do not advise your children, every house will witness this kind of sorrow. Everyone will cry,"¹⁸ caused many to leave their homes and flee to Uganda to safety.¹⁹



Extensive insecurity and armed violence spread south in Central Equatoria to Kajo Keji county in the second half of 2016. Many civilians fleeing hostilities in Yei, Lainya, and Morobo counties were displaced to the Kajo Keji area. Between October and December 2016, half of Kajo Keji's population, including Internally Displaced Persons (IDPs), fled to Uganda.²⁰

Armed violence and fighting were persistent between January and April 2017.²¹ Early in 2017, SPLA Deputy Chief of the General Staff for Logistics Lt. Gen. Thomas Cirillo resigned from the SPLA, citing atrocities and ethnic cleansing committed by the SPLA and the Mathiang Anyoor in the Equatorias. Cirillo subsequently founded the National Salvation Front (NAS) in early March

Civilians continue to suffer the brunt of violence by warring parties

2017 as an opposition group. Several SPLA-IO Generals, including the SPLA-IO Commander for Central Equatoria, defected and joined the NAS. Armed confrontations between the SPLA, the SPLA-IO and the newly formed NAS intensified in the immediate aftermath, with the former groups frequently targeting civilians perceived to be supporters of NAS.²²

On 12 September 2018, Kiir, Machar and others signed a second peace agreement, the Revitalised Agreement on the Resolution of the Conflict in the Republic of South Sudan (R-ARCSS),²³ supported by Uganda and Sudan,²⁴ once again based on a power-sharing arrangement, a transitional unity Government.

The 2018 R-ARCSS only put fuel to the fire, as many Equatorians felt that their demands for accountability for atrocities had not been addressed and that promises of an improved power-sharing arrangement among South Sudanese communities had not been met. Finally, five parties, including the NAS, did not sign the peace agreement, leading to further fractures in the various groups. This contributed to a continuing state of insecurity, violence against civilians and systematic human rights violations and abuses,²⁵ resulting in continued mass displacement, particularly to northern Uganda.

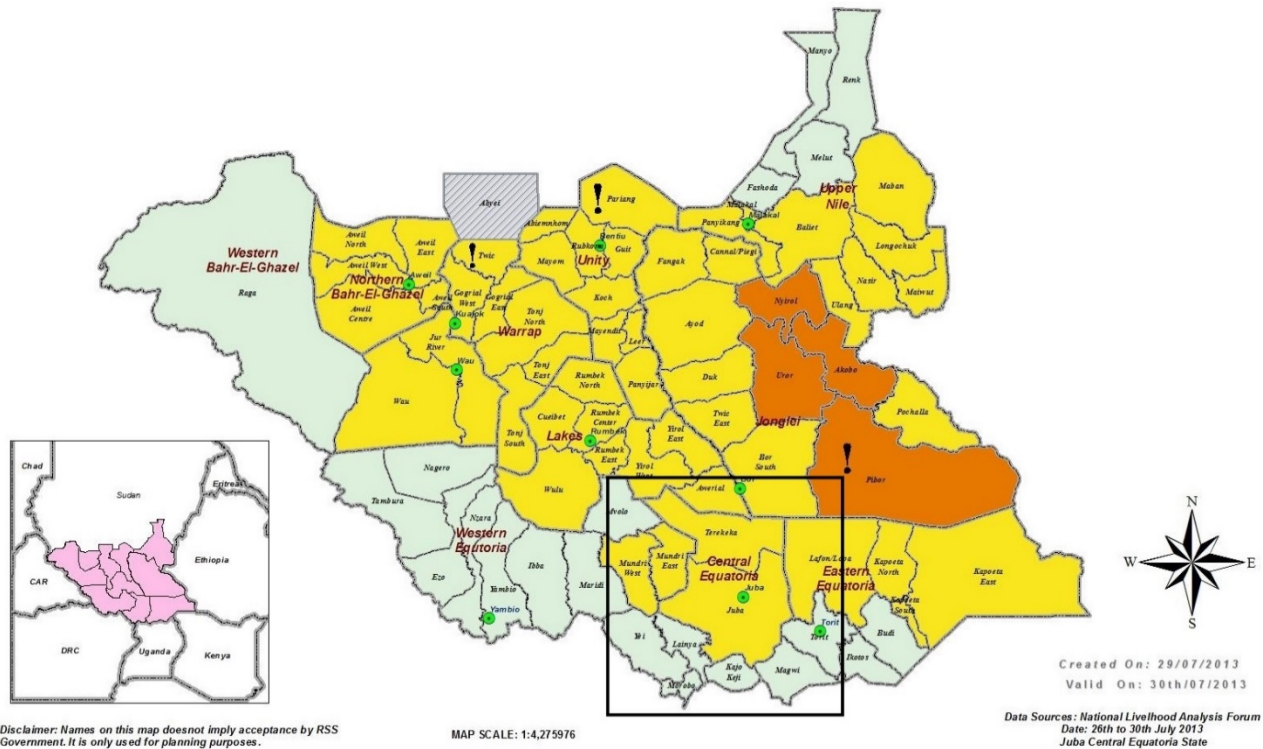
The NAS has maintained a significant presence in Central Equatoria and continues to refuse to enter the revitalized peace agreement. In January 2019, Government forces, including the SSPDF²⁶ and National Security Service, launched an operation in Central and Western Equatoria targeting areas and civilians purportedly under the control and/or supportive of opposition forces, such as the NAS.²⁷ Until January 2020, the SPLA in the Yei area, now the SSPDF, was under the command of General Malong Agot.²⁸

Credible reports indicate that throughout 2020 and up to the present day, civilians continued to suffer human rights violations and abuses, and both Government and opposition forces continue to commit gross violations of international humanitarian law. Various ceasefires have only held intermittently.

While the Revitalized Transitional Government of National Unity (R-TGoNU) was formed on 22 February 2020,²⁹ the warring parties have “continued to commit serious human rights violations and [to] use methods of warfare that are in contravention of international humanitarian law and the revitalized peace agreement”.³⁰ In February 2021, the UN Commission on Human Rights in South Sudan concluded that it had “reasonable grounds to believe that members of the Government of South Sudan have engaged in acts amounting to gross human rights violations and serious violations of international humanitarian law in the context of the armed conflict in Central Equatoria.”³¹ Parties to the conflict referred to in the present report, include on the Government side the SPLA (later renamed the SSPDF) and its allied militia, the Mathiang Anyoor, and among opposition forces, the SPLA-IO and the NAS.

1.2 FOOD SECURITY SITUATION DURING THE CONFLICT

Before the conflict in South Sudan commenced in December 2013 and eventually reached the area, Central Equatoria was the breadbasket of South Sudan and the country's most productive agricultural area.³²



South Sudan: Acute Food Insecurity Situation July - August 2013 and Projection for July - October 2013

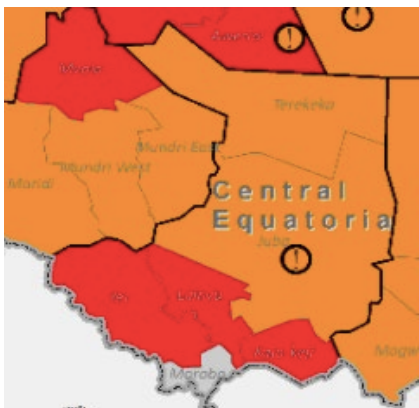
As set out in more detail below, Government attacks produced widespread hunger. Food insecurity and humanitarian assessments³³ show Yei rapidly reduced to Crisis and Emergency status, with the Government restricting humanitarian access. As early as August 2016, people were reportedly eating just once a day. Between July and September 2016, more than 4,000 South Sudanese refugees arrived in northern Uganda every day, with many dying on the way from continuing violence, starvation, thirst, and lack of medical care.³⁴ By June 2018, there were more than one million South Sudanese refugees in Uganda, 63 percent of whom were children.³⁵

The September 2014 Integrated Food Security Phase Classification (IPC) Assessment indicated that only 8.2% of Central Equatoria's population was in Crisis (IPC Phase 3) or Emergency (IPC Phase 4) levels of food insecurity.³⁶ Less than two years later, the intense armed conflict and massive violence caused Central Equatoria to have South Sudan's greatest deterioration in food security levels, with 39.8% of its population suffering from Crisis, Emergency and Humanitarian Catastrophe (IPC Phase 5) levels of hunger.³⁷



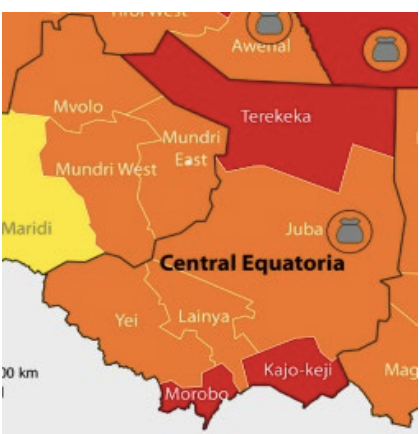
*South Sudan: Acute Food Insecurity Situation September 2014*³⁸

Protracted conflict, insecurity and lack of household food access continued to cause extensive displacement across the region, involving first tens of thousands and later hundreds of thousands of South Sudanese refugees. This severely disrupted planting and harvesting in 2016 and continuing displacement increased the risk of underproduction for the following years, due to farmers’ inability to safely return and access adequate livelihoods.⁴¹ The 2017 Food Security and Nutrition Monitoring System indicated that 52% of Central Equatoria households reported conflict as the main impediment during harvesting season (compared to only 1% in the previous year), with conflict, mass displacement and livelihood disruption resulting in atypically elevated levels of food insecurity.⁴²



*South Sudan: Acute Food Insecurity Situation September 2017*³⁹


In 2017, Yei, Lainya, Kajo Keji, Morobo and Magwi counties, previously known as some of South Sudan’s most agriculturally productive counties, were facing Crisis and Emergency levels as agricultural activities and markets were severely affected by armed conflict and large communities of farmers being forced to Uganda and the DRC.⁴³ By April 2018, almost 60% of Central Equatoria’s population was facing Crisis, Emergency and Catastrophe food insecurity levels. Conflict, food insecurity and malnutrition remained critical, resulting in continuing displacement to neighbouring countries.⁴⁴



*South Sudan: Acute Food Insecurity Situation for October - November 2020*⁴⁰

In August 2019, the IPC Assessment noted a slight improvement in the food security situation across Central Equatoria, with approximately 27.5% of the population at Crisis or Emergency levels. The improvements were “associated with harvests, availability of livestock products, fish, wild foods and improved access to markets due to the improved security situation.”⁴⁵ Persistent insecurity continued, however, to disrupt livelihoods, affect trade and hinder access to markets, severely affecting food security, which in January 2020 saw 40.4% of the population at Crisis levels or worse, including 110,000 people at the Catastrophe level.⁴⁶ Between October and November 2020, food security levels continued to deteriorate, with 206,000 Central Equatorians at the Catastrophe level.⁴⁷

In 2022, the region’s insecurity and associated displacement, together with restrictions on humanitarian assistance and movement, continued to be the main drivers of the severe acute food insecurity situation across the Greater Equatoria region, with the worst affected being Central Equatoria.⁴⁸ Between February and March 2022, low crop production, insecurity and intercommunal conflict, continued displacement and high food prices drove the region’s population into acute food insecurity, with 653,000 people in Crisis and 154,000 at the Catastrophe level.⁴⁹



2 STARVATION-RELATED CONDUCT IN CENTRAL EQUATORIA: AN OVERVIEW

While International Humanitarian Law (IHL) regulates, and to some extent restricts, the conduct of warring parties, International Criminal Law (ICL) provides for individual responsibility for international crimes, including war crimes, crimes against humanity and genocide. Perpetrators of starvation-related conduct may be held liable under all three of these international crimes, though the most relevant for this report are the war crime of deliberate starvation of civilians as a method of warfare, crimes involving obstruction or interference with humanitarian assistance, and starvation-related conduct that may amount to crimes against humanity, such as deportation and persecution. Notably, South Sudan has not ratified the Rome Statute and is not a party to the International Criminal Court (ICC). The ICC regime is nonetheless relevant, in setting out the ICL framework on starvation and starvation-related crimes, as future international, regional, hybrid or domestic war crimes proceedings are likely to draw on the ICC regime.⁵⁰

As detailed analyses of the international law on starvation have been set out in other GRC reports,⁵¹ a full statement of this law is beyond the scope of this report. An overview is set out below to understand and contextualise the gross violations and sad, pervasive abuses in Central Equatoria.

2.1 RELEVANT LEGAL FRAMEWORK: INTERNATIONAL HUMANITARIAN LAW

The conflict in South Sudan is widely accepted as a non-international armed conflict (NIAC).⁵² All parties to the conflict are bound by customary law and Common Article 3 to the Geneva Conventions. South Sudan is also a party to Additional Protocol II (1977) (AP II) to the Geneva Conventions and as such, where the required criteria are met, AP II also applies.⁵³ The SPLA-IO is said to satisfy the requisite territorial control criteria which engages, during the temporal period covered in this report, AP II.⁵⁴ Since June 2019 there is debate as to whether AP II may also apply to the NAS.⁵⁵

The starvation of civilians is prohibited by a number of treaty-based and customary law sources of international humanitarian law. Article 14 of AP II prohibits the starvation of civilians in NIACs:

Starvation as a method of combat is prohibited. It is therefore prohibited to attack, destroy, remove or render useless, for that purpose, objects indispensable to the survival of the civilian

population, such as foodstuffs, agricultural areas for the production of foodstuffs, crops, livestock, drinking water installations and supplies and irrigation works.⁵⁶

The IHL prohibition on starvation as a method of warfare is also firmly accepted as customary IHL, reflected in Rules 53 and 54 of the International Committee of the Red Cross' (ICRC) Customary IHL Study (customary IHL), regardless of the conflict classification.⁵⁷ No derogation from this prohibition is permitted,⁵⁸ which fully aligns with the unconditional and absolute prohibition on the targeting of civilians and persons *hors de combat*,⁵⁹ as well as attacks on civilian objects.⁶⁰

2.1.1 ATTACKING OBJECTS INDISPENSABLE TO THE SURVIVAL OF CIVILIANS "OIS"

OIS are non-exhaustively defined as 'foodstuffs, agricultural areas for the production of foodstuffs, crops, livestock, drinking water installations and supplies and irrigation works.'⁶¹ According to the ICRC Commentary, objects which 'are of basic importance for the population from the point of view of providing the means of existence'⁶² should also be considered OIS. The Article 14 commentary suggests that its protections should be construed and applied expansively. For example, "the verbs "attack," "destroy," "remove," and "render useless" are used to cover all eventualities" and the terms "foodstuffs" and "agricultural areas for the production of foodstuffs" must be understood in the broadest sense to cover the infinite variety of needs of the populations of different geographical areas throughout the world.'⁶³

The prohibition against starvation and attacking OIS in Article 14 should be interpreted in line with the broad scope of Articles 17 and 18 of AP II. Article 17 AP II prohibits the forced displacement of civilians, save for imperative military necessity. Where civilians are displaced, the provisions require measures to be taken to ensure displaced civilian populations are received "under satisfactory conditions of shelter, hygiene, health, safety and nutrition" (Article 17). Impartial "relief actions" must also be undertaken to meet the needs of the civilian population (Article 18). Various conduct may violate the prohibition on starvation, including denying humanitarian aid or deliberately impeding humanitarian access to civilians in need,⁶⁴ and imposing restrictions on the movement of humanitarian relief personnel.⁶⁵

2.1.2 DENYING AND IMPEDING HUMANITARIAN ACCESS

In addition to Article 18 of AP II, customary IHL Rules 55 and 56 require "parties to a conflict to allow and facilitate the unimpeded passage of humanitarian relief for civilians in need, which is impartial in character and conducted without any adverse distinction, subject to their right of control" and to "ensure the freedom of movement of authorised humanitarian relief personnel essential to the exercise of their functions", respectively. Where a civilian population is threatened with starvation, parties to the armed conflict are obliged to consent to humanitarian relief.⁶⁶ Consent may be withheld only in limited circumstances: (i) where there are no needs to meet in relation to the civilian population;⁶⁷ or (ii) where the supplies are not humanitarian in nature or are being received from an organisation that is not impartial or humanitarian in nature.⁶⁸

Once relief actions are accepted, parties to the conflict are obliged to "allow and facilitate rapid and unimpeded passage of humanitarian relief,"⁶⁹ and "ensure the freedom of movement of authorised

humanitarian relief personnel.”⁷⁰ Parties to a conflict are entitled to a right of control, including by prescribing technical arrangements, searching relief consignments, and allocating the implementation of relief activities to a local organisation,⁷¹ but these measures “must be applied in good faith and their nature, extent, and impact must not prevent the rapid delivery of humanitarian relief in a principled manner.”⁷² The impediment of humanitarian assistance through the failure to allow and facilitate the passage of relief may constitute an arbitrary denial of consent to relief activities.⁷³

When done for the purpose of starving civilians, violations of Article 18 and customary IHL Rules 55 and 56 amount to a violation of the prohibition on starvation.

2.2 STARVATION-RELATED CONDUCT IN CENTRAL EQUATORIA

2.2.1 ATTACKS ON OBJECTS INDISPENSABLE TO SURVIVAL

The armed violence in 2016 was catastrophic for Central Equatoria, and particularly Yei county and Yei town, with reports of indiscriminate targeting of civilians, looting, destruction of civilian property, burning down of homes and destruction of livelihoods.⁷⁴ In July and August 2016, Government forces set up checkpoints on all of the main roads and prevented civilians from leaving Yei town to access their farms, effectively impeding or severely disrupting agricultural production, leading to food shortages.⁷⁵ Due to widespread human rights violations and abuses against civilians, and despite various restrictions on movement, 60 to 70% of the Yei population was displaced from the area by September 2016,⁷⁶ with most of them going to northern Uganda. Many died on the way from thirst, starvation, and/or a lack of medical care.⁷⁷

The increased violence devastated food production in the Equatorias generally and by December 2016, the United Nations Office for the Coordination of Humanitarian Affairs (OCHA) determined that even in the capital Juba, 80% of the civilian population was engaged in crisis or emergency food coping strategies.⁷⁸

In 2017, both of the main parties to the conflict (the Government SPLA and opposition SPLA-IO) impeded civilians’ access to food, by restrictions on the movement of foodstuffs and the systematic looting of markets and homes, combined with continued killings and the destruction of civilian objects. Belligerent parties targeted civilians carrying even small amounts of food, accusing them of supporting and providing supplies to the opposing side. Government and opposition forces denied civilians access to food in continuing efforts to control their movement and/or to get them off their land, resulting in continuing mass displacement.⁷⁹

The Associated Press spoke to individuals from Yei and Lainya towns in 2017 who reinforced accounts that Government forces were “arbitrarily detaining, raping and killing civilians trying to cultivate their fields, amid suspicions that they were part of the opposition.”⁸⁰ Similar accounts were reported of people

“afraid to grow food,” with armed groups detaining and killing civilians outside of town who were attempting to reach their farmland to cultivate their crops.⁸¹

A vicious Government attack on the market in Mondikolok town on 22 January 2017 deeply unsettled the Kajo Keji communities, displacing large numbers of residents to northern Uganda.⁸² A retaliatory attack by opposition forces on the Mere police station two days later motivated still more to leave South Sudan -- the continuing pattern throughout this period.

Attacks on OIS and other conduct impacting OIS did not stop in 2018. Civilians from Yei and Lainya towns “liv[ed] in a prison” after the Government stole their food and denied them access to their fields.⁸³ A nutritionist working in Lainya described civilians’ apprehension to grow crops for fear of being caught doing so by Government forces.⁸⁴ A 65-year-old woman in Yei expressed similar fear, saying that she had not grown crops in more than a year and instead relied on food aid.⁸⁵ In Yei town, civilians were subject to a virtual food siege, with a continuing majority of the town’s population displaced from the area, due to the continued violence and lack of food.⁸⁶

Between December 2018 and March 2019, civilians were subject to further violations in the Yei region, with Government soldiers shooting at civilians, burning homes and crops, looting their property, and intentionally displacing thousands of civilians from their villages.⁸⁷ In a specific incident on 30 January 2019, civilians were shot at and the majority of 120 households in Morsak, Ootogo County, were looted and burned, including food items.⁸⁸ A farmer recounted another attack in Ootogo County that occurred in early March 2019, in which soldiers looted clothes, bikes, and motorbikes and burned crops.⁸⁹

In January 2019, Government forces, including the SSPDF and National Security Service, launched an operation in Central Equatoria targeting areas and civilians purportedly under the control and/or supportive of opposition forces, such as the NAS. The UN Mission in South Sudan called the operation a deliberate effort to displace the civilian population by attacking villages, burning down and destroying houses, foodstuffs, markets, agricultural assets and health facilities.⁹⁰ Government forces looted “virtually all items of value”, including foodstuffs, cooking utensils, and livestock, which were either consumed by Government forces or sold. The UNMISS Human Rights Division found three ongoing operations in Yei town selling stolen civilian objects.⁹¹ Government forces burned down whatever they couldn’t carry, including homes, food storages and supplies, leaving civilians severely deprived of food and shelter and causing their continued displacement.⁹²

In 2019, twenty-five displaced women and girls reported that people were unable to access their fields to cultivate food, leading to severe food shortages, while a refugee from Lainya interviewed in Uganda declared that many civilians had been displaced ahead of harvesting their crops.⁹³ A witness interviewed by the UN Panel of Experts stated:

Here in Yei we are really disturbed by soldiers, the very people who should protect civilians. We have seen an increase of cases of looting, even when people are raped, they are also robbed of money and food. We understand that the soldiers are looting because they have not been paid for months. What does the Government expect if they give their unpaid servants guns?⁹⁴

On 3 February 2019, Government soldiers killed the chief of Girim Payam⁹⁵ and his son, and a day later attacked the village of Girim, looting all of its food supplies.⁹⁶ UNMISS documented and corroborated at least thirty attacks on villages, during which widespread and deliberate destruction and looting of homes and food supplies occurred.⁹⁷ Reports in 2020, including by the UN Secretary General, continued to document Yei county civilians being intimidated, punished and prevented from accessing their farms by Government forces.⁹⁸

Continuing violations against civilians in Central Equatoria in the first six months of 2020 included 110 burned and destroyed structures in various villages.⁹⁹ Government forces engaged in a scorched-earth policy in Mukaya Payam, Lainya County, burning homes, beating civilians, looting property and forcibly displacing more than 3,000 civilians.¹⁰⁰ After shooting villagers' livestock, soldiers stole peanuts, cassava and other foodstuffs.¹⁰¹ Kengwe, Limilikin and other villages were burned, displacing still more thousands of civilians.¹⁰²

In 2021, protracted armed violence continued to exacerbate food insecurity and famine in Central Equatoria as farmers were forced to flee, almost completely bringing the cultivation of crops in the former "bread basket" region to a halt.¹⁰³ In their March 2022 report, the CHRSS noted widespread looting of food, farm produce, livestock and property, including burning down homes by Government forces in Yei, Lainya and Juba counties.¹⁰⁴

2.2.2 OBSTRUCTION OF HUMANITARIAN ACCESS AND ATTACKS ON HUMANITARIAN AID PERSONNEL

Through the earlier years of the conflict, OCHA recorded a steady increase in humanitarian access incidents across South Sudan, with 289 incidents reported in 2013, 779 in 2014 and 909 in 2015, including incidents where access to humanitarian aid was impeded by active hostilities, violence against humanitarian workers and objects, and/or bureaucratic impediments.¹⁰⁵ In 2015-16, the Central Equatoria region was one of the worst affected, with 205 incidents in 2015 and 316 in 2016.¹⁰⁶

In its landmark 2020 report on Starvation, CHRSS, concluded that it had

reasonable grounds to believe that sufficient evidence exists to hold to account members of the SPLA-IO (RM) under international and national laws for the crime of starvation of civilians used as a method of warfare by arbitrarily denying humanitarian aid to populations in need in Central Equatoria, including by arbitrarily denying objects indispensable to their survival.¹⁰⁷

In South Sudan overall, 69% of the humanitarian incidents in 2016 involved violence against humanitarian aid workers and/or assets.¹⁰⁸ In fact, since the conflict began in December 2013, South Sudan has been repeatedly described as the deadliest place for humanitarian workers anywhere in the world, a notoriety restated at the time of writing.¹⁰⁹

On 10 July 2016, a clearly marked Red Cross warehouse was damaged and looted,¹¹⁰ and an International Medical Corps maternity ward at the UN House base was damaged by shelling. The next day, soldiers using SPLA equipment looted 4,500 tons of food and other essential humanitarian assets from the World Food Program's main food storage warehouse in Juba, in what the UNSC Panel of Experts called a "sophisticated and sustained operation that continued for four days . . ." ¹¹¹ The WFP reported that the looted goods would have been enough to provide lifesaving food and nutrition assistance to 220,000 people for a month.¹¹² During the same period, a United Nations Children's Fund (UNICEF) water-truck convoy was diverted by SPLA forces to an SPLA compound and UN staff were harassed and intimidated.¹¹³ From April to October 2016, the SPLA prohibited UNMISS from entering the entire Yei area.¹¹⁴

During 2017 another increase in humanitarian access incidents was reported, with a total of 1159 incidents, owing to restrictions on movement, bureaucratic impediments, operational interference, and violence against humanitarian personnel and objects, with the majority of these occurring in Central Equatoria (375).¹¹⁵ As previously noted, in 2017, Government forces put up checkpoints and prevented movements of the civilian population from Yei town, while opposition forces maintained their positions in surrounding areas, creating "concentric rings of control, trapping civilians and impeding humanitarian and commercial traffic resulting in food shortages".¹¹⁶ Attacks on humanitarian aid workers by SPLA-IO armed forces in Lainya County, Central Equatoria, led to the suspension of humanitarian aid, to the acute detriment of the civilian population.

Again in 2018, South Sudan's Central Equatoria region remained among the worst affected by obstructions to humanitarian access.¹¹⁷ OCHA noted a particular deterioration in road security in Central Equatoria, which significantly reduced access to humanitarian aid in and around Yei town.¹¹⁸ In March 2018, SPLA-IO forces detained seven humanitarian aid workers in Morobo County in Central Equatoria, for twenty days. On 25 April 2018, the SPLA-IO stopped a humanitarian aid convoy in Yei county and detained ten aid workers for six days,¹¹⁹ including those from UN and non-Governmental organisations.¹²⁰ From June to September 2018, access to Yei town (and travel in Central Equatoria generally) was limited due to heightened insecurity. On 26 June 2018, a UN convoy providing protection for humanitarian workers was attacked on the Yei-Lasu road.¹²¹ In July, the UN Secretary General reported that two aid workers were killed in Terekeka in Central Equatoria.¹²² Between September and October 2018, two humanitarian aid workers were killed while travelling in clearly marked humanitarian convoys on the Juba-Lainya road.¹²³

In 2019, one-third of all South Sudan humanitarian access incidents were recorded in Central Equatoria, including the killing of three aid workers while they were delivering humanitarian assistance to the region's Morobo County. In fact, OCHA labelled Central Equatoria as the "most insecure area for aid workers to operate".¹²⁴ In January 2019, humanitarian aid was blocked and unable to reach approximately 23,000 beneficiaries in Yei County, due to a Presidential Republican Order of December 2018 concerning the import of goods and the lack of a clear definition regarding humanitarian supplies.¹²⁵ Illegal checkpoints and so-called "taxation" became major issues in Central Equatoria. In March and April 2019, the UN Secretary General reported an overall improvement in humanitarian access conditions due to the permanent ceasefire, except for certain areas, including Yei, where ambushes, looting of humanitarian assets and access denials continued unabated.¹²⁶ Civilians suffered tragically, from day to day.

Active hostilities between Government forces and the NAS disrupted or impeded the delivery of humanitarian assistance around Yei, Kajo Keji, Lainya and Morobo counties in Central Equatoria, leading to the death of several health workers, as well as the suspension of humanitarian operations and critical health services.¹²⁷ Three health facilities were damaged and looted in Lainya county. In Yei county, authorities demanded so-called “land subscription fees” from humanitarian agencies, effectively restricting their movement if they refused to pay such fees.¹²⁸

Further in 2019, UNMISS reported that the National Salvation Front (NAS) and affiliated armed groups destroyed at least three bridges on the Yei-Kaya, Yei-Maridi and Yei-Tore roads to cut off Government forces from supplies. UNMISS found that the destruction of the bridges “caused damage to civilian objects that was excessive in relation to any concrete and direct military advantage,” with the civilian population “suffer[ing] disruptions in the provision of humanitarian services, including medical supplies, as well as to their ability to access sources of livelihood, which thereby exacerbated the humanitarian situation in the region.”¹²⁹ UNMISS reported that humanitarian operations had to be suspended in Central Equatoria for several months due to insecurity and the denial of humanitarian access by Government forces.¹³⁰

In 2020, Central Equatoria continued to be a hotspot for incidents involving the serious obstruction of humanitarian access, with 152 incidents in the region, including violence against humanitarian personnel and objects, bureaucratic impediments, operational interference and restrictions on movement.¹³¹ Access incidents in Central Equatoria were primarily owed to active conflict between Government forces and the National Salvation Front around Lainya, Morobo and Kajo Keji counties, hindering the delivery of humanitarian assistance.¹³² Two counties in Central Equatoria, Juba and Yei, were among the worst affected.¹³³

A UN Secretary General’s report in February 2020 documented the highest concentration of humanitarian access incidents in Central Equatoria, due to hostilities and bureaucratic impediments in Yei and extortion by members of Juba’s security institutions.¹³⁴ In early August 2020, two vehicles in an international NGO convoy on the Yei-Lasu road were tragically ambushed and looted of all medical and nutritional supplies¹³⁵ as they travelled to the Lasu refugee camp in Central Equatoria.¹³⁶

Throughout 2020 and 2021, at Juba International Airport, the Government’s National Security Service arbitrarily refused humanitarian aid workers internal travel permissions for a variety of constantly changing reasons.¹³⁷ Such bureaucratic measures (read “games”) effectively hindered the movement of humanitarian personnel, creating constant confusion regarding the necessary travel procedures¹³⁸ and directly affecting humanitarian aid.

In 2021, humanitarian access incidents continued to be under-reported, while so-called “sub-national violence” and violence against humanitarian aid workers and facilities increased. Central Equatoria once again saw the highest concentration of access incidents in 2021, with 137 incidents, including violence against aid workers and supplies, bureaucratic impediments and operational interference.¹³⁹ Such access constraints limited the ability of humanitarian workers to determine the needs of the population.¹⁴⁰ Active conflict between Government forces and the National Salvation Front and roadside ambushes continued to hinder the delivery of humanitarian aid in Lainya, Morobo and Yei counties. The road between Juba and Yei remained non-operational due to the conflict and insecurity, severely affecting the delivery of humanitarian supplies.¹⁴¹ Most incidents in Central Equatoria involved “[humanitarian] [s]taff detentions, harassment, intimidation, and extortion”.¹⁴²

In February 2021, the CHRSS reported attacks against civilians, road ambushes against humanitarian workers, and looting of humanitarian assets, including vehicles, medicines, and communication equipment. There was increasing violence, with members of the Government armed forces who had not received their remuneration and food rations extorting and looting food and other household items from civilians.¹⁴³

On 17 September 2021, a World Food Program aid convoy was attacked, and a driver killed on the road between Juba and Morobo, through Lainya county, likely attributed to the NAS. Such ambushes are commonplace, impacting the operation of humanitarian organisations and the delivery of urgently needed humanitarian aid.¹⁴⁴

On 28 February 2022, seven members of Médecins Sans Frontières (MSF) were attacked on a road outside Yei.¹⁴⁵ The unidentified attackers robbed the MSF convoy at gunpoint and burnt two of their vehicles,¹⁴⁶ forcing the organisation to suspend their essential operations in areas outside Yei.¹⁴⁷

2.2.3 DISPLACEMENT AS IT RELATES TO FOOD INSECURITY

Over the course of the South Sudan conflict, since December 2013, more than four million people have been displaced, with approximately two million being internally displaced (IDPs) and almost 2.5 million displaced as refugees in neighbouring countries, with approximately one million in Uganda alone,¹⁴⁸ resulting in Africa's largest refugee crisis.¹⁴⁹ Sixty-three per cent of the refugees are under 18, and the majority are women and children.¹⁵⁰

The CHRSS concluded in its 2018 Conference Room Paper:

[T]he massive displacement of the civilian population of Lainya, Yei and Kajo Keji counties was a direct result of the widespread violations of international humanitarian law and human rights law committed by the SPLA [Government] forces. This included deliberate killings of civilians, rape, abduction, and destruction of civilian property and pillage. The resultant physical and food insecurity left the civilians with no option but to flee elsewhere.¹⁵¹

As set out above, the collapse of the 2015 peace deal in early July 2016 led to an outbreak of massive violence that spread from Juba to the Equatorias, causing widespread atrocities and mass displacement.¹⁵² Hundreds of thousands of civilians from Juba, Yei, Kajo Keji and surrounding villages were displaced in July 2016 and the following months, as hostilities escalated and food security deteriorated.¹⁵³

Government and opposition forces carried out widespread human rights and IHL violations across Yei River state, in Yei and Lainya counties, including widespread destruction of property and looting of food. The CHRSS documented and corroborated accounts of the widespread burning of homes, through United Nations Satellite Centre satellite imagery, with images of Yei town showing 6,300 destroyed

structures and other images indicating 183,18 destroyed structures.¹⁵⁴ Civilians fled en masse to neighbouring countries, especially Uganda.¹⁵⁵ In September 2016, OCHA reported that 60 to 70% of Yei town's population (approximately 300,000 people) was displaced to Uganda,¹⁵⁶ with 4,000 people arriving in Uganda each day.¹⁵⁷

UNMISS reported that between 7 and 10 November 2016, civilians were fleeing on the Juba-Yei road from villages including Kwarijik, Bungu, Kulipapa, Ganji, Logwili, Loka West and Lokurubang. At the same time, civilians from these areas reported that SPLA soldiers were transporting Dinka civilians out of the area,¹⁵⁸ primarily to Juba.

Civilians were left with no choice but to flee. They fled from atrocities in Central Equatoria hoping to find safety in Uganda, an extremely difficult and dangerous journey, on foot hiding in the bush. The CHRSS spoke to a witness who described such a journey:

We started heading towards Uganda on 1 September 2016. We had remained in the bushes hiding until then. We met up with some other families who had also been hiding in various parts of the bush. There ended up being about 200 of us, including men, women and children. There were also some pregnant women amongst us, and some of them delivered their babies on the journey to Uganda. There was no vehicle. We had to trek. We did not travel along the main road because of the threat from the Government soldiers. We trekked through the bush paths. On one of the nights, we crossed the Lainya-Yei road, but we continued our journey through the bush paths. We were sleeping in the bush out in the open. This included the children. It was the rainy season and raining heavily throughout this period. It took us about eight days to get to the border with Uganda. Some of our group died along the way. Some died from hunger. Others fell ill and died of their illnesses.¹⁵⁹

Kajo Keji county, with an original population of approximately 200,000 people, for a time received large numbers of IDPs fleeing the massive violence in Lainya, Yei and Morobo counties, but then, between October and December 2016, approximately half of Kajo Keji's population (including the IDPs) was itself displaced to Uganda.¹⁶⁰

By the end of 2016, 320,000 refugees had already arrived in Uganda, while by the first week of February 2017, approximately 180,000 more refugees had registered in Uganda. Subsequent reports indicate that between July 2016 and July 2017, approximately 750,000 South Sudanese refugees arrived in Uganda.¹⁶¹ Most of the refugees interviewed in Ugandan refugee camps indicated that they fled South Sudan due to the violence carried out by Government forces and specifically their allied militia, the Mathian Anyoor.¹⁶² Most displaced civilians further indicated that they fled primarily due to violence and fear of violence, as well as the severe lack of food and livelihood opportunities.¹⁶³

A civil society report, based on 386 victim-witness interviews, concluded that (emphasis added):

the aim of mass atrocities committed in [the] Equatoria Region in South Sudan [w]as meant to forcefully displace citizens from their home areas. All various acts of human rights violations were meant to force people out of their areas.¹⁶⁴

Most South Sudanese refugees are living in settlements in northern Uganda “mainly in the districts of Yumbe (26%), Adjumani (24%), Arua (21%), Obongi (14%), Kiryandongo (8%), and Lamwo (6%).”¹⁶⁵ The Bidi Bidi camp opened in August 2016 as a result of the wave of displacement that followed intensifying hostilities in South Sudan and in October 2018 it was the largest refugee camp in the world.¹⁶⁶ As of May 2019, the camp hosted an estimated 250,000 refugees from South Sudan.¹⁶⁷ In February 2021, Bidi Bidi’s population counted over 235,000 refugees, with 85% of these being women and children.¹⁶⁸

In early 2020, with the failure of the ceasefire between the Government and NAS, headed by Cirillo, large-scale SPLA counterinsurgency operations caused a further wave of civilian displacement.¹⁶⁹ Amnesty International documented large-scale destruction of public infrastructure, homes and shelter and forced displacement.¹⁷⁰



3 CENTRE FOR INFORMATION RESILIENCE: FINDINGS

3.1 INVESTIGATIVE METHODOLOGY AND CASE SELECTION

GRC invited the CIR to investigate a set of specific incidents related to the destruction of critical civilian infrastructure and OIS, including markets, and obstruction of humanitarian aid and attacks on humanitarian aid personnel and convoys in the Central Equatoria between 2016 and the present day, related to the mass displacement from Central Equatoria to northern Uganda. This investigation is the first of its kind to specifically assess whether these attacks created a coercive environment within Central Equatoria, forcibly displacing civilians deprived of OIS.

The incidents selected build upon GRC's previous Policy Brief titled "Accountability for Starvation Crimes: South Sudan" (2019) and are the result of a year-long investigation by GRC, identified as examples of egregious starvation/humanitarian access violations. They were investigated by CIR with OSINT material, specifically using CIR's tools and expertise to geolocate and time stamp actions/attacks, identify patterns of conduct, ultimately aiming to reveal those potentially responsible, involved or associated. The CIR investigation focused on the counties of Yei and Kajo Keji in southern Central Equatoria.

CIR designed a collection protocol and methodology guideline to look at information surrounding the incidents identified by GRC, as well as to identify any further incidents related to possible starvation violations. All information used in the CIR report was obtained through open pages available online or closed community groups exceeding 400 people through a simple 'request to join' procedure. Once relevant content was identified, such content was verified using verification techniques such as geolocation and chronolocation, and where possible, corroborated incidents and events using multiple sources to cross-reference and confirm the information stated online. Reference footage or imagery used to corroborate information or geolocate digital content was also cross-checked and verified using the same verification techniques.

Sources in order of relevant content material included local media (radio stations, print media, local journalists); local non-Governmental organisations or charities (local monitoring groups and locally funded Christian organisations); military and armed groups (statements on social media¹⁷¹); user-generated social media content (primarily Facebook and YouTube); and international non-Governmental organisations or charities, such as Human Rights Watch and Amnesty International.

To avoid misinformation, the investigation performed searches to ensure that content found was not repeated from prior incidents and was not falsified information.

3.2 ATTACKS ON MARKETS IN KAJO KEJI AND YEI

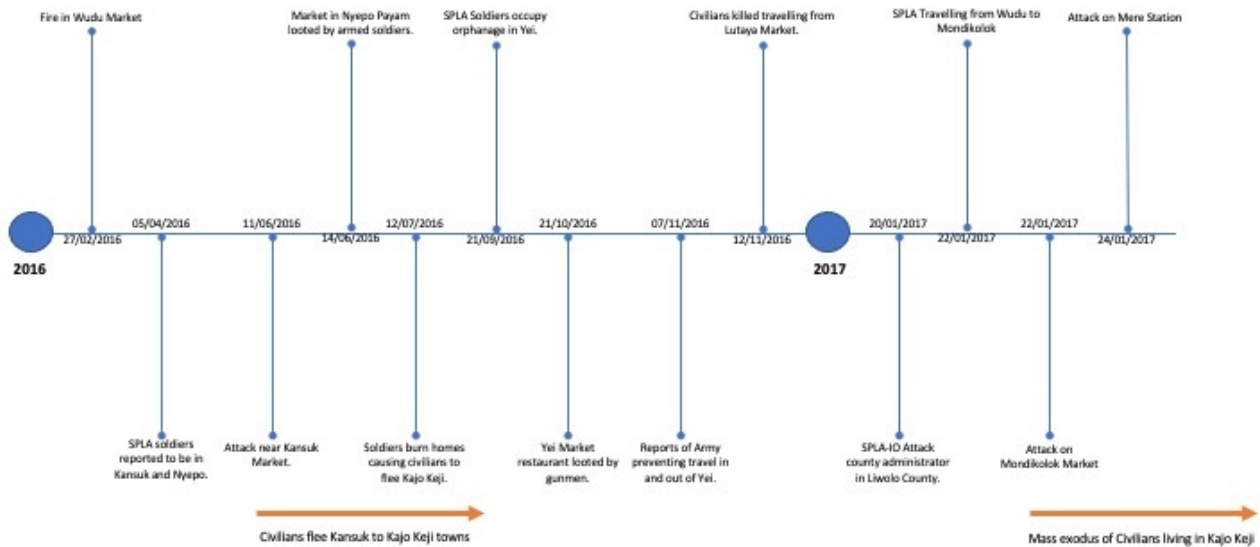


Figure 1: Timeline of events

On 27 February 2016, reports indicated that several stores in Wudu Market, Kajo Keji, were burnt because of a fire that started at approximately 4:00 AM.¹⁷² The market stalls were geolocated to the centre of Wudu Market in Kajo Keji.¹⁷³ Satellite imagery analysed by CIR suggests that the incident took place between 31 Jan 2016 and 15 March 2016. Some closed groups accessed by CIR suggested that the fire was caused by armed gunmen who came to loot it. Available open-source evidence, however, could not confirm this and no perpetrators were identified.

By April 2016, fighting had reached Kajo Keji and Yei counties. According to several Facebook posts by the Governor of Yei River State, Frank Matata, fighting intensified after Government soldiers reportedly arrived in Kansuk in northern Kajo Keji County to attack SPLA-IO fighters.¹⁷⁴ On 11 June 2016, gunfire erupted a few meters away from the Kansuk market as civilians and traders were present. One civilian was reportedly killed. The incident was reported to involve the SPLA and an armed group, who claimed to be SPLA-IO.¹⁷⁵ This is consistent with reports that indicate the presence of the SPLA-IO in Kansuk at the time. The following day, civilians began fleeing to schools and churches, seeking shelter, food and safety from the outbreak of fighting. The former cleric of Kajo Keji diocese bore witness to the displacement of civilians and frequently provided updates on the condition and needs of IDPs. According to his testimony, over 10,000 people fled to Bori, Wudu and Liwolo¹⁷⁶ due to the incident in the Kansuk market.¹⁷⁷



Figure 2: Left: Image of IDPs from Kansuk in Liwolo Parish taken from the local newsletter. Right: Images posted by the Reverend of Kajo Keji on 18 June 2016 of the Kansuk IDPs.



Figure 3: Left: Google Earth Pro Satellite Imagery taken on 31.01.2016 with the geolocated church that housed the IDPs highlighted in green [3.7963043131247525, 31.42833218475341] approximately 19km Southwest of Kansuk.

On 14 June 2016, local media reported that SPLA units deployed to Nyepo Payam entered the market and looted food items from market stall owners.¹⁷⁸

Human Rights Watch reported that on 21 October 2016 uniformed Government soldiers looted the property of a businesswoman who ran a restaurant in Yei market. According to the report, one of the soldiers raped a pregnant woman with a mental health condition who was inside the restaurant at the time of the attack.¹⁷⁹

On 12 November 2016, local media reported that soldiers had killed 11 civilians travelling on the Yei-Lasu road from the Lutaya Market in Yei.¹⁸⁰ Survivors of the attack recalled the incident, stating that Government soldiers in uniform had stopped the group of eleven, which included women, on their way back from Lutaya Market where they had travelled to earlier in the day to sell their maize and groundnuts. The soldiers accused the group of being rebel supporters, shot at them, then locked them in a room and set the room ablaze. A graphic video posted to Facebook on 19 November purportedly showing the aftermath of the attack and the burial of those killed corroborates the testimony provided in media reporting of the civilians being trapped in a room and set on fire.¹⁸¹ The charred bodies of those killed is visible in the footage and images analysed by CIR.¹⁸² While it was not possible to geolocate the video due to lack of available satellite imagery of the area at the time, its location was given as Pukka village, on the road east of Lutaya market. While the SPLA denied any knowledge of

attack, reporting and testimonies placed the SPLA in control of Yei town in the days leading up to 12 November.¹⁸³ On 7 November 2016, the Catholic Bishop of the Yei Diocese said that he was blocked from going to areas around Yei as the SPLA were preventing people from going in and out of the towns.¹⁸⁴ On 1 November 2016, SPLA-IO Brigadier General John Sunday Martin posted a picture of himself and other members moving towards Yei Town, indicating that clashes were going to occur between the two armed groups.¹⁸⁵

3.2.1 CASE STUDY: ATTACK ON MONDIKOLOK MARKET (22 JANUARY 2017)

On 22 January 2017, armed men who were believed to be SPLA fighters opened fire at the Mondikolok Market in Kajo Keji, reportedly killing six to seven people. A statement signed by Rev. Canon Emmanuel Murye on 25 January 2017 outlines the events that took place leading up to and after the 22 January attack.¹⁸⁶ According to the statement, on the night of the 20 January, armed men reported to be SPLA-IO members attacked and killed the County Administrator, Mr. Oliver Jole, in Liwolo County. Mr Jole was accused of being a government collaborator. Human Rights Watch also reported the death of an individual, Oliver Rumbe, who was abducted and killed by SPLA forces after being suspected of being an SPLA-IO member.¹⁸⁷ In the following days, SPLA-IO attacked Government forces in neighbouring towns which led to clashes with Government forces along the Juba Road.

The statement describes the events of 22 January as having taken place at around 2:00PM when Government forces arrived at Mondikolok Market from nearby barracks¹⁸⁸ approximately 6.9 km south of Mondikolok as residents gathered for Sunday service at the Mondikolok Church.¹⁸⁹

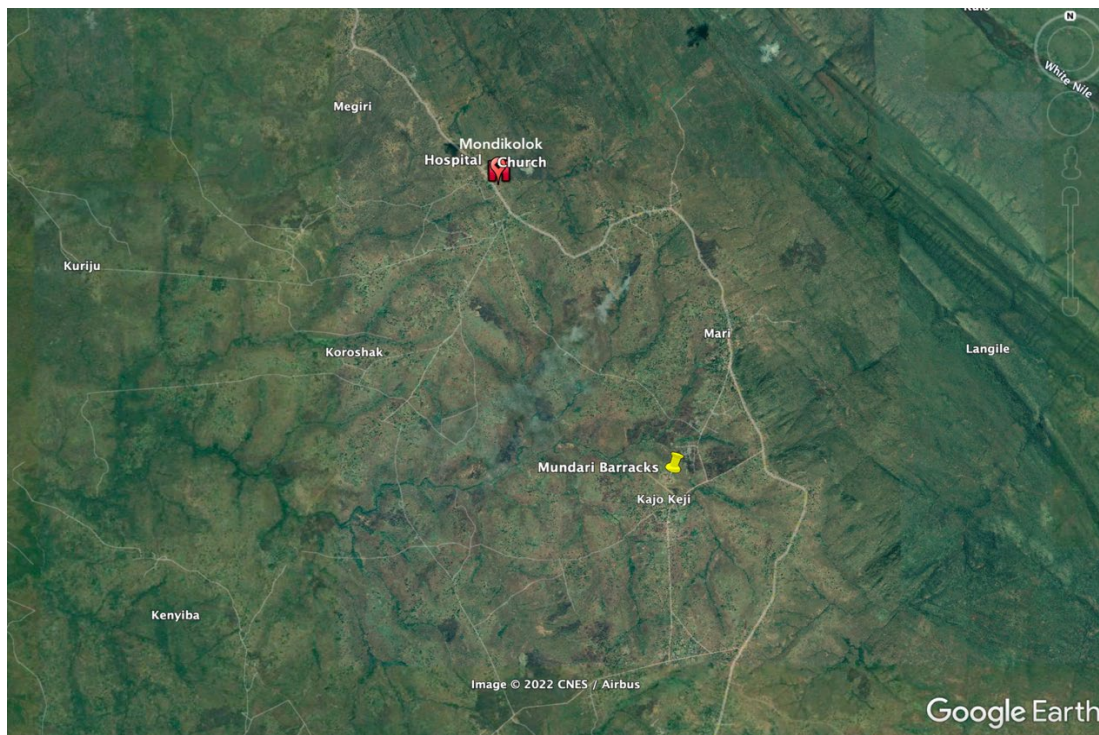


Figure 4: Map of area of interest.

Images of the church, posted by Kajo Keji residents as well as a video uploaded on YouTube, were used to geolocate the town.¹⁹⁰



Figure 5a: Left: Image posted on Facebook by Kajo Keji resident of the Church. Right: Screenshot of Mondikolok 2020 video found on YouTube.



Figure 5b: Geolocation of the Church and Town. Left: Screenshot of Mondikolok from a YouTube video. Right: Maxar Satellite Imagery dated to 04 May 2016 [3.914731291391202, 31.626514862411906].

Several witnesses described uniformed Government soldiers present in Mondikolok.¹⁹¹ One witness described seeing “Government soldiers 30 feet from where he stood. [The witness] ran away from the main road where the village market was and instead towards a neighbouring village whilst soldiers were shooting”.¹⁹² Numerous credible reports indicated that six to seven civilians were killed in the attack.¹⁹³

Following the events of 22 January 2017, fighting between SPLA-IO and SPLA members continued in Mondikolok and neighbouring Kajo Keji towns. A subsequent attack by rebel forces on the Mere/Mari police station in Lire Payam reportedly resulted in two civilian casualties.¹⁹⁴ Images and videos posted on the Facebook accounts of a local senior government official and a senior SPLA spokesperson in April 2017 showed the increased activity of SPLA-IO fighters in Kajo Keji town following its desertion by civilians.¹⁹⁵

An estimated 30,000 people fled Mondikolok and the surrounding towns in Kajo Keji as a result of the fighting.¹⁹⁶ On 20 February 2017, a local cleric began visiting previous Kajo Keji residents who had fled the attacks and documenting their condition.¹⁹⁷



Figure 6: a Facebook account which appears to belong to a local SPLA.IO member showing SPLA. IO fighters in Kajo Keji.

Figure 7: a Facebook account which appears to belong to a local SPLA IO member following a visit to Kajo Keji showing SPLA- IO fighters.

The aftermath of fighting in Mondikolok and other Kajo Keji towns could be seen on satellite imagery, as shown in more detail below. Satellite images taken on 4 May 2016 show the town prior to fighting with distinct settlements inhabited by civilians as well as roads and buildings visible in the images below. The next available imagery taken by Airbus on 23 July 2018, over a year after fighting began, shows the devastation that ensued. Previous settlements seen in the 2016 imagery are destroyed and abandoned, earth around the settlements is overgrown with little to no residential activity visible on imagery. The same pattern of destruction and desertion can be seen across neighbouring towns.¹⁹⁸



Figure 8: Top: Mondikolok town on 04.05.2016. Bottom: the town on 23.07.2018.



Figure 9: Top: Nearby town on 04.05.2016. Bottom: the town on 23.07.2018.

UNMISS was granted access to Kajo Keji on 7 February 2017 and found the town deserted and witnessed people continuing to flee due to insecurity. UNMISS posted a YouTube video on 17 February 2017, showing the aftermath of the fighting between SPLA and SPLA-IO forces and civilians fleeing the area.¹⁹⁹



Figure 10: Screenshot from 17 February 2017 UNMISS video showing civilians fleeing Kajo Keji.

3.2.2 GRC CONCLUSION

Parties to the conflict, and Government forces in particular, appear to bear principal responsibility for the widespread destruction and looting of OIS and specifically markets in the Kajo Keji and Yei areas between January 2016 and July 2018, as set out above. The CHRSS also found that the Mondikolok market attack was attributable to Government soldiers from the Mundari barracks.²⁰⁰ These attacks formed part of a clear pattern of repetitive attacks on similar OIS, such as markets, which in turn appeared to severely impact civilians' access to food, pointing to evidence of intent.

Marketplaces often constitute an essential pillar of civilians' access to food and livelihoods, including their function as a source of income. The Mondikolok market, for example, has hosted agro-dealers, who are local seed sellers, playing an essential role in the crop and livestock production cycle providing farmers with essential seeds and tools.²⁰¹

Overall, GRC finds that both the Government and its allied forces and militias, as well as opposition groups, have been and are responsible, involved and/or associated with the destruction, deprivation and looting of OIS, such as markets, to such an extent that they became non-operational, creating a coercive environment that left civilians with no options but to leave the area. The general destruction and violence by Government forces and armed groups operating in the area displays a wanton disregard for the protection of civilians and OIS. The food security of civilians in Kajo Keji and Yei severely deteriorated as a result of objects that were essential for civilian survival being targeted and due to the failure of parties to the conflict and in particular Government forces, to distinguish between civilian and military objects. Deprivation, destruction and looting of OIS plainly violates the prohibition on starvation as a method of warfare.

3.3 ATTACKS ON HUMANITARIAN ASSISTANCE

From 2016 onwards, fighting and clashes between the SPLA and SPLA-IO, amongst others, including retaliatory ambushes, hindered the movement and trade of goods on key roads connecting villages and towns to supplies and access to markets.²⁰² The delivery of humanitarian aid became significantly more challenging with the increased risk of targeted attacks. In many cases, identification of the perpetrators of these attacks was challenging as frontlines and territorial control rapidly changed. The Yei-Lasu and Yei-Monduri roads became notoriously dangerous for humanitarian organisations and civilians alike.

On 11 August 2016, the NGO Community Empowerment for Progress Organization (CEPO) reported that a UN agency truck carrying food items was attacked by unidentified armed men in Lasu, Yei.²⁰³ On 7 December 2016, reports indicated that gunmen ambushed an ambulance belonging to the NGO ACROSS that was travelling to the Nyori refugee camp in Lasu Payam, Yei.²⁰⁴

On 26 June 2018, a UN convoy carrying humanitarian workers delivering aid was struck on the Yei-Lasu road. UNMISS stated that unidentified gunmen fired several shots at the vehicles resulting in the death of a Military Liaison Officer, Ashraaq Siddiqui.²⁰⁵ SPLA-IO Spokesperson Gabriel Lam Paul

released a statement in which he noted (claimed) that the SPLA-IO had given safe passage to UNMISS escorts through the IO's areas of control.²⁰⁶

On 10 August 2020, staff members of ACROSS reported that they had been ambushed on the Yei-Lasu Road during the delivery of humanitarian aid to refugees in the Lasu camp.²⁰⁷ OCHA noted that a convoy consisting of an ambulance and a passenger vehicle was attacked in Abegi on the Yei-Lasu road, around 16km from Yei.²⁰⁸ The driver of one of the vehicles was shot and injured, while those travelling in the ambulance fled into the bush.²⁰⁹ The Governor of Central Equatoria condemned the attack and appealed to the international joint monitoring body to hold the perpetrators accountable.²¹⁰

3.3.1 CASE STUDY ATTACK ON MSF CONVOY IN YEI (28 FEBRUARY 2022)



Figure 11: Image of burnt car posted by MSF

On 28 February 2022, MSF staff members were attacked on the Yei-Maridi road while travelling to Minyori. According to an MSF statement published on 1 March 2022, two MSF vehicles were burnt after a group of armed men forced staff to disembark their vehicles and robbed their personal belongings. MSF immediately suspended its support facilities outside of Yei, affecting essential civilian access to vital healthcare. Images of the burnt vehicles were posted online by MSF on 28 February 2022 and 3 March 2022.²¹¹

A video and image posted on Facebook on 2 March 2022 show both burnt MSF vehicles, as well as a video statement given by a person identified as one of the victims of the attack, who described the attackers.²¹² The same individual was identified in another post describing the 28 February attack.²¹³

On 2 March 2022, the NAS spokesperson released a statement denying accusations that it abducted civilians and burnt MSF vehicles. The statement diverted responsibility towards Government forces, adding that the latter maintain a defensive post in Minyori village, which is approximately 5km away from Yei town.²¹⁴ Due to insufficient available open-source data, CIR was not able to verify if in March 2022 Minyori was held by the SPLA.

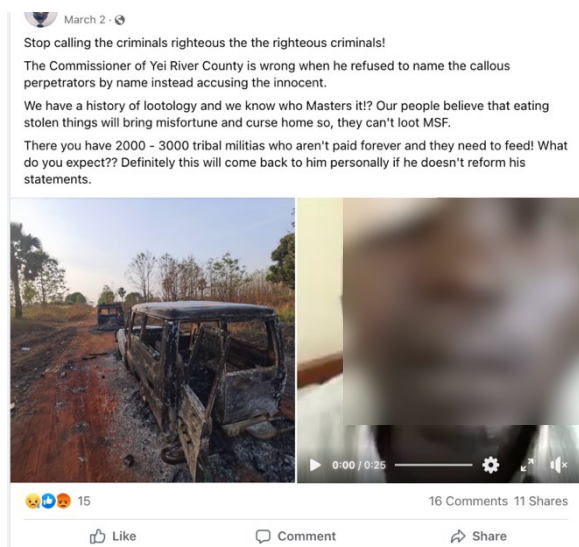


Figure 12: Facebook post showing video of alleged MSF attack victim.

Insecurity in greater Yei was reported both prior to and following the attack on MSF staff, with an increase in the number of reported abductions.²¹⁵ On 20 February 2022, the Commissioner of Yei River county reported that at least 63 civilians had been abducted between 2021 to 2022, with 43 civilians abducted along the Yei-Mardi road after a military offensive by NAS forces.²¹⁶ Reports of Government force deployment along the Yei-Maridi road and Yei-Lainya road indicated ongoing clashes between NAS and SPLA members.²¹⁷

3.3.2 CASE STUDY: ATTACKS ON WFP AND ACROSS CONVOY (17 SEPTEMBER 2021)

On 17 September 2021, a WFP and ACROSS aid convoy of three vehicles carrying 121 metric tons of food supplies came under attack in Yari, an area near Mugwo Payam, whilst travelling from Yei to Morobo. The truck was reportedly looted and burned. According to the Yei River County Commissioner Aggrey Cyrus Kanyiwa, the local authorities rescued two individuals with the SPLA's assistance. A driver was reported killed and two others were injured.²¹⁸ Eye Radio reported that on the same day, an attack occurred on a convoy of vehicles travelling along the Yei-Kaya road with a shipment of assorted food items to IDPs in Morobo. Cyrus stated that "One driver of Boma Stars Co. was shot dead, another one driver and a turn-man are seriously wounded, the convoy team leader, a driver and another turn-man are abducted, while one driver and turn-man are rescued by the SSPDF."²¹⁹

CIR found that the WFP attack and the Boma Stars Co. attack are likely the same incident. Both statements noted that two WFP aid workers were rescued by the SPLA. Secondly, the Yei-Kaya road leads to Morobo, where the Boma Stars convoy was delivering food supplies. Both reports mention the same dates, the same number of people and vehicles.²²⁰

The Morobo County commissioner, as well as SPLA forces, accused NAS members of carrying out the attack.²²¹ The NAS released a statement denying its involvement and accused Government forces. NAS claim that the SPLA had conducted military operations around Yei and launched military operations against NAS southwest of Yei on 15 September 2021.²²²

As above, frequent changes in areas of control and patterns of retaliatory attacks by armed groups made establishing responsibility challenging.

In November 2019, NAS forces reportedly captured several main towns in Yei State and burnt SPLA barracks in Morobo County along the Yei-Kaya Road.²²³ However, by 2021, SPLA were in control of Morobo, with frequent ambushes and attacks claimed by NAS.²²⁴

3.3.3 GRC CONCLUSION

Government forces and opposition groups, including the SPLA-IO and NAS, have obstructed the delivery of lifesaving humanitarian assistance to the vulnerable civilian population in Kajo Keji and Yei counties, by conducting targeted attacks on humanitarian convoys. The CHRSS has stated that the September 2021 attack on the WFP and ACROSS aid convoy was conducted “in a manner bearing all the hallmarks of a NAS attack.”²²⁵ Pervasive violence and insecurity, the risk of targeted ambushes and various attacks impeded or hindered humanitarian programming, thereby depriving civilians of much needed OIS.

The attack on the WFP and ACROSS aid convoy was conducted “in a manner bearing all the hallmarks of a NAS attack.”

While it is challenging to attribute responsibility for specific targeted attacks due to continuously changing frontlines and territorial control of various factions, it is clear that all parties to the conflict created an insecure environment, un conducive to the safe delivery of humanitarian aid. This clearly impeded humanitarian programming, with direct and targeted attacks on humanitarian personnel delivering aid to areas where civilians were already suffering from acute food insecurity or famine-like conditions. Human suffering was multiplied.

Credible reports indicate that these actions led to the deprivation of OIS intended for civilians, denying the safe movement of humanitarian supplies and obstructing the rapid and unimpeded passage of relief, in violation of the prohibition of starvation of civilians as a method of warfare.

3.4 DISPLACEMENT

Civilians in Central Equatoria began leaving their homes as early as June 2016, after the Kansuk market incident.²²⁶ On 12 July 2016, residents of Kajo Keji reportedly left their homes at dawn after unidentified soldiers burnt houses during the night.²²⁷ The attacks in Mondikolok and Mere in January 2017 triggered a mass exodus of civilians due to fear of intensified fighting between Government forces and the armed groups who had taken over the towns. The United Nations High Commissioner for Refugees (UNHCR) reported that between 22 January and 21 February 2017, 84,640 refugees fled South Sudan to Uganda, with the majority of those refugees coming from Kajo Keji.²²⁸



Figure 13: Geolocation (right) of Facebook images (left) where civilians are pictured leaving Kajo Keji heading in a Southern Direction towards Uganda.[3.821428, 31.668699]

By February 2017, it was estimated that over 30,000 people were internally displaced due to the fighting in Central Equatoria.²²⁹ Those who did not have the means to leave Kajo Keji reportedly sought refuge in the surrounding countryside and hid in the bush. In February 2017, international and local aid agencies estimated that over 4,000 civilians could have been trapped in the bush without food and clean drinking water.²³⁰

Thousands of residents from Kajo Keji and Yei counties were displaced to refugee camps in Adjumani, Bidi Bidi, Maaji and Mvepi in northern Uganda. CIR found what appear to be widespread patterns of devastation and desertion of towns and mass displacement of civilians from Kajo Keji and Yei counties to refugee camps in Uganda. This was supported by comparing satellite imagery of certain towns before and after the conflict devastated the area and by analysing the influx of refugees and examining the increase in size of the main refugee camps between 2016 and 2018 in northern Uganda, where CIR identified Kajo Keji and Yei county residents.

3.4.1 SATELLITE IMAGERY ANALYSIS OF THE DESTRUCTION AND DESERTION OF TOWNS IN KAJO KEJI

The impact of fighting on communities in Kajo Keji is most prominent on satellite imagery. CIR looked at the scale of devastation in five towns in Kajo Keji, including Wudu, Liwolo, Mondikolok, Mere, and Nyepo.

Wudu

Wudu Town in Kajo Keji was reportedly looted and deserted in early 2017. The priest of Sacred Heart Parish in Kajo Keji said that “Wudu, where the main market and local hospital are located, has become almost a ghost place. Only a few residents can be seen around”. He estimates that “85% of the population have fled the place and sought refuge in Uganda.”²³¹ An international NGO visiting its compound in Kajo Keji in early 2017 found that it had been completely looted.²³²

Satellite imagery captured on 15 March 2016, 23 July 2018 and 16 December 2020 show the extent of the destruction. Most residential settlements surrounding Wudu had disappeared by 2020. Due to inactivity, many areas appear to have become overgrown and wild, with the majority of thatched-roof houses destroyed. Wudu Market, which served as one of the main markets in Kajo Keji town, was destroyed, with no activity visible in the images. This is corroborated by images and footage taken by former residents and international aid organisations, who refer to Kajo Keji as a “ghost town”.²³³ Analysis of satellite images taken on 15 March 2016 and 16 December 2020 show that approximately 70% of Wudu town was destroyed following the outbreak of fighting in 2016.



Figure 14: Satellite Imagery of Wudu Town taken on 15.03.2016

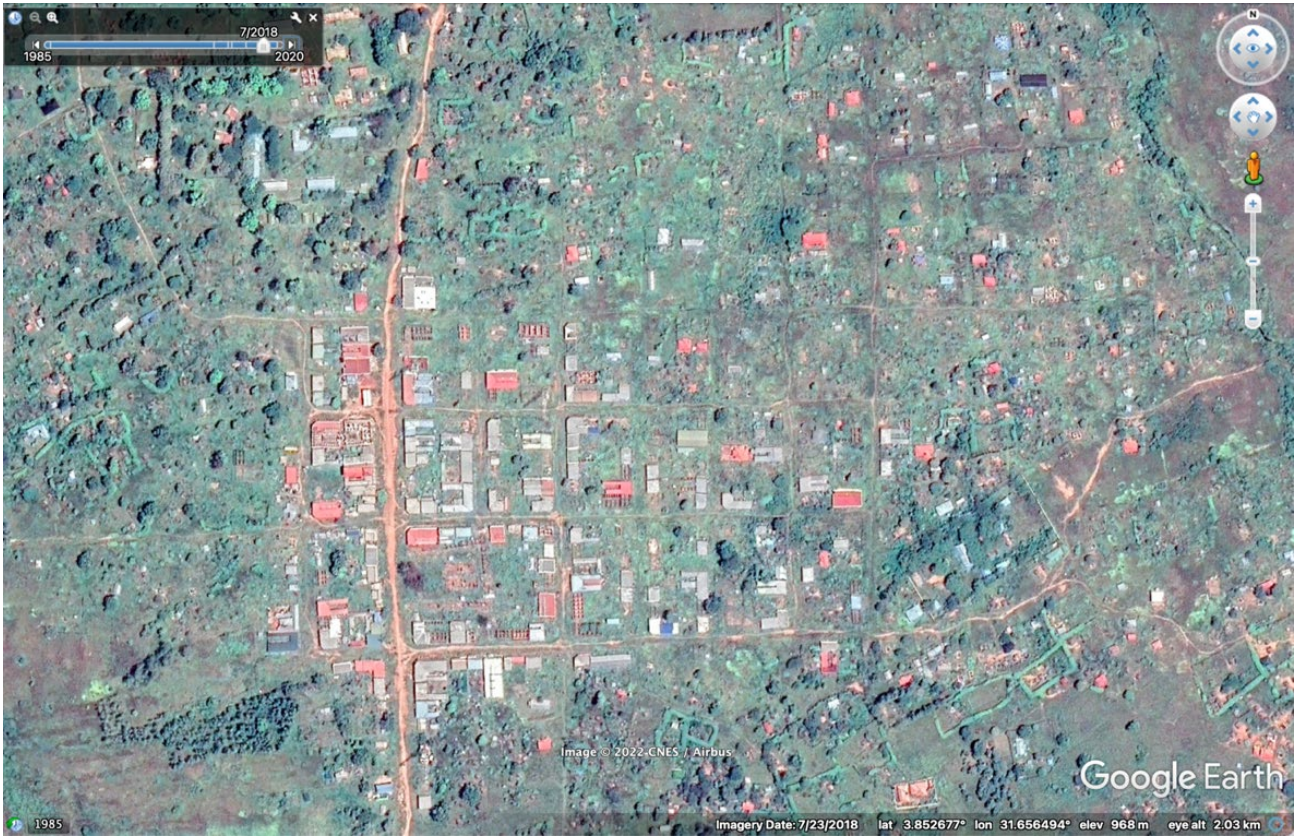


Figure 15: Satellite Imagery of Wudu Town taken on 23.07.2018



Figure 16: Satellite Imagery of Wudu Town taken on 16.12.2020

Liwolo

Many civilians fled to Liwolo when fighting intensified in Kansuk and other towns in Kajo Keji. In February 2017, an estimated 31,590 IDPs were registered in Liwolo Payam. Fighting between SPLA and SPLA-IO forces in Liwolo continued, with reports of clashes only 20km away from the Logo IDP camp.²³⁴

Images of Liwolo analysed by CIR from January 2020 show that almost all the thatched roof houses had disappeared and become overgrown bushes. In April 2022, the Bishop of the Episcopal Diocese of Liwolo, Rt Rev Joseph Aba Duduka, noted that five years of fighting had led to damage, destruction and looting of critical infrastructure, including two colleges, a health clinic, a water system compound, and the trading centre.²³⁵



Figure 17: Left: Google Earth Pro Satellite Imagery take on 31.01.2016 showing residential settlements and structures before the destruction and desertion of the town. Complete destruction to permanent buildings is highlighted in red. Destruction of residential settlements is highlight in orange. Right: Google Earth Pro Satellite imagery taken in January 2020 showing the destruction of the town.²³⁶

Mondikolok

As detailed above, the attack on Mondikolok on 22 January 2017 devastated the community and led to a mass exodus of civilians from their homes into neighbouring towns and across the border to Uganda. Satellite imagery of Mondikolok²³⁷ taken on 4 May 2016 distinctly showed active residential settlements, as well as the market area, hospital, and hexagonally red-roofed church. The contrasting image taken on 23 July 2018 shows that houses, agricultural areas, and buildings were deserted with some buildings burnt or destroyed. The only structures that remained intact were the church and hospital grounds, to the north of the town.

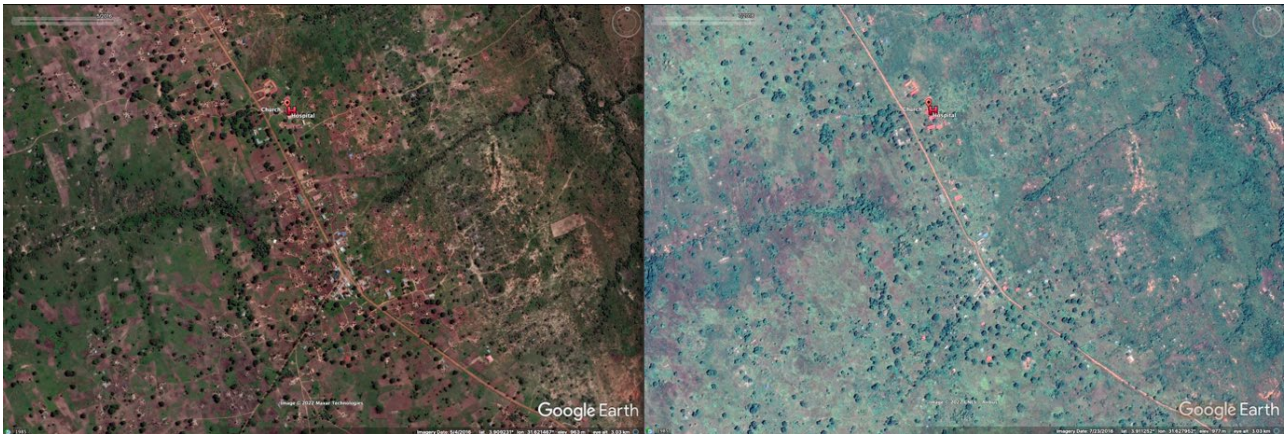


Figure 18: Left: Google Earth Pro Satellite Imagery taken on 04.05.2016 showing residential settlements and structures before the destruction and desertion of the town. Right: Google Earth Pro Satellite imagery taken on 23.07.2018 showing the destruction of the town.



The attack in Mondikolok devastated the community and led to a mass exodus of civilians

Figure 19: Above: Google Earth Pro Satellite Imagery taken on 04.05.2016 showing residential settlements and structures before the destruction and desertion of the town. The destroyed settlements are highlighted in yellow. Below: Google Earth Pro Satellite imagery taken on 23.07.2018.

Mere

The town of Mere was at the centre of events leading to the displacement of civilians when on 24 January 2017 armed gunmen reportedly launched an attack on Mere/Mari police station in Lire Payam which resulted in two civilian casualties.²³⁸ Whilst many of the permanent structures remained largely undamaged, many residential settlements towards the west of the town had completely disappeared on satellite imagery between March 2016 and July 2018.

Satellite imagery of Mere,²³⁹ approximately 3.9km northeast of Wudu and 5.6km south east of Mondikolok, analysed by CIR, revealed extensive damage.



Figure 20: Left: Google Earth Pro Satellite Imagery of Mere taken on 15.03.2016. Right: Google Earth Pro Satellite Imagery taken on 23.07.2018.

Nyepo

CIR analysed satellite imagery from two villages in Arado, Nyepo Payam, 24km north of Kajo Keji. The images taken on 19 November 2016 and 23 July 2018 show the two villages²⁴⁰ entirely deserted with only a few permanent structures remaining. Settlements are no longer visible in the July 2018 images.

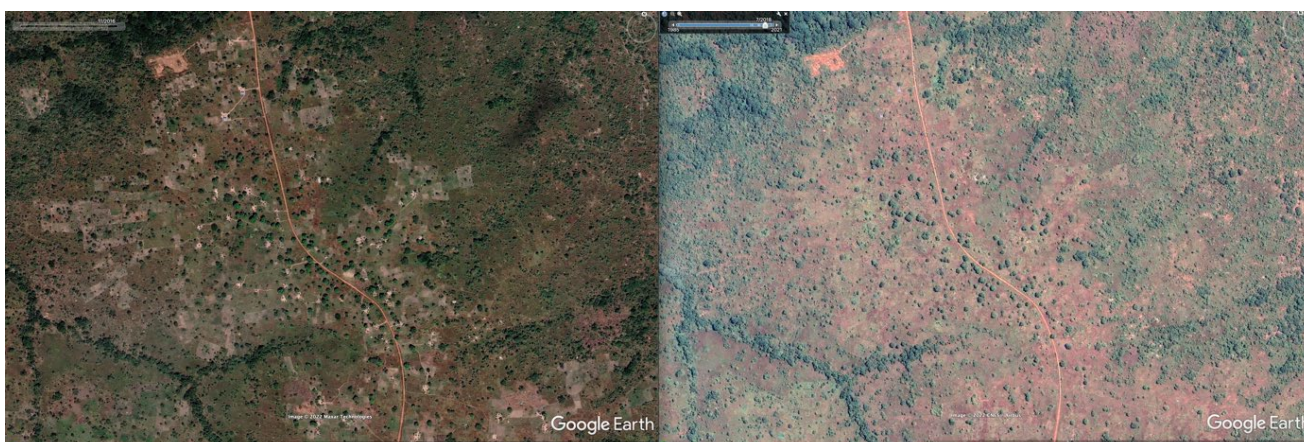


Figure 21: Left: Google Earth Pro Satellite Imagery taken on 19.11.2016. Right: Google Earth Pro Satellite imagery taken on 23.07.2018. [4.044434, 31.524917]

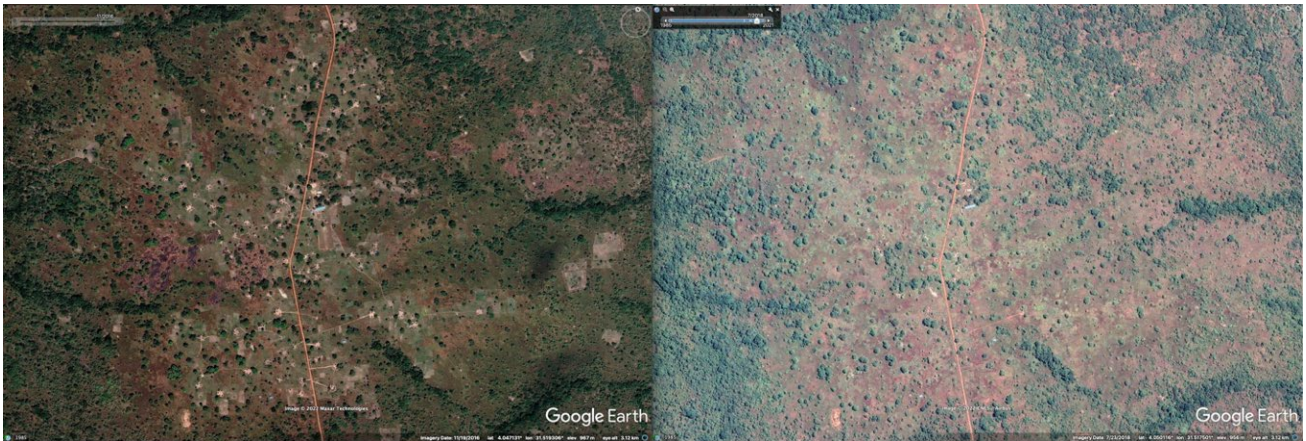


Figure 22: Left: Google Earth Pro Satellite Imagery taken on 19.11.2016. Right: Google Earth Pro Satellite imagery taken on 23.07.2018. Location: [4.032034, 31.528365]

Analysis of the available satellite imagery between 2016 and 2018 shows that whilst entire villages and towns were destroyed and abandoned, the only structures that expanded from their former size were military barracks and garrisons. In 2016, Mundari Barracks were well established with permanent structures and settlements around it. Satellite imagery from 2018 showed that the Mundari Barracks had doubled in size with new permanent structures and settlements.



Figure 23: Left: Mundari Barracks captured via Google Earth Pro Satellite Imagery taken on 15.03.2016. Right: Mundari Barracks seen on Google Earth Pro Satellite Imagery taken on the 23.07.2018.

3.4.2 MAP OF REFUGEE CAMPS IN UGANDA

CIR assessed the influx of refugees to northern Uganda's refugee camps by analysing the increase in size of seven of the principal camps between 2016 – 2018, where Kajo Keji and Yei county residents were identified.²⁴¹ Some of these camps pre-date the 2016 conflict in South Sudan and were originally created to house refugees fleeing the Sudanese civil war.

Refugees from the DRC and other regions in South Sudan were also housed in these camps. Where possible, CIR attempted to distinguish which camps housed former residents of Kajo Keji and Yei counties, through social media analysis of former residents of Kajo Keji or Yei who listed their new locations as Uganda, and/or subsequently identified the refugee camps in Uganda where they had fled.

Bidi Bidi Camp



The Bidi Bidi camp,²⁴² situated between Lori and Yumbe in northern Uganda, was opened as a refugee settlement in August 2016 in response to the South Sudan armed conflict and related mass displacement. The total square footage of the camp is estimated to be approximately 250km². In 2017, it was estimated to be the largest refugee camp in the world.²⁴³ Many Kajo Keji residents are documented to have settled in the Bidi Bidi Camp.²⁴⁴ CIR analysed satellite imagery on 30 August 2016, 31 December 2016 and 25 September 2019 to assess the number of refugees that had arrived at the Bidi Bidi camp.

Figure 24: Above: Google Earth Pro Satellite Imagery taken on 30.08.2016. Right: Google Earth Pro Satellite Imagery taken on 31.12.2016.

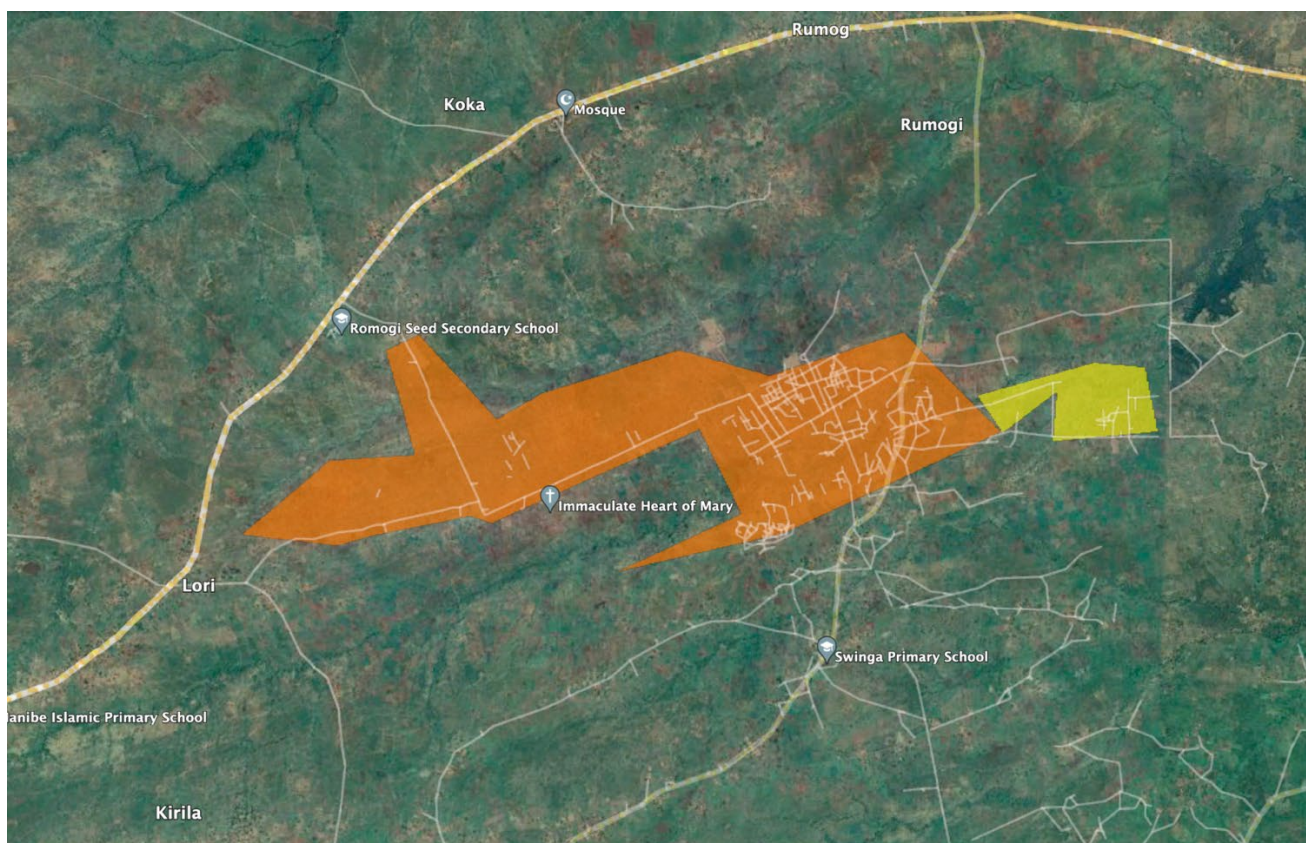


Figure 25: Google Earth Pro Satellite Imagery taken on 25.09.2019 overlaid with a Polygon showing the populated area in Bidibidi Camp.

3.4.3 GRC CONCLUSION

Widespread violence and abuses against civilians, including the deprivation of OIS and the obstruction of humanitarian access, together with attacks on humanitarian operations, left civilians in Central Equatoria with no choice but to flee. Parties to the conflict forcibly displaced civilians from their homes, providing them with no alternative shelter or alternative supplies of food, water or access to livelihoods. The above findings demonstrate that large numbers of residents of Kajo Keji and Yei counties were uprooted from their homes and forcibly displaced across the border to Uganda, where they settled in various refugee camps, including the Bidi Bidi camp.

The conduct of both Government and opposition forces appears to bear all the hallmarks of forcible coercion leaving civilians no genuine choice to remain, including the obstruction of humanitarian access and destruction and deprivation of OIS, severely impeding their ability to access food and livelihoods, in violation of the prohibition of civilian starvation as a method of warfare.



4 ACCOUNTABILITY OPTIONS

Parties to the conflict, including the SSPDF (formerly SPLA) (including its allied forces and militias) and opposition groups, including the SPLA-IO and NAS, have engaged in starvation-related conduct constituting violations of both IHRL and IHL which may constitute crimes against humanity and war crimes.

Victims and survivors of IHRL and IHL violations and abuses have, under international law, a right to a remedy, including the right to justice, and the right to truth and reparations.²⁴⁵ Remedies must be effective, which means they must be prompt, accessible, and available before an independent body, result in reparation and, where applicable, cessation of the wrongdoing.²⁴⁶ All victims must be able to access such remedies without discrimination.²⁴⁷

The right to a remedy requires States, including South Sudan, to ensure that victims can access a competent judicial or non-judicial body to file a claim for the harm suffered.²⁴⁸ States must develop a legal and institutional framework facilitating access to independent and effective judicial and adjudicatory mechanisms.²⁴⁹ This includes establishing functioning courts or tribunals and enacting laws to criminalise gross human rights abuses and serious violations of IHL, as well as enforcing laws and judicial decisions granting such remedies.²⁵⁰

States have an obligation to investigate IHRL abuses and violations of IHL and, where appropriate, to prosecute those responsible.²⁵¹ Investigations must be prompt, effective, thorough, independent, impartial, and transparent, and any criminal proceedings must comply with the rights to liberty and a fair trial under international law.²⁵²

Challenges to achieving justice for victims include the legal and practical obstacles to investigations and prosecutions of alleged crimes at the domestic level,²⁵³ the unwillingness of the parties to the conflict to effectively investigate and prosecute violations of IHRL and IHL.²⁵⁴ To date, the Government and other parties to the conflict have grossly failed to meet these obligations.

Further steps should be taken by States to ensure that perpetrators of starvation-related conduct are held accountable and that victims can effectively access remedies and reparations. There are a range of tools to achieve these ends, including, but not limited to investigations, international or domestic criminal prosecutions and transitional justice measures, which are outlined below.

4.1 ACCOUNTABILITY AND REDRESS AT A DOMESTIC AND REGIONAL LEVEL

The Transitional Constitution of South Sudan guarantees the application of international human rights instruments to which South Sudan is a party and guarantees the right to life and human dignity, from which the right to food is subsumed. In addition, the South Sudanese Penal Code protects the right to life.²⁵⁵ The Code does not, however, codify references to starvation as a crime.²⁵⁶ As also advised by the CHRSS report,²⁵⁷ a laudable scenario would be the inclusion of the crime of starvation in South Sudan's domestic legislation.

In 2014, the African Union adopted the Protocol on Amendments to the Protocol on the Statute of the African Court of Justice and Human Rights (the Malabo Protocol), which provides for the inclusion of criminal jurisdiction at the African Court of Justice and Human Rights (ACJHR).²⁵⁸ While the Protocol recognises the intentional use of starvation as a method of warfare in all conflict designations,²⁵⁹ it would require 15 African Union member States to deposit their instrument of ratification for the Protocol to enter into force. Eight years have passed since the adoption of the Malabo Protocol and to date no member States have ratified it.

The Government has made no concrete progress in establishing any of the transitional justice mechanisms to address accountability for conflict-related violations.

Importantly, there have been repeated calls for an international Hybrid Court for South Sudan, to investigate and prosecute war crimes and crimes against humanity, as well as serious violations of national law, including gender-based violence, since May 2014, first by the then UN Secretary-General Ban Ki-moon,²⁶⁰ and then by the African Union's own Commission of Inquiry.²⁶¹ The Hybrid Court has twice been expressly agreed, promised and "guaranteed" in Chapter V of both the first ARCSS of 17 August 2015 and in the R-ARCSS of 12 September 2018.²⁶² The Government and AU have repeatedly failed and refused to establish the Hybrid Court to date, which should be an international embarrassment, and is a black mark on the Government's continued behaviour.

Both the original ARCSS and the R-ARCSS, Chapter V, envisages the establishment of a Commission for Truth, Reconciliation and Healing (CTRH) and a Compensation and Reparation Authority (CRA).²⁶³ Together with a Hybrid Court, these could prove to be powerful avenues for achieving accountability, sustainable peace, reconciliation, and reparations for victims.

The CTRH would be charged with the task of investigating human rights violations, breaches of the rule of law and abuses of power. Its functions would include, but not be limited to, the following: identifying remedy and reparations for victims, identifying perpetrators of violations and crimes, investigating the causes of conflict and recommending ways to prevent recurrence, recommending legal and institutional reforms to ensure prevention and accountability, supervising traditional justice mechanisms, and leading peace-building efforts.²⁶⁴ The CRA would administer a Compensation and Reparation Fund, which would “provide material and financial support to citizens whose property was destroyed by the conflict and help them to rebuild their livelihoods in accordance with a well-established criterion”.²⁶⁵

While a Revitalized Transitional Government of National Unity (R-TGoNU) was finally formed more than two years ago, on 22 February 2020, the CHRSS in its February 2021 report stated that “South Sudan has made no concrete progress in establishing any of the transitional justice mechanisms provided for in chapter V of the Agreement to address accountability for conflict-related violations in South Sudan.”²⁶⁶

While in late January 2021, the R-TGoNU Council of Ministers apparently approved, in some fashion, to some degree, the Hybrid Court’s establishment,²⁶⁷ the AU Commission’s subsequent inaction, as well as the Government’s continued inaction (indeed hostility to the court), calls their commitment to justice and accountability into very serious question.²⁶⁸ The African Union and South Sudanese authorities, to their disgrace, have still not signed the required Memorandum of Understanding or agreed upon the Draft Statute of the Hybrid Court. There does not appear to be sufficient political will, both on a domestic and regional level, to complete the process to establish the court.²⁶⁹

At the end of June 2021, the South Sudanese Government finally announced that it had started the Consultative Process to establish the CTRH,²⁷⁰ and in early April 2022 it launched public consultations, which are intended to inform the drafting of legislation to establish the Commission.²⁷¹ While these are steps forward, all progress is very slow, and there is still no real guarantee that the CTRH will ever be established in a clearly legitimate and transparent way. No concrete steps to establish the CRA are known.

Victim- and survivor-centred, context-specific and locally owned transitional justice mechanisms are of the utmost importance to consider the breadth of violence that has been perpetrated against South Sudanese civilians, holistically addressing starvation and related crimes. A long-term, sustainable and inclusive peace hinges on nothing less than genuine justice, accountability, truth, healing and reparations for victims.

4.2 ACCOUNTABILITY AND REDRESS AT AN INTERNATIONAL LEVEL

4.2.1 HUMAN RIGHTS COMMITTEE AND COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Victims' abilities to exercise their right to an effective remedy for violations of IHRL at the international level are limited.²⁷² In the South Sudan context, UN treaty bodies, such as the Human Rights Committee (HRC) or the Committee on Economic, Social and Cultural Rights (CESCR), are limited in their ability to consider individual complaints by victims of alleged violations of IHRL or recommend appropriate remedies.

In July 2019, South Sudan, through its Transitional National Legislative Assembly (TNLA), voted to unanimously ratify both the ICCPR and the ICESCR and their First Optional Protocols allowing victims to submit complaints to the HRC and CESCR, respectively. However, since then the decision has not been signed by the President of South Sudan and subsequently deposited through an instrument of accession, and as such the treaties and their optional protocols are not in force, as to South Sudan.²⁷³

4.2.2 SANCTIONS

Sanctions in line with paragraph 9 of UNSC Resolution 2417 are an option to further operationalise UNSC 2417 and a tool to challenge the scale of impunity for starvation violations. Critically, there is precedent for sanctions being used in South Sudan in relation to starvation, offering a foundation to assess the current impact and the merits and risks of issuing further sanctions by different sanctions regimes and/or against more individuals or entities.

The UNSC set up the South Sudan Sanctions Committee via UNSC Resolution 2206 (2015)²⁷⁴ to oversee the sanctions measures imposed by the Security Council.²⁷⁵ The UNSC Panel of Experts assists the South Sudan Sanctions Committee and provides an "evidentiary fact base and an analytical context for policy decisions that is grounded by credible documentary evidence."²⁷⁶ The Panel in its 2017 report noted that it had provided evidence of individuals' complicity in actions and policies in violation of IHL, "including those responsible for the conditions that have resulted in the unprecedented humanitarian crisis, including famine."²⁷⁷

On 13 July 2018, the UNSC adopted resolution 2428 on South Sudan, imposing sanctions on two South Sudanese individuals. General Paul Malong was singled out for, *inter alia*, ordering "SPLA units to prevent the transport of humanitarian supplies across the Nile River, where tens of thousands of civilians were facing hunger, claiming that food aid would be diverted from civilians to militia groups. As a result of Malong's orders, food supplies were blocked from crossing the Nile for at least two weeks."²⁷⁸ The sanction was issued under the designation criteria relating to "the obstruction of the activities of international peacekeeping, diplomatic, or humanitarian missions in South Sudan, including . . . the delivery or distribution of, or access to, humanitarian assistance." This sanction was adopted "pursuant to previous UNSC resolutions concerned with achieving peace and preventing violations of international humanitarian law in South Sudan, rather than the implementation of the provisions of resolution 2417."²⁷⁹ Notwithstanding that, it appears to be the first case of sanctions being

issued for a starvation violation. The UK's Global Human Rights Sanctions Regime (UK GHRS) in 2018 also listed Malong for, amongst other things, preventing "the transport of humanitarian supplies."²⁸⁰ Targeted sanctions at both the UNSC and EU levels could operationalise UNSC 2417 and extend the punitive and preventive arm of UNSC Resolution 2417.

4.2.3 INTERNATIONAL CRIMINAL COURT

The International Criminal Court (ICC) has jurisdiction over the world's most heinous crimes, including genocide, crimes against humanity and war crimes, as well as aggression.²⁸¹ South Sudan is not a party to the International Criminal Court and there is an apparent lack of political will (or ability) at the UN Security Council to refer the situation to the ICC. The CHRSS noted that "[t]he backlash against the ICC by the African Union and the ensuing geopolitics further complicate the prospects of a referral of the South Sudan situation by the Security Council under Article 13(b) of the Rome Statute".²⁸²

Even in the unlikely event of a UNSC referral to the ICC of the situation in South Sudan, there would be a number of challenges to holding perpetrators of starvation crimes accountable. While in 2019 the Assembly of States Parties to the ICC unanimously amended the Rome Statute to include the war crime of starvation in non-international armed conflicts under Article 8(2)(e)(ix), the ICC is unlikely to have jurisdiction to consider the matter, due to the principle of non-retroactivity.²⁸³ The amendment will not cover prosecutions of past war crimes of starvation at the ICC. Even so, there are a substantial number of alternative crimes that could be pursued as discussed below.

GRC argues²⁸⁴ that there is clear scope for ICC investigations and prosecutions concerning South Sudan under the established jurisprudence in the *Bangladesh-Myanmar* situation, where the ICC held that it has jurisdiction over crimes under the Rome Statute commenced on the territory of Myanmar (not an ICC State Party) and continued and/or completed in Bangladesh (an ICC State Party), including, in particular, as to deportation, as a crime against humanity.²⁸⁵ In the virtually identical situation here, egregious crimes partially committed in South Sudan were continued and/or completed in Uganda, which ratified the Rome Statute in 2002.²⁸⁶ Consistent with and supporting GRC's own findings, the CHRSS found that large portions of the South Sudanese civilian population were forcibly displaced by policies implemented by parties to the conflict in South Sudan and that hundreds of thousands of South Sudanese were forced to flee to Uganda.²⁸⁷ As such, GRC, based upon this investigation and further detailed legal analysis, will submit an Article 15 Communication to the ICC in the near future, urging the court to open a preliminary examination to investigate the mass displacement of South Sudanese, involving the use of starvation and other serious crimes.

Importantly, the ICC and the Ad Hoc Tribunals have confirmed that starvation-related conduct, including obstruction or unlawful denial of humanitarian access, or deprivations of OIS, can serve as the foundation or basis for the crime against humanity of forcible transfer or deportation. Where the conduct of the perpetrators amounts to forcible coercion or creates a coercive environment that does not allow civilians a free and genuine choice to remain, such as through the obstruction of humanitarian access and deprivation of OIS, this and other conduct may very well serve as the underlying bases for the displacement crimes mentioned above.²⁸⁸



5 CONCLUSION AND RECOMMENDATIONS

Over the course of South Sudan's tragic conflict, since December 2013, armed conflict, extensive insecurity and massive violence against civilians, including killings, torture, sexual and gender-based violence, destruction, looting and starvation-related conduct, have been perpetrated on a widespread and systematic basis, forcibly displacing more than four million South Sudanese (more than a third of the country's 12 million person population), with approximately two million being internally displaced (IDPs) and almost 2.5 million as refugees in neighbouring countries, with approximately one million South Sudanese displaced to Uganda alone,²⁸⁹ resulting in Africa's largest refugee crisis.²⁹⁰

The pattern of widespread violence and horrific abuses against civilians, including the deprivation of OIS and the obstruction of humanitarian operations, are primarily attributable to Government forces and allied militia, and, to a lesser extent, to opposition forces. The ongoing coercive conduct by these forces, as well as the overall coercive environment in Central Equatoria, left civilians with no genuine or meaningful choice but to flee. GRC's findings indicate that residents of Kajo Keji and Yei counties were forcibly uprooted from their homes and thousands of them forcibly displaced across the border to Uganda, where they settled in refugee camps.

On the basis of extensive information and reporting, GRC concludes that the parties to the conflict have clearly committed gross violations and abuses of IHRL and extensive violations of IHL and ICL. Conduct by members of both Government and opposition forces appear to constitute, *inter alia*, the war crime of starvation of civilians as a method of warfare, as well as additional serious and horrendous crimes, such as deportation and persecution. Further investigation with a view to mapping and identifying those responsible for the use of starvation as a method of warfare, as well as other war crimes and crimes against humanity, is urgently required to determine the identity of individual perpetrators and the mode(s) of liability under which they may be held responsible.

Steps should be taken by the parties to the conflict, the UN, the African Union, the international community, and the International Criminal Court to ensure that war criminals and perpetrators of starvation-related conduct are held accountable and that victims can effectively access remedies and reparations. GRC further recommends:

To the South Sudanese Government and other parties to the conflict:

1. Cease (a) all IHRL and IHL violations, including acts of violence committed against civilians; (b) attacking, destroying, removing and rendering useless OIS; as well as (c) all other actions that impede access to food and water and that exacerbate the humanitarian crisis, including those that restrict the delivery of and access to humanitarian relief for civilians.

2. Take proactive steps to adhere to the fundamental principles of IHL, including the prohibition on the use of starvation as a method of warfare; the prohibitions on attacks on civilians, civilian objects and OIS and other conduct that causes disproportionate harm to civilians; and to comply with obligations to take all feasible precautions to avoid and, in any event, to minimize harm to civilians and OIS; and to take proactive steps to prevent further harm to civilians, including by proactively seeking to prevent further damage to OIS.
3. End all humanitarian obstruction, including by proactively facilitating unimpeded access and movement of humanitarian aid, supplies essential to the functioning of humanitarian operations, medical supplies, humanitarian workers, and other life-saving goods and services without interference or discrimination throughout Central Equatoria.
4. Support, cooperate fully with, and contribute to efforts to ensure prompt, effective and adequate reparations, as well as other forms of amends, to impacted civilians, including by ensuring the right of return for the displaced population, including refugees, and other forms of reparation for the horrible harms suffered as a result of the conflict.
5. Ensure the establishment without further delay of the transitional justice mechanisms provided for under Chapter V of the R-ARCSS to address violations and abuses of IHRL and violations of IHL, including with regard to the use of deliberate starvation of civilians as a method of warfare, adopting transparent, inclusive and fair procedures, and gender-aware and intersectional approaches to peace-building and accountability processes, with sufficient and transparent information publicly released for independent monitoring, and finally offering meaningful reparations and amends to civilians.
6. Cooperate fully with the CHRSS, UN special procedure mandate holders (including the UN Special Rapporteur on the Right to Food and the UN Special Rapporteur on the Human Rights to Safe Drinking Water and Sanitation) and other UN and non-UN entities, where appropriate, so that allegations of violations and abuses committed by all parties to the conflict in South Sudan's Central Equatoria region can be properly investigated, documented and the perpetrators brought to account.

To the African Union:

In line with the African Union's objective of promoting and protecting human rights, facilitating peace, security and stability on the continent, and resolving conflicts:

1. In accordance with Article 7 of the 2002 Protocol Relating to the Establishment of the Peace and Security Council of the African Union,²⁹¹ take necessary action to establish peace-making, peacebuilding and/or peace-support missions, undertake humanitarian action, impose sanctions or implement other solutions necessary to alleviate the humanitarian crisis, facilitate lasting peace and hold perpetrators of violations of IHL and violations and abuses of IHRL accountable.
2. Where it is clear that the Government of South Sudan lacks the political will and *bona fide* intention to establish (and in fact continues to oppose the establishment of) effective transitional justice mechanisms envisaged under Chapter V of the R-ARCSS, including the Hybrid Court, the Commission for Truth, Reconciliation and Healing (CTRH) and a Compensation and

Reparation Authority (CRA), the African Union should proceed and establish these essential mechanisms without the South Sudanese authorities' cooperation, if necessary, to guarantee justice, accountability and reparations to the victims of the South Sudanese conflict.

To the United Nations:

With a view to both facilitating and accomplishing a range of preventative and accountability-oriented tools available under UN Security Council (UNSC) Resolution 2417 and UNSC Resolution 2573, as well as other relevant UNSC resolutions, the UNSC should:

1. Refer the situation in South Sudan to the ICC to conduct a full investigation into alleged international crimes committed by the parties to the conflict and to prosecute those most responsible for such crimes and the suffering inflicted on the South Sudanese people.
2. Examine the extent to which various actors are responsible, with a view to extending sanctions to all parties responsible for starvation-related conduct in South Sudan, in line with operative paragraph 9 UNSC 2417.
3. Provide full and active support to the CHRSS and the South Sudan-related Panel of Experts by extending their mandates, ensuring independent, impartial, full, prompt, and effective investigations into alleged violations and abuses of IHRL and IHL by all parties to the conflict, as well as those providing support to such parties. The CHRSS mandate is due to be negotiated in March 2023 at the UN Human Rights Council's 52nd Session. GRC urges member States to vote in favour of renewing their mandate.

To the International Criminal Court:

With a view to all the above, to overcome deep-seated impunity and to hold those most responsible for heinous crimes to account, the International Criminal Court should:

1. On the basis of the Bangladesh-Myanmar jurisdictional decisions, immediately open a preliminary examination into the South Sudan situation in order to hold accountable the senior persons most responsible for violations of IHL and crimes under the Rome Statute committed in South Sudan since December 2013.

END NOTES

- ¹ Commission on Human Rights in South Sudan, *A/HRC/37/CRP.2* (23 February 2018) para. 343.
- ² See also, AU, 'The Peace and Security Council of the African Union (AUPSC)' (23 November 2015).
- ³ Human Rights Watch, 'Ending the Era of Injustice' (December 2014) p. 9.
- ⁴ Chris Newton, 'Not Never Again, but Next Time: Armed Conflict and Mass Starvation in South Sudan 2013-2019' in Bridget Conley, Alex de Waal, Catriona Murdoch, and Wayne Jordash QC (eds), *Accountability for Mass Starvation: Testing the Limits of the Law* (OUP 2022).
- ⁵ The SPLA was renamed the South Sudan People's Defense Forces (SSPDF) in 2018. See Radio Tamazuj, 'South Sudan's army renamed 'South Sudan People's Defense Forces'' (2 October 2018).
- ⁶ The major armed groups generally divided along ethnic lines, with soldiers part of the Dinka ethnic group aligning with President Kiir, while those belonging to the Nuer ethnic group supported Machar. Council on Foreign Relations, 'Civil War in South Sudan' (updated 12 May 2022).
- ⁷ GRC & WPF, 'Accountability for Starvation Crimes: South Sudan' (June 2019) p. 3.
- ⁸ UNSC Panel of Experts on South Sudan, *S/2016/70* (22 January 2016) p. 2.
- ⁹ *ibid.*, para. 59.
- ¹⁰ *Agreement on the Resolution of the Conflict in the Republic of South Sudan* (17 August 2015).
- ¹¹ UNSC Panel of Experts, *supra* note 8, p. 2; Commission on Human Rights in South Sudan, *A/HRC/34/63* (6 March 2017) paras. 13-23.
- ¹² Commission on Human Rights, *supra* note 1, para. 282; Human Rights Watch, 'South Sudan: Government Forces Abusing Civilians' (4 June 2019) p. 4.
- ¹³ "A Dinka militia originally raised in 2012 in Northern Bahr el Ghazal by the former SPLA Chief of Staff Lt. Gen. Paul Malong. Its members were recruited from Dinka cattle guards of the Greater Bahr el Ghazal area, the Titweng and Gelweng, who have historical links with the SPLA and were used as proxy forces during the second civil war and since the CPA against southern militia. ... The Mathiang Anyoor were subsequently deployed into other parts of South Sudan, particularly around Wau and in the Equatorias in 2016-2017. The Mathiang Anyoor rarely carried out large-scale operations on their own, but were always integrated with, or supported by SPLA units and firepower. Over time, more and more Mathiang Anyoor soldiers have been formally incorporated into the ranks of the SPLA, although witnesses, recognising them by their speech and appearance, may still refer to them as Mathiang Anyoor, or the "Dinka army". Commission on Human Rights, *supra* note 1, paras 273-274.
- ¹⁴ *ibid.*, paras 282-283.
- ¹⁵ *ibid.*, para. 288.
- ¹⁶ UNSC Panel of Experts on South Sudan, *S/2016/963* (15 November 2016) para. 32.
- ¹⁷ Commission on Human Rights in South Sudan, *A/HRC/34/63* (6 March 2017) para 28; Commission on Human Rights in South Sudan, *A/HRC/37/71* (13 March 2018) paras 40- 42, 44-45. The Commission also found that "Many died on the way due to starvation, thirst and lack of medical care" and attributed the violations to SPLA.
- ¹⁸ Commission on Human Rights, *supra* note 1, para. 290.
- ¹⁹ *ibid.*, paras 290-291.
- ²⁰ UN OCHA, 'Inter-agency Rapid Needs Assessment Report: Kajo Keji, Central Equatoria, 20-22 December 2016' (27 January 2017).
- ²¹ Commission on Human Rights, *supra* note 1, para. 318.
- ²² *ibid.*, paras 328-333.
- ²³ *Revitalized Agreement On The Resolution Of The Conflict In South Sudan* (12 September 2018).
- ²⁴ Council on Foreign Relations, *supra* note 6.
- ²⁵ Commission on Human Rights in South Sudan, *A/HRC/40/CRP.1* (20 February 2019) paras 754-756.
- ²⁶ The SPLA was renamed as the South Sudan People's Defense Forces (SSPDF) in 2018. See Radio Tamazuj, 'South Sudan's army renamed 'South Sudan People's Defense Forces'', 2 October 2018.
- ²⁷ UNMISS, 'Conflict-related violations and abuses in Central Equatoria | September 2018 – April 2019' (3 July 2019) para. 7.
- ²⁸ UNSC Panel of Experts on South Sudan, *S/2020/342* (28 April 2020) para. 50.
- ²⁹ Accord, 'The Formation of the Revitalized Transitional Government of National Unity in South Sudan' (20 August 2020).

- ³⁰ UNSC Panel of Experts, *supra* note 28, p. 2; UNSC Panel of Experts on South Sudan, *S/2021/365* (15 April 2021) p. 2.
- ³¹ Commission on Human Rights in South Sudan, *A/HRC/46/53*, 4 February 2021, para. 76.
- ³² Sam Mednick, 'Hunger is killing me': starvation as a weapon of war in South Sudan' (*Guardian*, 10 January 2018).
- ³³ The World Food Programme (WFP), the UN Office for the Coordination of Humanitarian Affairs' (OCHA) and the Famine Early Warning Systems Network (FEWSNET), among others, report regularly on food security, and in doing so rely on the above terms. When making food security assessments, these actors also rely on the Integrated Phase Classification (IPC) system, a multi-partner initiative developed under the umbrella of UN Food and Agriculture Organization (FAO) in 2004, which classifies the severity and magnitude of food insecurity and malnutrition according to five phases of severity, namely: minimal/none (Phase 1); stressed (Phase 2); crisis (Phase 3); emergency (Phase 4); and catastrophe/famine (Phase 5). Because it relies on consensus-building, the IPC system has limitations insofar as it results in a conservative approach to classifying the risk of famine in any given context and is susceptible to politicisation. Moreover, data sets are often incomplete, partly due to the denial of access to information and evidence by parties to the conflict. There is good reason to fear that incomplete data sets conceal severe human deprivation, including starvation. "Integrated Phase Classification," Famine Early Warning Systems Network (FEWSNET); IPC Global Partners, 'Integrated Food Security Phase Classification Technical Manual Version 3.0- Evidence and Standards for Better Food Security and Nutrition Decisions' (2019), p. 8.
- ³⁴ Commission on Human Rights in South Sudan, *A/HRC/37/71* (13 March 2018) para 42. Note also, in the first half of 2018, 30,954 South Sudanese refugees sought safety in Uganda. UNHCR, 'Uganda: South Sudan Regional RRP 2018 Mid Year Report - January - June 2018' (1 October 2018).
- ³⁵ UNHCR, 'Uganda: South Sudan Regional RRP 2018 Mid Year Report - January - June 2018' (1 October 2018).
- ³⁶ IPC, 'Integrated Food Security Phase Classification Republic of South Sudan Communication Summary' (September 2014) p. 3.
- ³⁷ IPC, 'Integrated Food Security Phase Classification The Republic of South Sudan Communication Summary' (September 2016) pp. 2, 3, 5.
- ³⁸ IPC, 'South Sudan: Acute Food Insecurity Situation September 2014 and Projections for October - December 2014 and January - March 2015'.
- ³⁹ IPC, 'South Sudan: Acute Food Insecurity Situation September 2017 and Projection for October - December 2017 and January - March 2018'.
- ⁴⁰ IPC, 'South Sudan: Acute Food Insecurity Situation for October - November 2020 and Projections for December 2020 - March 2021 and April - July 2021'.
- ⁴¹ IPC, 'Integrated Food Security Phase Classification The Republic Of South Sudan Communication Summary' (January 2017) p. 4.
- ⁴² *ibid.*, p. 6.
- ⁴³ IPC, 'Integrated Food Security Phase Classification The Republic Of South Sudan Communication Summary' (May 2017) p. 2.
- ⁴⁴ ACAPS, 'Briefing Note – South Sudan Food Security and Nutrition' (5 April 2017) p. 2.
- ⁴⁵ IPC, 'IPC Acute Food Insecurity & Acute Malnutrition Analysis August 2019 To April 2020' (11 September 2019) p. 12.
- ⁴⁶ *ibid.*, p. 12; IPC, 'IPC Acute Food Insecurity And Acute Malnutrition Analysis January 2020 – July 2020' (February 2020) p. 3.
- ⁴⁷ IPC, 'IPC Acute Food Insecurity & Acute Malnutrition Analysis October 2020 – July 2021' (18 December 2020) pp. 2, 3.
- ⁴⁸ IPC, 'IPC Acute Food Insecurity And Acute Malnutrition Analysis February - July 2022' (9 April 2022) p. 9.
- ⁴⁹ *ibid.*, pp. 9, 10.
- ⁵⁰ Note that the CHRSS have called for incorporating the war crime of starvation of civilians as a method of warfare into the Draft Statute of the Hybrid Court of South Sudan. Commission on Human Rights in South Sudan, *A/HRC/45/CRP.3* (5 October 2020) para. 148 (e).
- ⁵¹ GRC & Mwatana for Human Rights, 'Starvation Makers' (September 2021); GRC, "The Crime of Starvation and Methods of Prosecution and Accountability' Expert Report' (2019).
- ⁵² RULAC, *Non-international armed conflicts in South Sudan*.
- ⁵³ Where the conflict "takes place in the territory of a High Contracting Party between its armed forces and dissident armed forces or other organized armed groups which, under responsible command, exercise such control over a part of its territory as to enable them to carry out sustained and concerted military operations and to implement this Protocol." Additional Protocol II, Article 1(1).
- ⁵⁴ "Although territorial control shifts frequently, the SPLM/A-IO controls territory in South Sudan, which suggests that they fulfil the required criterion for the applicability of Protocol II, namely the ability to carry out sustained and concerted military operations; impose discipline; and the ability to implement Protocol II." RULAC, *supra* note 52.
- ⁵⁵ *ibid.*
- ⁵⁶ Additional Protocol II, Art 14.
- ⁵⁷ ICRC, Customary IHL Rules 53, 54; ICRC, 'Practice Relating to Rule 53 Starvation as a Method of Warfare'; 'ICRC Study on Customary IHL' Commentary on Rule 53, p. 186. Rule 53 provides that "[t]he use of starvation of the civilian population

as a method of warfare is prohibited.’ Rule 54 provides that ‘[a]ttacking, destroying, removing or rendering useless objects indispensable to the survival of the civilian population is prohibited.’

⁵⁸ ICRC Commentary to Additional Protocol II Art 14, para. 4795.

⁵⁹ See Geneva Conventions I-IV, Common Article 3; Additional Protocol II, Art 13; ICRC, Customary IHL Rule 1.

⁶⁰ ICRC, Customary IHL Rule 7.

⁶¹ Additional Protocol II, Art 14. See also ICRC Commentary, supra note 58, paras. 4802-4805.

⁶² ICRC Commentary, supra note 58, paras 4802-4805. Electricity and fuel required to grow and store food, heat homes and power hospitals, as well as fulfil basic needs such as cooking, may also constitute OIS. See ICRC, ‘[Practice Relating to Rule 54 Starvation as a Method of Warfare](#)’.

⁶³ ICRC Commentary, supra note 58, paras 4801, 4805.

⁶⁴ ICRC, Customary IHL Rule 55; ICRC, ‘[Practice Relating to Rule 55 Starvation as a Method of Warfare](#)’

⁶⁵ ICRC, Customary IHL Rule 56; ICRC, ‘[Practice Relating to Rule 56 Starvation as a Method of Warfare](#)’.

⁶⁶ Additional Protocol II, Art 18; ICRC, Customary IHL Rule 55. The threshold of need under treaty and customary IHL appears to be the same, as the commentary to Rule 55 states that ‘if [...] a civilian population is threatened with starvation and a humanitarian organisation [...] is able to remedy the situation, a party is obliged to consent.’ See ‘[ICRC Study on Customary IHL](#)’ p. 197.

⁶⁷ ICRC Commentary, supra note 58, paras 2794-2795, 2825; Dapo Akande and Emanuela-Chiara Gillard, OCHA and Oxford University, ‘[Oxford Guidance on the Law Relating to Humanitarian Relief Operations in Situations of Armed Conflict](#)’ (October 2016) (Oxford Guidance) pp. 14-15. The Oxford Guidance aims to ‘reflect existing law and to clarify areas of uncertainty,’ see p. 8. The Oxford Guidance is not legally binding, but in accordance with the sources of international law, it qualifies as ‘the teaching of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law,’ see Statute of the International Court of Justice, Article 38(1)(d).

⁶⁸ Additional Protocol II, Art 18(2); ICRC, Customary IHL Rule 55; ICRC Commentary, supra note 58, para. 2797; Oxford Guidance, supra note 67, pp. 14-15.

⁶⁹ ICRC, Customary IHL Rule 55. This possibility is not explicitly provided for NIACs in Additional Protocol II or in Common Article 3 to the Geneva Conventions, but it is considered to be part of customary IHL applicable to NIACs, see ICRC Commentary, supra note 58, para. 4888.

⁷⁰ ICRC, Customary IHL Rule 56.

⁷¹ Amrei Muller, *The Relationship between Economic, Social and Cultural Rights and International Humanitarian Law* (Brill, 2013), pp. 264-265; ICRC, ‘[ICRC Q&A and lexicon on humanitarian access](#)’ IRRC No. 893 (2014) p. 364; Oxford Guidance, supra note 67, pp. 28-29.

⁷² Oxford Guidance, supra note 67, p. 26.

⁷³ Marco Sassoli, Patrick Nagler, *International Humanitarian Law, Rules, Controversies, and Solutions to Problems Arising in Warfare* (Edward Elgar, 2019) p. 581.

⁷⁴ UNSC Panel, supra note 16, para. 29.

⁷⁵ *ibid*, para. 31.

⁷⁶ Commission on Human Rights, supra note 34, para. 42.

⁷⁷ *ibid*.

⁷⁸ UNSC Panel of Experts on South Sudan, [S/2017/326](#) (13 April 2017) para. 92.

⁷⁹ Amnesty International, ‘[“If Men Are Caught, They Are Killed”, South Sudan - Atrocities In Equatoria Region Turn Country’s Breadbasket Into A Killing Field](#)’ (2017) p. 5.

⁸⁰ VOA, ‘[Civil War Pushing South Sudan Closer to Starvation](#)’ (21 December 2017).

⁸¹ Mednick, supra note 32.

⁸² Human Rights Watch ‘[“Soldiers Assume We Are Rebels” Escalating Violence and Abuses in South Sudan’s Equatorias](#)’ (August 2017) p. 7.

⁸³ Mednick, supra note 32.

⁸⁴ *Ibid*.

⁸⁵ *Ibid*.

⁸⁶ Amnesty International, supra note 79, p. 18.

⁸⁷ Human Rights Watch, ‘[South Sudan: Government Forces Abusing Civilians](#)’ (4 June 2019) pp. 1-2.

⁸⁸ *ibid*, pp. 2-3.

⁸⁹ *ibid*, p. 3.

⁹⁰ UNMISS, supra note 27, para. 7.

⁹¹ *ibid*, para. 64.

⁹² *Ibid*, para. 66.

⁹³ UNSC Panel of Experts on South Sudan, [S/2019/301](#) (9 April 2019) para. 84.

⁹⁴ *ibid*, paras 84-85.

- ⁹⁵ Transitional Constitution of the Republic of South Sudan (2011), Article 165 (5): “Local government tiers shall consist of County, Payam and Boma in the rural areas, and of city, municipal and town councils in the urban areas.”
- ⁹⁶ UNMISS, supra note 90, para. 68.
- ⁹⁷ *ibid*, para. 116.
- ⁹⁸ UN Secretary General Report on South Sudan, S/2020/145 (26 February 2020) para. 35; see also MSF, ‘South Sudan at 10: An MSF record of the consequences of violence’ (16 July 2021).
- ⁹⁹ Amnesty International, ‘South Sudan: United Nations Arms Embargo Must Remain in Place After Surge in Violence Against Civilians in 2020’ (30 November 2020) p. 1.
- ¹⁰⁰ VOA, ‘Fighting Raises Tension Between Government, Rebel Force in South Sudan’ (29 April 2020).
- ¹⁰¹ Amnesty International, supra note 99, p. 4.
- ¹⁰² *ibid*
- ¹⁰³ Norwegian Refugee Council, ‘South Sudan: Fresh violence exacerbates famine threat’ (26 April 2021).
- ¹⁰⁴ Commission on Human Rights in South Sudan, A/HRC/49/78 (15 February 2022) para. 60.
- ¹⁰⁵ OCHA, ‘South Sudan: Humanitarian access situation snapshot January - December 2015’ (18 January 2016). In 2015, access constraints included restrictions of population access, restriction on movement in the country, interference in implementation of humanitarian activities, denial of needs and violence against humanitarian personnel and assets. Impediments caused by active hostilities amounted to only 23% of overall reported incidents.
- ¹⁰⁶ *ibid*.
- ¹⁰⁷ Commission on Human Rights supra note 50, para. 131.
- ¹⁰⁸ OCHA, ‘South Sudan: Humanitarian access situation snapshot January - December 2016’ (24 January 2017). In 2016, access constraints included impediments of entry into the country, restrictions on movement of humanitarian personnel/supplies and interference in the implementation of humanitarian activities, active hostilities (amounting to only 8% of total number) and the overwhelming majority of impediments to humanitarian activities was owed to violence against personnel and assets.
- ¹⁰⁹ Christin Roby, ‘South Sudan again ranked most dangerous place for aid workers’ (*Devex*, 15 August 2018); CARE, ‘10 Years From Independence and South Sudan is One of the Deadliest Places to Be an Aid Worker’ (16 August 2021); UN News, ‘South Sudan: ‘Urgent collective efforts’ needed in most dangerous humanitarian situation’ (18 August 2022).
- ¹¹⁰ ICRC, IFRC, SSRC, ‘Joint statement by the South Sudan Red Cross (SSRC), the International Committee of the Red Cross (ICRC) and the International Federation of the Red Cross and Red Crescent Societies (IFRC) on the Movement’s response following the upsurge in the conflict’ (4 August 2016).
- ¹¹¹ UNSC Panel of Experts on South Sudan, S/2016/793 (19 September 2016) para. 39.
- ¹¹² World Food Programme, ‘WFP condemns looting of food warehouse in Juba, still assists thousands affected by fighting’ (14 July 2016).
- ¹¹³ UN Secretary General Children and Armed Conflict in South Sudan S/2018/865 (25 September 2018) para. 58.
- ¹¹⁴ UNSC Panel of Experts on South Sudan, 15 November 2016, S/2016/963, para. 58.
- ¹¹⁵ OCHA, ‘South Sudan: Humanitarian Access Overview January-December 2017’ (6 February 2018). Solely 8% of reported incidents were caused by active hostilities.
- ¹¹⁶ UNMISS, ‘Human Rights Violations and Abuses in Yei July 2016 and January 2017’ (May 2017) para. 28.
- ¹¹⁷ OCHA, ‘South Sudan: Annual Humanitarian Access Review January – December 2018’ (25 February 2019).
- ¹¹⁸ *ibid*.
- ¹¹⁹ Commission on Human Rights supra note 50, para. 128.
- ¹²⁰ Including from “one from UNOCHA, two from UNICEF, two from the Association of Christian Resources Serving Sudan, one from Action Africa Help, three from Plan International and one from South Sudanese Development Organization”. OCHA, ‘Humanitarian Bulletin South Sudan Issue 4’ (30 April 2018) p. 2.
- ¹²¹ UNMISS, ‘Conflict-related violations and abuses in Central Equatoria | September 2018 – April 2019’ (3 July 2019) para. 19.
- ¹²² UN Secretary General Report on South Sudan (4 June to 1 September 2018) S/2018/831 (11 September 2018) para. 25.
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- ¹²⁴ OCHA, ‘South Sudan 2019 Humanitarian Access Overview January – December 2019’ (18 February 2020) p. 2.
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- ¹³⁷ Ibid p. 16.
- ¹³⁸ Ibid
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- ¹⁴¹ Ibid
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- ¹⁵⁵ Ibid, para. 310.
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- ¹⁵⁷ Commission on Human Rights, supra note 1, paras 311-312.
- ¹⁵⁸ UNMISS, supra note 116, 'para. 55.
- ¹⁵⁹ Commission on Human Rights, supra note 1, para. 312.
- ¹⁶⁰ UN OCHA, supra, note 20, Commission on Human Rights, supra note 1, para. 315.
- ¹⁶¹ International Crisis Group, supra note 153, fn 1; Human Rights Watch, supra note 87, p. 4.
- ¹⁶² ZOA, CEFORD, Save the Children, DRC, DDG, EU, 'Contested Refuge: The political economy and conflict dynamics in Uganda's Bidi Bidi refugee Settlement' (16 October 2018) pp. 9-10.
- ¹⁶³ Amnesty International, supra note 79, p. 20.
- ¹⁶⁴ Confidential Civil Society Report on file with GRC, pp. 4-5.
- ¹⁶⁵ UNHCR, 'Uganda: 2020 Mid Year Report, South Sudan Regional RRP January-June 2020' (29 September 2020).
- ¹⁶⁶ *Guardian*, 'Uganda at breaking point as Bidi Bidi becomes world's largest refugee camp' (3 April 2017).
- ¹⁶⁷ Adam Wernick, 'In Uganda, a Refugee Camp Becomes a City' (*The World*, 9 May 2019).
- ¹⁶⁸ UNHCR, 'Uganda - Refugee Statistics February 2021 – Bidibidi' (28 February 2021)
- ¹⁶⁹ International Crisis Group, supra note 153, p. 11.
- ¹⁷⁰ Amnesty International, supra note 99, p. 1.
- ¹⁷¹ Note that all armed groups and military factions maintain an active and strong social media presence with updates.
- ¹⁷² First Baptist Church, Kajo Keji, *Facebook* (27 February 2016); Kajo Keji County Daily News, *Facebook* (27 February 2016).
- ¹⁷³ Coordinates: 3.8479923393967495, 31.65828260468733.
- ¹⁷⁴ Matata Frank, *Facebook* (4 April 2016); Matata Frank, *Facebook* (5 April 2016); Human Rights Watch, supra note 82.
- ¹⁷⁵ Radio Tamazuj, 'Clashes break out in South Sudan's Kajo Keji' (13 June 2016); J. Roberts Swaka, South Sudan Liberty, 'Heavy Fighting Erupted in Kansuk' (12 June 2016); Human Rights Watch, supra note 82.
- ¹⁷⁶ First Baptist Church, Kajo Keji, *Facebook* (23 July 2016); Voice of Hope Newsletter, *Facebook* (18 June 2016); First Baptist Church, Kajo Keji, *Facebook* (18 June 2016)
- ¹⁷⁷ Coordinates: 3.926748, 31.536245.
- ¹⁷⁸ Radio Tamazuj 'South Sudan soldiers accused of looting market in Kajo Keji' (14 June 2016); Sudan Tribune 'South Sudan army unit ransacks Kajokeji market' (14 June 2016).
- ¹⁷⁹ Human Rights Watch, 'South Sudan: New Abuse of Civilians by Both Sides' (22 November 2016).
- ¹⁸⁰ Radio Tamazuj, 'South Sudan troops accused of second massacre in Central Equatoria' (12 November 2016).

- ¹⁸¹ CIR research showed that the videos had not been published anywhere else prior to the 12 November, there were no other reported incidents in proximity to the Lutaya Market where individuals had been burnt inside a property. More images and a longer video here. Caution is advised as the videos and images may contain graphic content. 1. **Warning Graphic:** https://www.facebook.com/permalink.php?story_fbid=pfbid0NUadbnLRdBX79mLe2Wrqds7J4h7xapYgHA3gZhJRVq2KWiUhQqXU4AoZTY8XXkrUI&id=184307873669; 2. **Warning Graphic:** <https://www.facebook.com/jada.yengkopiong/posts/pfbid0Vfyv7ca9h4fNDAYMQzmYNJoG5e3cifSpCTSJHVynbhggzR1fr952yrgfv2XfDP5cl>; 3. **Warning Graphic:** <https://www.facebook.com/RadioBakhita/posts/pfbid07ZXZqgijhrAPUSY7DXbeMsZXi6WRwVmdJx6xpL84YugaE6VaWjwCoxr5SgmwoZ6eXI>.
- ¹⁸² Duop Kueh, Facebook (19 November 2016); Collo in the world, Facebook (19 November 2016).
- ¹⁸³ Radio Tamazuj, 'SPLA soldiers occupy orphanage in Yei town' (21 September 2016); Sudan Tribune, Facebook (5 December 2016).
- ¹⁸⁴ Radio Tamazuj, Facebook (7 November 2016).
- ¹⁸⁵ John Sunday Martin, Facebook (1 November 2016)
- ¹⁸⁶ South Sudan Liberty 'Communique on deteriorating Security Situation in Kajo Keji' (25 January 2017). See also Simona Foltyn, 'Inside an Unwinnable War' (Vice News 6 July 2017); and The New Humanitarian, 'The war in Equatoria' (12 July 2022).
- ¹⁸⁷ Human Rights Watch, supra note 82.
- ¹⁸⁸ Geolocated by CIR to coordinates: 3.8586683509192383, 31.657715527000526.
- ¹⁸⁹ Geolocated by CIR to coordinates: 3.914732902885298, 31.626521194466584. South Sudan Liberty 'Communique on deteriorating Security Situation in Kajo Keji' (25 January 2017). YouTube, Mondikolok 2020 (15 November 2016).
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- ¹⁹¹ Nick Turse, 'Ghost Nation' (Harpers Magazine July 2017); Carolyn Thompson, Kristen Van Schie and Lagu Joseph Jackson, 'Forced Out | Measuring the scale of the conflict in South Sudan' (September 2019).
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- ¹⁹³ The New Humanitarian, "The war in Equatoria" (12 July 2022); South Sudan Liberty "Communique on deteriorating Security Situation in Kajo Keji", (25 January 2017); Nick Turse, "Ghost Nation", (Harpers Magazine, July 2017); Human Rights Watch, supra note 82; CIR findings: **Warning Graphic Content**. Six to seven civilians were reportedly killed in the attack. Independent reports including by HRW, New Humanitarian, Al-Jazeera English, the statement of Emmanuel Murye and Harpers Magazine confirmed the death of a woman (identified as Jane Samuri/Poni who had reportedly been raped, shot in the genital area and then burnt), a disabled man (named as Samuel More Meji/Wori, reportedly accused of being an IO member and burnt), a church elder identified as Lino Pajo, of Mogire and the other civilians killed, including a young girl Juan Nancy.
- ¹⁹⁴ Human Rights Watch, supra note 82.
- ¹⁹⁵ Facebook, SPLA-IO members in Kajo Keji (14 April 2017); Frank Matata, Facebook.
- ¹⁹⁶ UN Secretary General Report on South Sudan Report, S/2017/224 (16 March 2017).
- ¹⁹⁷ Diocese of Kajo Keji, Facebook (21 January 2017); Diocese of Kajo Keji, Facebook (20 February 2017).
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- ¹⁹⁹ UNMISS, 'Kajo Keji – A Ghost Town' (17 February 2017).
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- ²⁰¹ South Sudan Rural Development Programme, 'General Guidelines on Ox ploughing, Agric marketing, Agro dealership and Farmer Field School' (2016).
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- ²¹⁴ NAS Statement, [Facebook](#) (2 March 2022).
- ²¹⁵ New Vision, 'Three Ugandan businessmen abducted in South Sudan' (16 August 2022).
- ²¹⁶ Eye Radio, 'Over 60 civilians reportedly abducted by armed groups in Yei' (20 February 2022).
- ²¹⁷ This source is withheld for privacy reasons and is available on request.
- ²¹⁸ City Reviews, 'SSPDF rescues two abducted aid workers in Yei County' (22 September 2021).
- ²¹⁹ *ibid.*
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- ²²⁵ Commission on Human Rights, *supra* note 104, para. 62
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- ²⁴⁵ ICCPR, Article 2(3); Convention against Torture, and other Cruel, Inhuman, or Degrading Treatment or Punishment (Convention Against Torture), Article 14; Arab Charter, Articles 12 and 23. The right to a remedy and reparation was affirmed by all States under the UN General Assembly, 'Resolution 60/147: Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law', [A/RES/60/147](#) (21 March 2006) ('Basic Principles and Guidelines on the Right to a Remedy and Reparation'), Principle II, para. 3 and Principle VII, para. 11.
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- ²⁵⁰ Basic Principles and Guidelines on the Right to a Remedy and Reparation, Principle VII, para. 11 and Principle III, para. 4 and Principle IX, paras. 18-23.
- ²⁵¹ ICCPR, Article 2(3); Human Rights Committee ('General Comment No. 31') paras. 15, 18. The ICRC has also held that this obligation is a customary international law norm applicable in both international and non-international armed conflicts. See ICRC Customary IHL Rule 158. See also [Updated Set of Principles to Combat Impunity](#), Principle 19; Council of Europe Committee of Ministers, '[Guidelines on Eradicating Impunity for Serious Human Rights Violations](#)' (30 March 2011) Guideline VIII.1.
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- ²⁵³ Commission on Human Rights in South Sudan, [A/HRC/45/CRP.4](#) (5 October 2020) paras. 51-63.
- ²⁵⁴ *ibid*
- ²⁵⁵ South Sudan [Penal Code Act](#) (2008).
- ²⁵⁶ The Sudan People's Liberation Movement/Army (SPLM/A) in their Penal and Disciplinary Laws provided for the obligation to ensure citizens (under their control) produce sufficient food for themselves and for the punishment of "any member of the [SPLA] or affiliated organizations who compels citizens to surrender food materials". SPLM/A, Penal and Disciplinary Laws, 4 July 1984, § 54(3) and 68, Report on SPLMA Practice, 1998, Chapter 4.1.
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- ²⁶⁴ *ibid*, Article 5.2.2.
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- ²⁶⁸ See also the US decision to reallocate funding that had originally been allocated to support the establishment of the Hybrid Court. Foreign Policy, '[U.S. Quietly Gives Up on South Sudan War Crimes Court](#)' (20 July 2021).
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- ²⁷⁰ UNDP South Sudan, '[Truth and Reconciliation the Way to Chart South Sudan's Path Forward](#)' (8 July 2021).
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- ²⁷² See e.g., ICCPR, Article 2.
- ²⁷³ Geneva Academy, '[Treaty Bodies' Individual Communications Procedures: Providing Redress and Reparations to Victims of Human Rights Violations](#)' (May 2019), p. 18. For more information, see UNMISS, '[UNMISS welcomes ratification of international human rights covenants in South Sudan](#)' (7 June 2019) and UN Treaty Body Database, '[Ratification Status of South Sudan by Treaty](#)'.
- ²⁷⁴ [UNSC Resolution 2206](#) (2015).
- ²⁷⁵ Among the designation listing criteria the UNSC may impose sanctions in cases of "Planning, directing, or committing acts that violate applicable international human rights law or international humanitarian law, or acts that constitute human rights abuses, in South Sudan"; "The targeting of civilians, including women and children, through the commission of acts of violence (including killing, maiming, torture, or rape or other sexual violence), abduction, enforced disappearance, forced displacement, or attacks on schools, hospitals, religious sites, or locations where civilians are seeking refuge, or through conduct that would constitute a serious abuse or violation of human rights or a violation of international humanitarian law"; "(f) The obstruction of the activities of international peacekeeping, diplomatic, or humanitarian missions in South Sudan, including IGAD's Monitoring and Verification Mechanism or of the delivery or distribution of, or access to, humanitarian assistance". [UNSC Resolution 2206](#) (2015), para. 7 (c), (d), (f).
- ²⁷⁶ Benjamin J. Spatz, Oliver Windridge, Catriona Murdoch, [Sanctions as a Mechanism for Accountability for Starvation Crimes](#), Oxford University Press (forthcoming 2021).
- ²⁷⁷ [UNSC Panel of Experts on South Sudan Report, S/2017/326](#) 13 April 2017, para. 136 (a).

²⁷⁸ United Nations Security Council Resolution 2428 (2018), S/RES/2428, Annex 1, p. 8.

²⁷⁹ Spatz, Windridge, Murdoch, *supra* note 275

²⁸⁰ [OFSI Consolidates List Search](#).

²⁸¹ Rome Statute, Article 5.

²⁸² Commission on Human Rights *supra* note 252, para. 66.

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²⁸⁵ *Decision on the "Prosecution's Request for a Ruling on Jurisdiction under Article 19(3) of the Statute"*, ICC-RoC46(3)-01/18-37, Pre-Trial Chamber I (6 September 2018) para. 53.

²⁸⁶ The Republic of Uganda is a State Party to the Rome Statute. It signed on 17 March 1999 and deposited its instrument of ratification on 14 June 2002. UN, '10. Rome Statute of the International Criminal Court, Rome, 17 July 1998', *Chapter XVIII: Penal Matters, United Nations Treaty Collection*.

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²⁸⁸ See for e.g. *Prosecutor v. Blagojević*, IT-02-60-T, Judgement (17 January 2005) para. 596; *Prosecutor v. Karadžić*, IT-95-5/18-T, Judgement, (24 March 2016) para. 5684; *Prosecutor v. Ntaganda*, ICC-01/04-02/06, Judgment (8 July 2019) paras. 1056, 1032, 1062-1067.

²⁸⁹ UNHCR, *supra* note 148.

²⁹⁰ UNHCR-USA, [South Sudan Refugee Crisis](#).

²⁹¹ See also, AU, *supra* note 2.