

AMNESTY INTERNATIONAL

PUBLIC STATEMENT

AFR 65/001/2014

13 March 2014

South Sudan: Commission of Inquiry is a key opportunity to address ongoing abuses

Amnesty International welcomes yesterday's swearing in of members of the African Union Commission of Inquiry on South Sudan. The Commission, which was established by the African Union Peace and Security Council (AUPSC) on 7 March 2014, was set up to investigate abuses perpetrated in the ongoing conflict in South Sudan. As South Sudan approaches its third month of a conflict marked by violence against civilians, Amnesty International urges the AUPSC and those sitting on the Commission to interpret its mandate in the strongest terms to enable criminal investigations and prosecutions of those responsible for gross human rights abuses.

The Commission was first proposed by the AUPSC on 31 December 2013, two weeks into the conflict between forces loyal to President Salva Kiir and anti-government forces broadly known as the Sudan People's Liberation Movement in Opposition (SPLM/A in Opposition). Since then, thousands of people have been killed in a conflict that has been accompanied by sustained violence against civilians and civilian objects, and between soldiers and militias from the country's two largest ethnic communities - the Dinka and the Nuer. Members of other ethnic communities have also been affected by this violence, which has included targeted killings of civilians on the basis of their ethnicity, sexual violence and attacks on churches, hospitals and homes. Several major towns have been largely destroyed, villages have been razed, and nearly 900,000 people have fled their homes.

The Commission will consist of five experts headed by former Nigerian President Olusegun Obasanjo. Its stated purpose is to "investigate the human rights violations and other abuses committed during the armed conflict in South Sudan, and make recommendations on the best way and means to ensure accountability, reconciliation and healing among all South Sudanese communities." The Commission's mandate includes the investigation of human rights abuses by all parties to the conflict and the compilation of information to assist in identifying perpetrators of violations and abuses so that those responsible will be held to account. The Commission will also make recommendations on accountability mechanisms.

This inclusion of accountability is in marked contrast with past peace agreements in South Sudan, including the 2005 Comprehensive Peace Agreement (CPA), the agreement that ended the war between the SPLM and Sudan and ultimately led to the creation of South Sudan in 2011. The CPA did not contain measures to bring perpetrators of abuses to justice or to compensate the victims of these abuses. Since the current conflict began, civil society organizations in South Sudan and the diaspora have made several public statements calling for perpetrators to be held to account. Such statements were released on [25 January](#) and [6 March 2014](#).

Amnesty International urges the members of the Commission and the AUPSC to build its accountability measures around criminal prosecutions. True accountability, and lasting reconciliation and healing, will only be possible if victims and their relatives are assured that alleged perpetrators of abuses will be subjected to fair, open trials without recourse to the death penalty. For this reason, measures to promote reconciliation and healing must preclude amnesties for perpetrators.

To ensure accountability, reconciliation and healing, the Commission's work should be as comprehensive and transparent as possible. It should consider the impact of the conflict on all people and groups, including women or other marginalized people. To guarantee transparency, all aspects of its work should be made public, and, so far as possible, the media and public should be given access to proceedings and to the evidence base for its findings. The Commission should also announce timeframes for carrying out its work and presenting its findings and have clear contact points to respond to information requests.

Now that terms of reference have been announced it is crucial that the Commission's work begins as soon as possible. Across South Sudan, evidence of abuses is at risk of disappearing. In some locations where serious fighting has taken place, such as Bor in Jonglei State, the bodies of those killed in the fighting are being buried and the wreckage is being cleared. In Malakal, Upper Nile State, control of the town has changed multiple times and each new wave of fighting has wrought fresh destruction, killings of civilians including of those who witnessed violations in earlier attacks, and triggered further displacement. The sooner that public investigations and reporting of abuses begins, the more likely they are to deter further abuses.

Amnesty International urges all parties to the conflict to cooperate with the Commission. Consultations with the different parties to the conflict, including armed opposition groups, took place prior to its establishment, and in past months members of the South Sudanese Government and negotiators representing the SPLM/A in Opposition have stated their support for investigations of abuses. They now have the responsibility to ensure that the Commission's investigators are granted full freedom of movement and freedom to carry out their work without fear of harassment or intimidation, and to preserve evidence of abuses. Investigators should also have the power to request that South Sudanese authorities suspend from duty any officials involved in matters it is investigating, if there is reason to believe that they may interfere with witnesses or otherwise interfere with the inquiry.

Amnesty International also calls on the African Union (AU) and the wider international community to ensure that the Commission receives adequate resources and support so that it can effectively discharge the mandate given to it by the AUPSC.