



South Sudan: Finding A Way Forward After the July 2016 Crisis

10 August 2016

EXECUTIVE SUMMARY

On 7 July, 2016, armed clashes between the South Sudan People's Liberation Army (SPLA) and the South Sudan People's Liberation Movement–In Opposition (SPLM–IO) occurred in Juba. Over the course of the next days, hundreds (possibly thousands) of soldiers and civilians were killed in heavy fighting. The humanitarian situation that resulted is horrific and accounts of destroyed and looted properties, summary executions along ethnic lines and widespread sexual violence, including gang rape, abound. A cease-fire that was declared on Monday, 11 July 2016, continues to be violated by fighting in areas surrounding Juba, Yei and the Upper Nile region. The many political shuffles and appointments diverging from the peace agreement bring the country in a very unstable situation. If the situation is not stabilised and confidence in the ARCSS not restored, South Sudan will be back at war. In response to the violence, the international community has proposed an arms embargo and a regional protection force. This policy paper offers an analysis of these two options by South Sudanese civil society organisations that are part of the Transitional Justice Working Group (TJWG). It offers concrete recommendations for the SPLM, SPLM-IO, IGAD, the AU, the United Nations and development partners.

After much opposition to the deployment of additional foreign troops, the government of South Sudan has consented to the regional protection force. The fierce opposition put questions of sovereignty and intervention in humanitarian crises on the table. This paper applies the basic guidelines of the responsibility to protect to the situation in South Sudan and concludes that the South Sudanese government has abused its sovereignty by targeting the very citizens it has the responsibility to protect. It has therefore made itself liable to humanitarian intervention. Many of these acts are allegedly perpetrated against women and children. The TJWG strongly recommends that the regional protection force be mandated to actively help arrest and bring to justice those responsible for war crimes and crimes against humanity, with a particular focus on women and children.

The TJWG considers an arms embargo part of the way forward to achieving stability and peace in South Sudan and calls upon the UN Security Council to impose one for South Sudan that is meticulously monitored and heavily enforced. In all realism, an arms embargo will not succeed in stopping the complete flow of arms into the targeted country and that, with the widespread availability of arms in South Sudan, it will not put an end to the fighting. It must be reinforced with a regional protection force backed up by a clear political plan for peace and exit strategy.

In the paper, the TJWG looks to the 2013 intervention of the Force Intervention Brigade (FIB) in the Democratic Republic of Congo and the Economic Community of West African States Cease-fire Monitoring Group's (ECOMOG) intervention in Liberia in the 1990's for lessons learned. It draws six lessons that must inform decisions taken in relation to the regional intervention force in South Sudan.

The paper takes 15 minutes to read.

- 1) *Make sure that troop-contributing countries act in the interest of the South Sudanese population, not their national interests:* The backers of the regional force for South Sudan have at some point in time backed one of the conflicting parties in South Sudan and regional meddling has fuelled the conflict in the past. Regional dynamics will inevitably affect the success of the regional force and by extension the stabilisation of South Sudan, so these dynamics are not to be overlooked. Heed must be taken that these divergent interests and roles do not have a divisive effect on command and control structures and positions in practice.
- 2) *Have a political plan for peace, an exit strategy and do not allow parties to regroup under the auspices of peace negotiations:* South Sudan is an incredibly difficult environment to navigate and operate in. The AU troops may well find themselves becoming part of the conflict. Rather than only military engagement, it is of utmost importance that the intervention is coupled with a political plan for peace as well as a well-thought through exit strategy. The force must also strategically deal with the fact that stabilisation and peace will not be in the interest of the key actors currently benefitting from the lack of law and order and who wield significant power.
- 3) *Do not leave security vacuums:* The plethora of armed groups and militias in South Sudan, the vast size of the country, the expected geographical focus of the intervention force, and the limited patrols by UNMISS present the risk of leaving security vacuums that will quickly be filled by armed groups. Care must be exercised to prevent this.
- 4) *Have joint planning and equip the force to meet the task at hand:* The regional protection force must be strong enough to deter both the SPLA and SPLM-IO as well as any other armed groups from fighting and targeting civilians.
- 5) *Only deploy after thorough preparation:* The regional force will have to be adequately prepared and equipped, with strong intelligence and logistical back-up, to successfully carry out a peace enforcement mandate. The command over the forces should be centralised, minimising influences by major contributors. If not well prepared with a clear mandate and structured command and control structure, the force should not enter a peace enforcement context.
- 6) *The legal status of the force must not be a threat to civilian life:* If the regional protection force is embedded with UNMISS and engages in active combat, it could be considered a party to the conflict under international humanitarian law. The legal ramifications of this is that UNMISS's military and civilian staff would lose their protected status under humanitarian law and be considered a legitimate target in the conflict. The UN bases can then be categorised as military targets further endangering the thousands of civilians seeking its protection all over the country. Thousands could lose their lives as collateral damage. A worst-case scenario could lead to a situation in which the opposite of the intended objective and purpose of the intervention would become reality: further hostilities against and loss of civilian lives. This is a serious and realistic concern in the context of South Sudan and should be considered with utmost care. It may be a better modality to permit the regional protection force to operate outside of the UNMISS infrastructure, though careful thought would need to be given to an effective coordination structure, support to logistics as well as command and control arrangements.

The TJWG strongly favours a return to dialogue and believes that durable peace in South Sudan will only be achieved politically. However, in the short-term, South Sudan is unfortunately in need of a neutral third party to create a conducive environment in which such a political dialogue can resume, humanitarian assistance can be given, and in which the population feels confident enough to express their views. Realism dictates caution against expectations that a peace enforcement mission will enforce a lasting peace. South Sudan must reach a phase where peace is in the personal interest of those in power as well as in the interest of their constituencies. Lasting peace can only be achieved by the parties themselves.

1. INTRODUCTION

On 7 July, 2016, armed clashes between the South Sudan People's Liberation Army (SPLA) and the South Sudan People's Liberation Movement–In Opposition (SPLM–IO) occurred in Juba. Over the course of the next days, hundreds (possibly thousands) of soldiers and civilians were killed in heavy fighting. The UN and humanitarian organisations estimate that 60,000 have fled the country¹ and approximately 10,800 have sought protection in their Protection of Civilian (PoC) sites.² Properties have been destroyed, looted, and accounts of summary executions along ethnic lines and widespread sexual violence, including gang rape, abound.³

A cease-fire that was declared on Monday, 11 July 2016, continues to be violated by fighting in areas surrounding Juba, Yei and the Upper Nile region.⁴ Kiir's appointment of Taban Deng Gai as First Vice President⁵ – a move that is still opposed by Riek Machar and what appears to be the majority of the SPLM–IO⁶ – and the recent cabinet shuffle only further destabilises the political arena. The ongoing violence has exacerbated a humanitarian situation that was already amongst the worst in the world. A continuation of the status quo without significant relief would see more than 4.8 million people face severe food insecurity levels,⁷ and 6.1 million people (almost half of the country's population) in need of humanitarian assistance.⁸ The outbreak of diseases,⁹ the incredibly weak medical infrastructure, the lack of sanitation facilities and makeshift settlements are of grave concern. Since the fighting erupted in Juba, over 37,000 people have fled into Uganda, all of them with horrific stories of ongoing violence and forced recruitment.¹⁰

If the situation is not stabilised and confidence in the ARCSS not restored, South Sudan will be back at war. If South Sudan further fragments into regions and/or alliances along ethnic lines invested to protect their interest, the possibility of a new rebellion emerging in other parts of the country is high.

¹ *60,000 flee South Sudan's recent violence to nearby countries*. 2 August 2016. UNHCR. Available at <http://www.unhcr.org/news/latest/2016/8/57a096204/60000-flee-south-sudans-recent-violence-nearby-countries.html>.

² *South Sudan Humanitarian Bulletin*. 22 July 2016. Issue 10. UN Office for the Coordination of Humanitarian Affairs. Available at <http://reliefweb.int/report/south-sudan/south-sudan-humanitarian-bulletin-issue-10-22-july-2016>.

³ *South Sudan's government forces committed widespread violations in July fighting – UN*. 4 August 2015. UN News Centre. Available at <http://www.un.org/apps/news/story.asp?NewsID=54623#.V6Qxivl97IU>.

⁴ *South Sudan's opposition says nine killed in renewed fighting*. 1 August 2016. Reuters Africa. Available at <http://af.reuters.com/article/southSudanNews/idAFL8N1AI1KC>.

⁵ The TJWG does not wish to speculate on political developments surrounding the appointment, but a legal analysis of articles 6.4 and 6.5 of the ARCSS concludes that instead of replacing Riek Machar based on an unconfirmed state of "physical incapacity", the correct course of action would have been for Riek Machar to delegate a senior minister to act in his stead during his "temporary absence". Consequently, the regional actors and international community will need to continue engaging with Riek Machar as a peace partner.

⁶ *Republican Decree No. 289/2016 for the Appointment of the First Vice President of the Republic of South Sudan, 2016 A.D.* RSS/RD/3/289/2016. 25 July 2016; *South Sudan First Vice President Dismissed Gen. Taban Deng Gai from SPLM/SPLA-IO and scrapped his Ministry*. 22 July. Nyamile. Available at <http://www.nyamile.com/2016/07/22/south-sudan-first-vice-president-dismissed-gen-taban-deng-gai-from-splmspla-io-and-scrapped-his-ministry-2/>

⁷ *South Sudan: UN agency urges stability ahead of planting season to thwart food insecurity*. 16 July 2016. UN News Centre. Available at http://www.un.org/apps/news/story.asp?NewsID=54472#.V5XI7_I97IV

⁸ *South Sudan*. 16 June 2016. UN Office for the Coordination of Humanitarian Affairs. Available at <http://www.unocha.org/south-sudan>

⁹ *Situation Report #6 on Cholera in South Sudan as at 23:59 Hours, 21 July 2016*. 21 July 2016. Reliefweb. Available at <http://reliefweb.int/report/south-sudan/situation-report-6-cholera-south-sudan-2359-hours-21-july-2016>

¹⁰ *Some 4,000 South Sudanese fleeing into Uganda daily – UN warns*. 26 July 2016. UN News Centre. Available at http://www.un.org/apps/news/story.asp?NewsID=54554#.V5hmH_I97IU

Without the minimum control of a peace agreement – even one with minimal political clout –, such developments could open avenues to unimaginable atrocities, including genocide. The international community has no other option than to act.

In response to the violence, the United Nations Secretary General Ban Ki-moon called for more sanctions on those blocking peace, an arms embargo, and the bolstering of the 12,000-strong UN peacekeeping force. In their second extra-ordinary summit on South Sudan on 5 August 2016, the leaders of the Intergovernmental Development Authority (IGAD) decided on the deployment of a regional protection force that would be embedded in the United Nations Mission in South Sudan (UNMISS). The proposal, endorsed by the African Union and welcomed by the UN Secretary General, had met fierce opposition by the South Sudanese government, who only recently consented to the deployment of the force for the protection of the internally displaced persons (IDPs), humanitarian agencies and the Joint Monitoring and Evaluation Commission (JMEC).¹¹ A draft Security Council resolution that was circulated by the United States on 7 August, differs to the agreement between IGAD and the government. If passed in its current form, it would authorise a 4,000-strong regional protection force "to use all necessary means, including undertaking robust and active steps and engaging in direct operations where necessary, to secure Juba and protect the airport and other key facilities."¹² If passed, issues related to consent and sovereignty can be expected to be raised by the government.

This paper presents views and recommendations by the core team of the Transitional Justice Working Group (TJWG)¹³ on the proposed arms embargo and the regional protection force. The aim of the paper is to provide policy and decision-makers with insights by South Sudanese civil society actors and contribute to shaping responses that have the best chance of success to generate peace in South Sudan.

2. EXPLORING A WAY FORWARD: ARMS EMBARGO AND FOREIGN INTERVENTION

2.1 Arms Embargo

On 11 July 2016, a day after the heaviest fighting occurred in Juba, the United Nations Secretary General Ban Ki-Moon requested the United Nations Security Council to place an arms embargo on South Sudan.¹⁴ His call was supported by thirty human rights groups, including members of the TJWG, who sent a joint letter to the UN Security Council on 22 July, 2016.¹⁵ The imposition of an arms embargo is a step in the right direction to curb violence in South Sudan, especially because arms are

¹¹ *Communique of the Second IGAD Plus Extra-ordinary Summit on the Situation in the Republic of South Sudan*. 5 August 2016. IGAD. Available at http://igad.int/attachments/1407_AGREED%20FINAL%20COMMUNIQUE%20-%20IGAD%20Plus%20on%20South%20Sudan%20in%20Addis.pdf

¹² Nichols, Michelle. *US proposes UN approve 4,000-strong force for South Sudan's Juba*. 7 August 2016. Reuters. Available at <http://www.reuters.com/article/us-southsudan-security-un-idUSKCN10I12S?il=0>

¹³ The Transitional Justice Working Group (TJWG) is a coalition of South Sudanese civil society organisations that work together to advocate for transitional justice; ensure a strengthened civil society voice in the debates around the design and implementation of transitional justice processes; and co-ordinate a complementary civil society role within those processes, including support to the documentation of human rights violations.

¹⁴ *Secretary-General's press encounter on South Sudan*. 11 July 2016. Available at <https://www.un.org/sg/en/content/sg/press-encounter/2016-07-11/secretary-generals-press-encounter-south-sudan>; and *'Time to massively reinforce UN action' on South Sudan, Ban says ahead of Security Council meeting*. 11 July 2016. UN News Centre. Available at <http://www.un.org/apps/news/story.asp?NewsID=54434#.V5JW4PI97IW>

¹⁵ *Joint Letter to UN Security Council Members on South Sudan*. 21 July 2016. Human Rights Watch. Available at <https://www.hrw.org/news/2016/07/21/joint-letter-un-security-council-members-south-sudan>

a major factor in determining political outcomes in South Sudan. However, it will have to be monitored extremely carefully and be accompanied by serious repercussions for those do violate it for it to have any effect. Much like the effectiveness of targeted sanctions, arms embargoes do not have an impressive track record of putting an end to fighting. Although there is evidence that arms embargoes can stop the transfer of weapons, they cannot stop the complete flow of arms into the targeted country. The groups that are affected by the embargo will actively find alternative means and/or routes such as third countries or black market contractors to keep their business afloat.¹⁶ It is highly likely that small arms will remain available throughout the country, but an enforced arms embargo may just limit the availability of heavy weaponry, thereby restricting combat capacities.

The draft resolution currently before the Security Council includes the threat of an arms embargo if the government obstructs the deployment of the regional protection force. This may have the dangerous adverse effect of an increase in arms trade and permit the parties to equip themselves in preparation of a return to full-fledged warfare. The United States of America has blocked arms embargoes in the past and China and Russia have been known to question the legitimacy of UN sanctions and embargoes and have supplied South Sudan with arms.¹⁷ It must now be recognised that an immediate arms embargo is long overdue and must be included in the final Security Council resolution. It is encouraging that earlier this year, the US, the United Kingdom and France, Angola and other Security Council members had proposed and supported an arms embargo on South Sudan. The TJWG calls upon all members of the Security Council to authorise this measure.

Closer to home, South Sudan's neighbouring countries are thought to be responsible for supplying the South Sudanese arms market.¹⁸ With their recent commitment to a regional military intervention force, they might find themselves in combat with the very forces that they armed. This could end up being a strong incentive to restrict the arms trade into South Sudan. However, Uganda's President Yoweri Museveni has already opposed an arms embargo claiming that it would weaken the SPLA as it is trying to contain the recent violence.¹⁹

Aside from nation-states arming the warring parties, private companies and individuals also have a long history in arming movements and groups. Like Tiny Rowland; a British investor renowned for financially supporting independence movements, including the SPLA's liberation struggle; private individuals²⁰ and companies²¹ have recently been charged with exporting arms to South Sudan.

Despite the difficulties, even the slightest restriction on flow of arms into South Sudan is a step in the right direction. As such, the TJWG considers an arms embargo part of the way forward to achieving stability and peace in South Sudan. However, an arms embargo will have to be coupled with stronger measures if the goal is to create enough stability for the conflicting parties to return to political negotiation and collaboration in the Transitional Government of National Unity (TGoNU).

¹⁶ Tiitmamer, Nhial and Awolich, Abraham (17 February 2015) *The Impracticality of Sanctions and Why Diplomacy Makes Sense in South Sudan*. Policy Brief. The Sudd Institute.

¹⁷ Stockholm International Peace Research Institute (SIPRI) Arms Transfer Database. Available at http://armstrade.sipri.org/armstrade/page/trade_register.php

¹⁸ Ferrie, Jared. *Would an arms embargo on South Sudan work?* 12 July 2016. Available at <https://www.irinnews.org/news/2016/07/12/would-arms-embargo-south-sudan-work>

¹⁹ *Museveni rejects calls for arms embargo on South Sudan*. 17 July 2016. Available at <https://radiotamazuj.org/en/article/museveni-rejects-calls-arms-embargo-south-sudan>

²⁰ *South Sudan suspected arms dealer arrested*. 23 July 2016. AFP via New Vision. Available at http://www.newvision.co.ug/new_vision/news/1430625/south-sudan-suspected-arms-dealer-arrested

²¹ York, Geoffrey (28 July 2016). *The Globe and Mail*. *Canadian company sold armoured vehicles to South Sudan*. Available at <http://www.theglobeandmail.com/news/world/canadian-company-sold-armoured-vehicles-to-south-sudan-report/article31191713/>

2.2 Foreign Intervention: Regional Protection Force

United Nations Secretary General Ban Ki-Moon's words were clear: "This is the time to massively reinforce UN action. When a Government cannot or will not protect its people, and when warring parties seem more intent on enriching and empowering themselves at the expense of their people, the international community has a responsibility to act."²² At the AU summit in Kigali, the AU leaders adopted an IGAD proposal to insert an African force into UNMISS;²³ a proposal that has now been decided upon during the IGAD's second extra-ordinary summit on South Sudan and has been welcomed by the United Nations Secretary General. Soldiers for the proposed regional protection force will hail from Uganda, Kenya, Sudan, Rwanda and Ethiopia. Whereas the UNMISS troops are mandated under Chapter VII of the UN Charter to use all means necessary to protect civilians, humanitarian personnel and UN property and personnel, the regional protection force, as proposed in the draft Security Council resolution, would be mandated to actively engage in direct operations.

Though the government has recently consented to the deployment of the regional forces to protect IDPs, humanitarian agencies and JMEC, for long it vowed to treat any additional foreign forces as hostile, referring to a possible intervention as "an invasion."²⁴ This – and the difference between the IGAD communiqué and the draft Security Council – begs the question whether the Government's objections, which are inexplicitly grounded in the principle of non-intervention and the State's sovereign control over its territory and people, are legitimate and legal grounds to oppose the deployment of foreign troops. In essence, this is a practical manifestation of perceived tensions between fundamental principles of human rights and values validating their protection and the fundamental principles of sovereignty and non-intervention. Both sets of principles are considered cornerstones of the historic and contemporary global order.

2.2.1 Sovereignty and the intervention in humanitarian crises

The perceived tension between the principles underlying the protection of human rights on the one hand and the principles of sovereignty and non-intervention on the other hand, gained traction after the tragic events that occurred in Rwanda and the former Yugoslavia in the early 1990s. Then UN Secretary General Kofi Annan, in his 2000 Millennium Report, challenged the countries of the world to seek ways to be able to intervene for humanitarian purposes if the UN Security Council is unable to take a decision.²⁵ The result is an emerging concept known as 'the responsibility to protect'. The responsibility to protect acknowledges the importance of the age-old principle of sovereignty and the authority of a state to govern itself without interference from outside forces.²⁶ However, it purports that sovereignty does not only give the state the right to control its internal affairs, but also the primary responsibility to protect all people on its territory from mass atrocities and serious human rights violations. It asserts that if a state fails to protect – or worse; actively attacks - its people, the international community then takes on the responsibility to protect the people. Sovereignty will thus not shield that state from 'humanitarian interventions' triggered by the international community's

²² *Secretary-General's press encounter on South Sudan*. 11 July 2016. UN. Available at <http://www.un.org/sg/offthecuff/index.asp?nid=4616>

²³ Fabricius, Peter. *The AU's silver bullet to end fighting in South Sudan?* 20 July 2016. The Institute for Security Studies. Available at <https://issafrica.org/iss-today/the-aus-silver-bullet-to-end-fighting-in-south-sudan>

²⁴ Rajab, Ramadhan. *South Sudan rejects AU military intervention, terms it as invasion*. 24 July 2016. The Star. Available at: http://www.the-star.co.ke/news/2016/07/24/south-sudan-rejects-au-military-intervention-terms-it-as-invasion_c1391650

²⁵ *We the peoples: the role of the United Nations in the twenty-first century*. (27 March 2000). Report of the Secretary-General to the fifty-fourth session of the UN General Assembly. Available at http://www.un.org/en/ga/search/view_doc.asp?symbol=A/54/2000

²⁶ These principles are enshrined in article 2(7) of the United Nations Charter.

responsibility to protect.²⁷ Since humanitarian intervention involves the use of force, it is subject to Security Council approval. The approval should be guided by five basic criteria, namely: the seriousness of the threat; proper purpose; the fact that it must be a last resort, proportional means; and balance of the consequences (chance of success).²⁸

Over the years, the African nations have developed their role in providing peace and security on the continent that includes measure to intervene in grave situations.²⁹ The AU's right to intervene is grounded in the principle of non-indifference and that all member States of the Union have to behave in accordance with certain fundamental values and standards, including respect for human rights. Part of the AU's peace and security infrastructure is a rapid-response African Standby Force that can intervene without a government's consent. The fact that the AU's right to intervene was granted outside of the UN framework, does not mean that the AU is not subject to the collective security system of the UN Charter.³⁰ Any deployment of additional foreign troops in South Sudan by the African Union will have to be authorised by the UN Security Council for it to be legal under international law.

2.2.2 Intervening in South Sudan

In order to determine whether the evolving situation in South Sudan meets the threshold to justify humanitarian intervention by regional troops with Security Council authorisation, the situation must at least meet the five basic criteria.

1) *Seriousness of the threat:* The high amount and serious nature of the violations of international humanitarian law reportedly perpetrated in South Sudan meet a sufficient threshold to constitute an internal threat to the population. Multiple reports by the United Nations, international organisations as well as the AU Commission of Inquiry into South Sudan (AUCISS) have found evidence implicating both sides of the conflict in ethnic-based extrajudicial killings; enforced disappearances; arbitrary arrests and detention; the recruitment of child soldiers; and instances of rape and other acts of sexual violence. Additionally, there have been attacks on hospitals; churches; mosques; and United Nations bases; all of which may amount to war crimes under international humanitarian law.³¹ The gruesome

²⁷ *The Responsibility to Protect*. 2001. Report of the International Commission on Intervention and State Sovereignty (ICISS). Available at http://www.un.org/en/ga/search/view_doc.asp?symbol=A/57/303

²⁸ *A more secure world: our shared responsibility*. December 2004. Report of the High-level Panel on Threats, Challenges and Change. A/59/565. Available at http://www2.ohchr.org/english/bodies/hrcouncil/docs/gaA.59.565_En.pdf

²⁹ Article 4(h) of the Constitutive Act of the African Union. 2002. Available at: http://www.au.int/en/sites/default/files/ConstitutiveAct_EN.pdf;

<http://africanarguments.org/2016/07/13/the-african-union-can-and-must-intervene-to-prevent-atrocities-in-south-sudan/>; and Protocol on Amendments to the Constitutive Act of the African Union. Adopted by the 1st Extraordinary Session of the Assembly of the Union in Addis Ababa, Ethiopia on 3 February 2003. Available at http://www.au.int/en/sites/default/files/treaties/7785-file-protocol_amendments_constitutive_act_of_the_african_union.pdf

³⁰ Article 2(4) of the Charter contains the general prohibition of the use of force and obliges all member states to refrain from the threat or use of force against another state. This prohibition was confirmed in several cases by the International Court of Justice (ICJ) such as the *Corfu Channel Case* (1949) and the *Military and Paramilitary Activities in and against Nicaragua* (1986). Moreover, it is considered a peremptory norm of international law. A peremptory norm, also referred to as *jus cogens* is a norm that is considered so fundamental that derogation is never permitted.

³¹ *Flash Human Rights Report on the Escalation of Fighting in Greater Upper Nile April-May 2016* (29 June 2015). UNMISS Human Rights Division; *The State of Human Rights in the Protracted Conflict in South Sudan* (4 December 2015). UNMISS and UN Office of the High Commissioner of Human Rights; *"They Burned it All": Destruction of Villages, Killings, and Sexual Violence in Unity State South Sudan* (22 July 2015). Human Rights Watch; *"We can Die too": Recruitment and Use of Child Soldiers in South Sudan* (14 December 2015). Human Rights Watch.

details of the alleged horrific abuses include soldiers gang-raping young girls, castrating young boys, and burning them alive. Reports also include people being forced to drink blood and eat human flesh. Such accounts qualify without a doubt as conscience-shocking situations. Although these reports contain findings of instances that occurred before the outbreak of violence in July 2016, there are strong grounds to believe that acts of similar nature were perpetrated during the July 2016 violence³² and are still going on.³³

In this analysis, it must be borne in mind that many of these conscience-shocking acts are allegedly perpetrated against those most vulnerable: women and children. A UN report in March 2016 recorded more than 1,300 reports of rape over the course of six months in southern and central Unity area. The report concludes that government forces use rape as strategy to terrorize and punish innocent civilians. It also implicates opposition groups and criminal gangs in serious acts of sexual and gender-based violence.³⁴ Since the start of the current violence in Juba, the Mission has documented at least 217 cases of sexual violence and rape against civilians.³⁵

2016 is the African Year of Human Rights with a particular focus on women's rights. This opportunity must be seized to actively protect women in conflict. The United Nations Security Council offers protection for this vulnerability in eight resolutions that make up the Women, Peace and Security Agenda.³⁶ The agenda furthermore "guides work to promote gender equality and strengthen women's participation, protection, and rights in conflict prevention through post-conflict reconstruction contexts"³⁷ as does the United Nations Development Programme's (UNDP) Eight Point Agenda for women and girls in crises.³⁸ These frameworks make clear that particular attention needs to be paid to women's needs in all immediate interventions as well as early recovery efforts. The TJWG **strongly** recommends IGAD and the Security Council to take responsibility and grant the protection force a mandate that enables them to pro-actively protect women and children against violence. The Force Intervention Brigade (FIB) in DRC was also given such explicit prerogative in its mandate. In fact, the FIB was also given the mandate to support the government "to arrest and bring to justice those responsible for war crimes and crimes against humanity."³⁹

2) Proper purpose: The proper purpose criteria assesses the primary purposes of the proposed military action, which are meant to be humanitarian in nature. Although each troop contributing country will have national interests to serve, the proposals to intervene come at a time when civilians are clearly in need of foreign protection. The IGAD and AU proposal to intervene militarily is a direct response to

³² Daily Press Briefing by the Office of the Spokesperson for the Secretary-General. 27 July 2016. Available at <http://www.un.org/press/en/2016/db160727.doc.htm>

³³ *Reports continue of "widespread sexual violence" in South Sudan*. 1 August 2016. United Nations Radio. Available at <http://www.unmultimedia.org/radio/english/2016/08/reports-continue-of-widespread-sexual-violence-in-south-sudan/#.V6Gvwfl97IV>

³⁴ *Assessment mission by the Office of the United Nations High Commissioner for Human Rights to improve human rights, accountability, reconciliation and capacity in South Sudan: detailed findings*. (10 March 2016). Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General. Human Rights Council. Thirty-first session.

³⁵ *SPLA committed widespread violations during and after July fighting in South Sudan – Zeid*. 4 August 2016. UNOHCHR. Available at <http://www.ohchr.org/EN/NewsEvents/Pages/Media.aspx>

³⁶ The eight resolutions are: Security Council Resolutions 1325 (2000); 1820 (2009); 1888 (2009); 1889 (2010); 1960 (2011); 2106 (2013); 2122 (2013); and 2242 (2015).

³⁷ See, Women's International League for Peace and Freedom at <http://www.peacewomen.org/why-WPS/solutions/resolutions>

³⁸ *The Eight Point Agenda: Practical, positive outcomes for girls and women in crisis*. UNDP. Available at <http://www.undp.org/content/dam/undp/library/crisis%20prevention/undp-cpr-8-point-agenda-practical-positive-outcomes-girls-women-crisis.pdf>

³⁹ UN Security Council Resolution 2098 (2013). Available at http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_res_2098.pdf

the outbreak of violence in July 2016 and meant to enforce peace and halt any future fighting. It can therefore be considered a just cause to intervene.

3) A last resort: Military intervention is only permitted as a last resort when non-military options to thwart the threat in question been tried or explored and there are reasonable grounds for believing that non-military measures will not succeed. Recent developments make it clear that the fragile peace that was brokered in August 2015 was broken in July 2016 and that mediation only at this point in time will not generate peace. The UN Security Council has imposed targeted sanctions without effect. The only remaining non-military option is to impose an arms embargo. Whilst the TJWG would strongly welcome such an embargo, the vast amount of weapons currently available in South Sudan combined with the renowned difficulties of monitoring and enforcing embargoes, leads the TJWG to conclude that there are reasonable grounds for believing that an arms embargo will not succeed in stopping and preventing further violence. This generates the conclusion that military intervention qualifies as a measure of last resort. In the current context, peace-keeping is no longer sufficient.

4) Proportional means: This criteria means to assess whether the scale, duration and intensity of the proposed military action are proportional to the threat in question. The ethnic tensions in South Sudan, most notably amongst the Dinka and the Nuer, and the high concentration of Nuer civilians seeking protection in UNMISS PoC sites, combined with previous reports of targeted killings along ethnic lines, presents a highly inflammable situation. Past events, like the incident at the UNMISS Protection of Civilian (PoC) site in Malakal on 17-18 February 2016,⁴⁰ the deliberate attacks on UN property and personnel, and the blatant disregard of the parties' respect for the cease-fire and provisions in the ARCSS, show that the situation in South Sudan is beyond a peace-keeping situation and that an enforcement mandate is indeed appropriate to adequately respond to the threats to the population and the region. Additionally, despite their full mandate to use force to protect civilians, UN peacekeepers have been seen standing by on multiple occasions over the past years as women were raped only 100 meters from the UN base in Juba. The most recent incident lead to the death of two women.⁴¹ A protection force able and willing to use force to protect civilians – whether this is a regional one or UNMISS – is a dire necessity for the people of South Sudan. The proposed regional intervention force would be 3,000 or 4,000-strong and be given a mandate to actively engage in direct operations to fulfil their mandate. The regional intervention force is to be included in UNMISS whose mandate would need to be revised by the UN Security Council to allow the deployment of the regional protection. However, the specific composition, mandate, armament, deployment, timing and funding of the force are yet to be determined.

5) Balance of the consequences (chance of success): The fifth criteria evaluates the “chance of the military action being successful in meeting the threat in question, with the consequences of action not likely to be worse than the consequences of inaction.”⁴² Although the South Sudanese government has agreed to the deployment of a regional protection force, the force must be prepared to engage in active combat with the SPLA with the understanding that the SPLA has violated international humanitarian law on multiple occasions. It is difficult to tell whether the vow to fight any additional

⁴⁰ On 17 February, violence broke out between Shilluk and Dinka communities in the UNMISS PoC site, leading to the death of between 25 and 65 people, injuring 108, destruction of a large part of the camp and displacing 29,000 already displaced people. The violence continued until the afternoon of 18 February and there are strong indications that external military forces were involved in the fighting. *MSF internal review of the February 2016 attack on the Malakal Protection of Civilians Site and the post-event situation*. June 2016. Medecins Sans Frontieres. Available at http://www.msf.org/sites/msf.org/files/malakal_report_210616_pc.pdf

⁴¹ Patinkin, Jason. *Dozens of women raped by South Sudan soldiers near UN camp: witnesses*. 27 July 2016. The Associated Press. Available at <https://www.thestar.com/news/world/2016/07/27/dozens-of-women-raped-by-south-sudan-soldiers-near-un-camp-witnesses.html>

⁴² *A more secure world: our shared responsibility* (December 2004). Report of the High-level Panel on Threats, Challenges and Change. A/59/565. Available at http://www2.ohchr.org/english/bodies/hrcouncil/docs/gaA.59.565_En.pdf. Page 58.

foreign force will still manifest despite the government's consent to the deployment of foreign troops. It would mean that President Kiir would be the first African President to lead an army into battle against AU troops. Unlike Burundian President Nkurunziza who contributed troops to the AU's mission in Somalia, Kiir has not contributed any troops to AU missions elsewhere on the continent. This means that the SPLA would not find itself in a situation in which it is fighting alongside AU troops elsewhere whilst fighting against AU troops at home,⁴³ which makes resistance to AU troops in South Sudanese territory a little easier.

The TJWG strongly favours a return to dialogue and believes that durable peace in South Sudan will only be achieved politically, but fears that the mistrust between the parties is too high for genuine political dialogue and stability in the immediate future. In the short-term, South Sudan is unfortunately in need of a neutral third party to create a conducive environment in which such a political dialogue can resume, humanitarian assistance can be given, and in which the population feels confident enough to express their views. The above analysis makes clear that the situation in South Sudan and proposed military intervention meets the basic criteria that should allow the Security Council to authorise the regional protection force to actively use force in the interest of peace and security and for the protection of the people of South Sudan.

2.2.3 Lessons from other regional interventions

The TJWG offers several lessons from two other regional interventions: the 2013 intervention of the Force Intervention Brigade in the Democratic Republic of Congo and the Economic Community of West African States Cease-fire Monitoring Group's (ECOMOG) intervention in Liberia in the 1990's.

In 2013, following the fall of Goma to the M23 rebels in late 2012, the United Nations Organization Stabilization Mission in the Democratic Republic of Congo / *Mission de l'Organisation des Nations Unies pour la Stabilisation en la Republique de Congo* (MONUSCO) was reinforced by the 3,000-strong Force Intervention Brigade that was mandated by the UN Security Council to track down and disarm armed groups. The FIB was placed under direct command of the MONUSCO Force Commander⁴⁴ as is proposed for the regional protection force. At the time it was hailed as a new type of aggressive peace enforcement and considered a step away from traditional peacekeeping, especially from the three basic principles of UN peacekeeping: consent, impartiality, and the non-use of force (with the exception to protect the mission's mandate). It is even a step beyond peace enforcement mandates that permit the use of force to protect a peace agreement or cease-fire.⁴⁵ It was intended as a way to create space for political processes and buy time for the Congolese army to conduct operations. In line with the latter, it was effective in supporting the Congolese troops to defeat the M23 rebels.

Basic, yet essential, lessons can also be drawn from the Economic Community of West African States Cease-fire Monitoring Group's (ECOMOG) intervention in Liberia in the 1990's. ECOMOG's intervention to establish a cease-fire was the first sub-regional military force in the developing world since the end of the Cold War and the first with whom the UN agreed to work with as a secondary partner. Much like South Sudan, Liberia, also a vast country with much of its interior impassable, at the time was plagued by ethnic and historical divisions, multiple armed splinter groups, and ultimately

⁴³ Williams, Paul. *The AU's Less Coercive Diplomacy on Burundi*. 16 February 2016. Special Report. Part 2. The Global Observatory. Available at <https://theglobalobservatory.org/2016/02/burundi-nkurunziza-african-union-mapobu/>

⁴⁴ UN Security Council Resolution 2098 (2013). Available at http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_res_2098.pdf

⁴⁵ Sheeran, Scott and Case, Stephanie. *The Intervention Brigade: Legal Issues for the UN in the Democratic Republic of Congo*. November 2014. International Peace Institute. Available at https://www.ipinst.org/wp-content/uploads/publications/ipi_e_pub_legal_issues_drc_brigade.pdf

governed by a transitional government (1995) that was composed of all the major combatants. What was initially a peacekeeping mission soon turned into a peace enforcement mission with active combat between ECOMOG forces and Charles Taylor's rebel group. This ultimately forced Charles Taylor to sign a cease-fire. The ECOMOG offensive is credited for saving lives, especially by preventing fighting over control of Liberia's capital Monrovia, and creating space for political negotiations.

The interventions offer six important lessons that must inform decisions taken in relation to the regional intervention force for South Sudan.

1) Make sure that troop-contributing countries act in the interest of the South Sudanese population, not their national interests: Though the FIB was effective in supporting the Congolese troops to defeat the M23 rebels, it has been much less active in combatting other armed groups such as the Allied Democratic Forces (ADF). In fact, there were no ground operations in engagement with the ADF. The FIB's decrease in robust action following the defeat of the M23, raises perceptions that national interests of the troop contributing nations (the FIB was created by the Southern African Development Community (SADC)) influenced the FIB's military operations.⁴⁶ This, and the realpolitik of peacekeeping, teaches us that national interests of troop contributing countries have a strong impact on the success or failure of multi-national military missions. Similar to the ECOMOG forces, whose mandating political body ECOWAS was divided,⁴⁷ the backers of the regional force for South Sudan have at some point in time backed one of the parties in South Sudan. The regional protection force for South Sudan will be contributed by states (Uganda, Kenya, Ethiopia and Rwanda) that have a vested interest in the country and regional dynamics will inevitably affect the success of the regional force and by extension the stabilisation of South Sudan. In fact, regional meddling has fuelled the conflict in the past, so these dynamics are not to be overlooked. Heed must be taken that these divergent interests and roles do not have a divisive effect on command and control structures and positions in practice. The national aims of contributing states may well negatively affect the effectiveness of the regional force and could prompt a contingent to abandon the alliance or independent decision-making as was the case for ECOMOG. In fact, it is not beyond the bounds of credibility that actors expressing hostility to the regional force, may intentionally single out elements of one of the troop contributing nations with the intention to create rifts and possible withdrawal of forces.

2) Have a political plan for peace, an exit strategy and do not allow parties to regroup under the auspices of peace negotiations: Although the ECOMOG offensive successfully created space for political negotiations, the cease-fire also allowed the conflicting parties to rebuild themselves and allowed the formation of new factions and thereby contributed to the prolonging of the war and a spill-over into Sierra Leone.⁴⁸ South Sudan's plethora of armed groups; the fluidity of changing allies; widespread availability of small arms; lack of respect for the rule of law; unemployed youth and plummeting economy make South Sudan is an incredibly difficult environment to navigate and operate in. The AU troops may well find themselves becoming part of the conflict. It is of utmost importance that the intervention is coupled with a political plan for peace as well as a well-thought

⁴⁶ De Vries, Hugo. *Going around in circles: the challenges of peacekeeping and stabilization in the Democratic Republic of Congo*. August 2015. Conflict Research Unit Report. Clingendael: Netherlands Institute of International Relations.

⁴⁷ ECOWAS was divided over how the ECOMOG force should operate. This division was attributed to competing geo-strategic interests of its member states and to emerging problems over contributions to the operation. Nigeria, which provided the bulk of the ECOMOG troops and financial resources opposed Charles Taylor's rebel group National Patriotic Front of Liberia (NPFL) which was supported by, amongst others, Cote d'Ivoire and Burkino Faso. See, Tuck, Christopher. "Every Car of Moving Object Gone" *The ECOMOG Intervention in Liberia*. African Studies Quarterly, Volume 4, Issue 1, Spring 2000. Available at <http://asq.africa.ufl.edu/files/ASQ-Vol-4-Issue-1-Tuck.pdf>

⁴⁸ Howe, Herbert. *Lessons of Liberia: ECOMOG and Regional Peacekeeping*. International Security. Vol. 21, No. 3 (1996 – 1997), pp. 145 – 176.

through exit strategy. The force must also strategically deal with the fact that stabilisation and peace will not be in the interest of the key actors currently benefitting from the lack of law and order and who wield significant power. In addition, the AU will have to be mindful of the high costs involved in such an intervention and the prospects that it may be a long-haul affair. The fact that the AU does not have a wealth of resources to its availability, the intervention force must have the backing of the broader international community including the United Nations.

3) Do not leave security vacuums: Further lessons from peacekeeping in the DR Congo teach us that military operations must be very careful to not leave security vacuums by focusing on specific geographical areas because these vacuums will quickly be filled by other groups.⁴⁹ This lesson is especially relevant given the plethora of armed groups and militias in South Sudan, the vast size of the country, the expected geographical focus of the intervention force, and the limited patrols by UNMISS.

4) Have joint planning and equip the force to meet the task at hand: The collaboration with the UN never materialised as the ECOMOG forces were downsized and handed over to the UN Mission in Sierra Leone (UNAMSIL) in 2000 who essentially inherited its task. The UNAMSIL forces however, were deployed under a different mandate, with different objectives and different Rules of Engagement than the ECOMOG forces. The lack of joint planning put the UNAMSIL in a position that it did not have the forces and resources needed to carry out its mandate. The Mission was ill-equipped to deal with crises as was evident from the hostage-taking of 500 incoming peacekeepers by the Taylor-backed Revolutionary United Front (RUF).⁵⁰ In order to prevent a similar situation, the incoming force must be strong enough to deter both the SPLA and SPLM-IO as well as any other armed groups from fighting and targeting civilians.

The FIB worked as part of a large peacekeeping mission, in collaboration with the Congolese army and with political backing from the Congolese government. In contrast, it is possible that the envisioned regional protection force will be received with hostilities from the SPLA and welcomed by the SPLM-IO whose forces are assumingly still under Riek Machar's control. The protection force will have to remain neutral in its operations to be able to enforce peace in South Sudan whilst at the same time, the force needs to be equipped to engage in active combat with one or both of the parties.

5) Only deploy after thorough preparation: ECOMOG's mission teaches us the importance of serious preparation. Although a third party force is required in Juba urgently, careful thought must be given to the preparations. ECOMOG overestimated its capacity to resolve the conflict in Liberia and lacked the financial, material and personnel resources (a maximum of 12,500 and sometimes as low as 2,700) as well as the logistical means needed for a successful peace enforcement mission in a country like Liberia. The additional lack of an effective joint command and strong administrative and intelligence capacities, put ECOMOG in a position to rely heavily on anti-Taylor factions who were unreliable and implicated in grave human rights violations. Moreover, significant delays in payment of ECOMOG's soldiers' salaries lead to allegations of looting of humanitarian provisions as well as other criminal activities.⁵¹ This teaches us valuable lessons of the importance of regional forces being adequately prepared and equipped, with strong intelligence and logistical back-up, to successfully carry out a peace enforcement mandate. The command over the forces should be centralised, minimising

⁴⁹ *Stabilization in Eastern and Central Africa: Insights from Somalia, South Sudan and the DRC*. 2014. Conference Report by the Rift Valley Institute.

⁵⁰ "Re-hatting" ECOWAS forces as UN Peacekeepers: Lessons Learned. August 2005. Report of the Workshop on Lessons from ECOWAS Peacekeeping Operations 1990 – 2004: Towards An Action Agenda for Implementation. 10 – 11 February 2005. Accra, Ghana. Available at <http://www.un.org/en/peacekeeping/sites/coe/referencedocuments/ECOWAS%20Rehatting.pdf>

⁵¹ Howe, Herbert. *Lessons of Liberia: ECOMOG and Regional Peacekeeping*. International Security. Vol. 21, No. 3 (1996 – 1997), pp. 145 – 176.

influences by major contributors. If not well prepared with a clear mandate and structured command and control structure, the force should not enter a peace enforcement context.

6) The legal status of the force must not be a threat to civilian life: The AU, IGAD and the United States of America have proposed that the regional protection force for South Sudan will be modelled on the FIB and has proposed that it be embedded in UNMISS. A serious legal ramification of the FIB's robust mandate and its active engagement in combat, was that it could be considered a party to the conflict under international humanitarian law. Due to its embeddedness in MONUSCO, the consequences are that MONUSCO, both military and civilian staff, would lose their protected status under humanitarian law and be considered a legitimate target in the conflict as well as liable for prosecution.⁵² The UN Mission in South Sudan has already suffered from attacks by armed forces. Making it a legitimate target would open doors to further attacks endangering its personnel. This may result in a further lack of willingness of troops to actively protect, possibly even the withdrawal of troops. The UN bases can then be categorised as military targets further endangering the thousands of civilians seeking its protection all over the country. Thousands could lose their lives as collateral damage. A worst-case scenario could lead to a situation in which the opposite of the intended objective and purpose of the intervention would become reality: further hostilities against and loss of civilian lives. This is a serious and realistic concern in the context of South Sudan and should be considered with utmost care. It may be a better modality to permit the regional protection force to operate outside of the UNMISS infrastructure, though careful thought would need to be given to an effective coordination structure, support to logistics as well as command and control arrangements.

2.2.4 The need for well-prepared humanitarian intervention in South Sudan

To return to the perceived tension between the principles underlying the protection of human rights on the one hand and the principles of sovereignty and non-intervention on the other hand, the following can be concluded. The two concepts of sovereignty and the responsibility to protect are, in fact, complementary rather than contradictory. Sovereignty contains an obligation for the government to respect and protect its own people. If the state engages in, commits or fails to protect its population from grave atrocities, it forfeits part of its sovereignty, triggering the international community's responsibility to protect. South Sudan is a state that has abused its sovereignty by targeting the very citizens it has the responsibility to protect. As such, it has made itself liable to humanitarian intervention grounded in the doctrine of responsibility to protect.

The TJWG has reviewed options that can be taken in support of stability and peace. The most feasible ways forward include an immediate, meticulously monitored and heavily enforced arms embargo and the deployment of the regional protection force. Although it is proposed to be embedded in UNMISS, this modality must be carefully assessed in light of the recent and deliberate attacks on the UN and the consequences of an actively combatting intervention force on the legal status of UNMISS, and the threat it poses to the civilian population. The intervention force for South Sudan must be deployed with very realistic and achievable goals and be fully supported in terms of mandate and resources. Realism dictates caution against expectations that a peace enforcement mission will enforce a lasting peace. Lasting peace can only be achieved by the parties themselves. Fighting will only stop if the two sides want it to. South Sudan must reach a phase where peace is in the personal interest of those in power as well as in the interest of their constituencies. We must not expect that the regional protection force will bring this kind of peace. Rather, what it can do is to protect the population from further atrocities, secure strategic areas in the country, disarm groups and demilitarise specific areas, and create an environment where the conflicting parties can resume political dialogue.

⁵² Sheeran, Scott and Case, Stephanie. *The Intervention Brigade: Legal Issues for the UN in the Democratic Republic of Congo*. November 2014. International Peace Institute. Available at https://www.ipinst.org/wp-content/uploads/publications/ipi_e_pub_legal_issues_drc_brigade.pdf

3. RECOMMENDATIONS

South Sudan has experienced decades of war and as a result, many layers and factors drive the current conflict. Intervening in such a complex and fluid environment must be done with due regard to the particularities and political currents that shape the context. Care must be taken at all times to ensure that any intervention does not do more harm than good. The Transitional Justice Working Group hopes that this paper has stimulated policy and decision-makers to carefully analyse the situation and it offers the following recommendations.

3.1 To the SPLM, the SPLM-IO and their affiliates:

- Cease all hostilities immediately, genuinely recommit to the full implementation of the ARCSS;
- Guarantee unrestricted access and safe passage to all humanitarian actors and allow the normal operation of the UN, JMEC, (I)NGOs, companies and all diplomatic missions in South Sudan;
- To the SPLM/Government to guarantee a safe return for Riek Machar to Juba and for Riek Machar to return to Juba and take up his position in the TGoNU;
- At minimum, adhere to the security provisions in the ARCSS and the security workshop held in Addis Ababa on 13 – 18 September, 2015, and confine the soldiers to the cantonment sites;
- Preferably, fully demilitarise all major cities and permit third party forces to provide security and prepare the Joint Integrated Police (JIP) to take over;
- Allow the Cease-fire and Transitional Security Arrangements Monitoring Mechanism (CTSSAM) full access to all sites and locations to verify the status of demilitarisation;
- Collaborate with the church leaders to assign chaplains to the SPLA, SPLM-IO forces and the JIP to promote peace and build trust;
- Collaborate with civil society and faith-based institutions to promote gender-sensitive reconciliation and healing, and support national peace sensitisation initiatives with aim of restoring confidence in the peace process;
- Restore stability and commit to a conducive environment for transitional justice processes in which victims, survivors and witnesses are protected and particular attention is given to the needs of women and children. Commit to and commence with the establishment of the Commission for Truth Reconciliation and Healing (CTRH). Ensure that all violations are investigated and perpetrators brought to justice;
- If the President and the First Vice President are unable to resolve their differences politically and bring unity and peace to the country, they should step down and allow others to lead the country.

3.2 To the Intergovernmental Authority on Development:

- As brokers of the agreement, be more involved in the implementation of the agreement;
- Overcome any pro-Kiir / pro-Machar regional divisions that will only prolong the conflict and exacerbate the humanitarian situation in South Sudan. A stable South Sudan is in the region's political and economic common interest;
- Carefully draw lessons from the Force Intervention Brigade in Democratic Republic of Congo and the ECOMOG forces;
- Swiftly, but with due regard, agree on the composition, mandate, armament, deployment timing and funding of the protection force.
- Strengthen the IGAD early warning system in South Sudan in order to prevent future outbreaks of violence;
- Once South Sudan has stabilised, support South Sudan to develop a socio-economic plan, strengthen trade relations with the aim to decrease South Sudan's dependency on imports.

3.3 To the African Union:

- Continue with the design of the Hybrid Court for South Sudan and actively request input from South Sudanese civil society, communities and other actors;
- Continue to use political pressure in support of peace in South Sudan.

3.4 To the United Nations:

- Impose an immediate arms embargo on South Sudan with a strong monitoring framework and serious repercussions for violations of the embargo;
- Clarify to the Troop Contributing Countries (TCCs) that UNMISS is fully mandated under Chapter VII of the UN Charter to use all means necessary to protect civilians, humanitarian personnel, UN property and personnel and urge them to act accordingly;
- Equip UNMISS with the military (human and equipment) resources to carry out its mandate such as attack helicopters;
- Explore modalities to deploy the protection intervention force that do not take away the UNMISS's protection under international humanitarian law and thereby put an estimated 200,000 civilians at serious risk of becoming collateral damage;
- Equip the regional protection force with a strong enough mandate to enforce peace in the event that conflict erupts again and with enough arms to carry out this mandate;
- Mandate the regional protection force to pro-actively protect women and children against sexual and gender-based violence and support South Sudanese law enforcers to arrest suspects of sexual and gender-based violence;
- Ensure that the regional protection force includes female soldiers and train all soldiers in gender-sensitivity. Ensure that the forces clearly understand what is expected of them;
- Continue the provision of technical assistance to the African Union to design the Hybrid Court for South Sudan and actively consult with South Sudanese stakeholders;
- Once South Sudan has stabilised, focus on early recovery and support South Sudan to maximise its agricultural potential to becoming an exporting nation.

3.5 To the development partners:

- Commit funding to the South Sudan Humanitarian Response Plan and the regional protection force;
- Continue to closely monitor the implementation of the peace agreement;
- Support champions of peace in their quest for truth, justice, reconciliation and healing;
- Mobilise resources for the transitional justice initiatives;
- Engage and consult more deeply and frequently with South Sudanese civil society and other stakeholders on the design and implementation of interventions and plans.

The Transitional Justice Working Group (TJWG) is a coalition of South Sudanese civil society organisations that work together to advocate for transitional justice; ensure a strengthened civil society voice in the debates around the design and implementation of transitional justice processes; and co-ordinate a complementary civil society role within those processes, including support to the documentation of human rights violations.

For questions, please contact TJWG Coordinator Amany Joseph on tjwgsouthsudan@gmail.com / +211 955 192 468