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Human rights situations that require the Council's attention

Albania,* Austria, Bulgaria, Canada,* Finland,* Germany, Liechtenstein,* Monaco,* Netherlands, Sweden,* Switzerland* and United Kingdom of Great Britain and Northern Ireland*: draft resolution

43/... Situation of human rights in South Sudan

The Human Rights Council,

Guided by the purposes and principles of the Charter of the United Nations,

Guided also by the Universal Declaration of Human Rights, the African Charter on Human and Peoples' Rights and relevant human rights treaties,

Reaffirming that all human beings are born free and equal in dignity and rights, and that everyone is entitled to all the rights and freedoms set forth in the Universal Declaration of Human Rights,

Recalling Human Rights Council resolutions 34/25 of 24 March 2017, 37/31 of 23 March 2018 and 40/19 of 22 March 2019, the twenty-sixth special session of the Council, including its resolution S-26/1 of 14 December 2016, and its resolution 31/20 of 23 March 2016, in which the Council established the Commission on Human Rights in South Sudan, and all other previous Human Rights Council and Security Council resolutions and President's statements on South Sudan,

Noting all relevant decisions and communiqués of the African Union and the Intergovernmental Authority on Development, and the communiqués of the Peace and Security Council of the African Union of 14 November 2019 and 27 January 2020, in which the Council, inter alia, re-emphasized its request to the Government of South Sudan and the African Union Commission to accelerate the establishment of all transitional justice mechanisms as provided for in the Revitalized Agreement on the Resolution of the Conflict in the Republic of South Sudan, including the hybrid court for South Sudan, the commission for truth, reconciliation and healing and the compensation and reparation authority,

Emphasizing that States have the primary responsibility for the promotion and protection of human rights, and recalling that the Government of South Sudan has the responsibility to protect all of its population in the country from genocide, war crimes, ethnic cleansing and crimes against humanity,

Emphasizing also the importance of good governance and the rule of law as key elements of conflict prevention, peacekeeping, conflict resolution and peacebuilding, and stressing the responsibility of the Government of South Sudan to promote and protect

* State not a member of the Human Rights Council.



democratic and civic space in South Sudan, including through freedom of expression, of peaceful assembly and of association, and by preventing attacks on and harassment of journalists, media workers, civil society groups and human rights defenders, in the interest of fostering an open and inclusive political environment that supports sustainable peace,

Recognizing that transitional justice mechanisms are important elements in a national reconciliation process, as they, inter alia, address accountability, reparations, truth-seeking and guarantees of non-recurrence, emphasizing the importance of the agreed principles for transitional justice and the establishment of the hybrid court for South Sudan, the commission for truth, reconciliation and healing and the compensation and reparation authority, as outlined in chapter V of the Revitalized Agreement, and underlining the role that domestic, regional and international accountability mechanisms can play in assisting South Sudan to ensure accountability,

1. *Welcomes* the formation of the Revitalized Transitional Government of National Unity, and recognizes that this represents a significant opportunity for peace, stability and sustainable improvement to the situation in South Sudan through, inter alia, the implementation of the commitments and obligations of South Sudan in respect of international human rights law and international humanitarian law;

2. *Also welcomes* the Rome Declaration on the Peace Process in South Sudan of 12 January 2020, in which signatories recommitted to the Agreement on Cessation of Hostilities, Protection of Civilians and Humanitarian Access of 21 December 2017, while expressing concern at the ongoing violations of the permanent ceasefire and urging all parties to the conflict to fully respect it;

3. *Stresses* that States have the primary responsibility for the promotion and protection of human rights, including to prevent reoccurrence of human rights violations and to provide an effective remedy for victims of such violations, and recalls that the Government of South Sudan has the responsibility to protect all of its population in the country from any violations that may amount to crimes against international law, including war crimes and crimes against humanity;

4. *Urges* the Revitalized Transitional Government of National Unity to address the previous and current findings of the Commission on Human Rights in South Sudan, which include economic crimes, such as tax evasion, money laundering and bribery; the recruitment and use of children in armed conflict; localized conflict characterized by killings, the abduction, torture and displacement of people and the looting and destruction of property; the use of starvation as a method of warfare; the denial of humanitarian access and attacks on civilian infrastructure, and violence against and intimidation of civil society, human rights defenders, humanitarian personnel and journalists; and sexual and gender-based violence, including rape, gang rape, sexual mutilation, forced marriage, abduction and sexualized torture;

5. *Stresses* that those responsible for violations and abuses of human rights and violations of international humanitarian law, including any that amount to war crimes or crimes against humanity, should be held accountable while affording fair trial protections to the accused, supporting victims and protecting potential witnesses before, during and after legal proceedings;

6. *Recognizes* the political will of the Revitalized Transitional Government of National Unity to promote and protect human rights and its desire for tangible progress and for the prevention of any recurrence of human rights violations and abuses;

7. *Welcomes* the signing on 7 February 2020 of the Comprehensive Action Plan to End and Prevent All Grave Violations against Children by the Government of South Sudan and the armed groups signatory to the Revitalized Agreement on the Resolution of the Conflict in the Republic of South Sudan, and urges all parties to the Action Plan to take immediate and effective steps towards its implementation, including by releasing all children that have been recruited and abducted;

8. *Also welcomes* the action plan on gender-based violence signed on 14 March 2019;

9. *Acknowledges* that demonstrable progress in key human rights issues of concern are critical to any future change to the mandate of the Commission on Human Rights in South Sudan;

10. *Urges* the Revitalized Transitional Government of National Unity, when finalized, to establish all transitional institutions, including the hybrid court for South Sudan, the commission for truth, reconciliation and healing and the compensation and reparation authority, in accordance with the procedures outlined in the Revitalized Agreement;

11. *Recognizes* the importance of an inclusive process for national dialogue and the implementation of the Revitalized Agreement, and urges all parties and international partners to engage constructively with the African Union Commission, the African Union High Representative for South Sudan and the institutions created pursuant to the Revitalized Agreement;

12. *Stresses* the need for the effective and meaningful participation of women during all stages and in all structures envisaged in the Revitalized Agreement, and for all parties to the Agreement to meet their commitments regarding women's representation and to have regard to the need to ensure balance in the representation of youth, gender and national and regional diversity in their appointments;

13. *Calls upon* the Revitalized Transitional Government of National Unity to allow and facilitate, in line with United Nations guiding principles of humanitarian assistance, the full, safe, rapid and unhindered access of relief personnel, equipment and supplies free of unnecessary duties and taxes to all those in need, in particular to the 1.67 million internally displaced persons and 6.35 million people who are food insecure;

14. *Recognizes* the important role and efforts of the Intergovernmental Authority on Development in bringing parties together to work towards a peaceful resolution to the conflict, supporting the inclusion of civil society, women and youth in the negotiations and securing the Revitalized Agreement;

15. *Also recognizes* the important role of the reconstituted Joint Monitoring and Evaluation Commission and the Ceasefire and Transitional Security Arrangements Monitoring and Verification Mechanism in supporting the implementation of the Revitalized Agreement and its ceasefire provisions, and urges all parties and international partners to engage constructively with all the bodies created pursuant to the Revitalized Agreement;

16. *Welcomes* the report of the Secretary-General on children and armed conflict,¹ while expressing grave concern at the findings of the Secretary-General in his report on children and armed conflict in South Sudan² and of the Panel of Experts on South Sudan submitted pursuant to Security Council resolution 2428 (2018) of 9 April 2019;³

17. *Also welcomes* the joint reports of the Office of the United Nations High Commissioner for Human Rights and the United Nations Mission in South Sudan entitled "Conflict-related violations and abuses in Central Equatoria: September 2018–April 2019" and "Conflict-related sexual violence in Northern Unity: September–December 2018", while deeply concerned by their findings regarding the persistence of localized conflict-related sexual violence against women and men, boys and girls, and the lack of accountability for perpetrators;

18. *Notes with appreciation* the report of the Commission on Human Rights in South Sudan,⁴ and the recommendations contained therein;

19. *Also notes with appreciation* that the Government of South Sudan has cooperated with the Office of the High Commissioner, the special procedures of the Human Rights Council and the Commission on Human Rights in South Sudan in the fulfilment of its mandate, including by authorizing travel to and within the country and providing meetings and relevant information, and calls upon the Government to cooperate fully and

¹ A/73/907–S/2019/509.

² S/2018/865.

³ S/2019/301.

⁴ A/HRC/43/56.

constructively with and to provide unhindered access to them, as well as to the United Nations Mission in South Sudan, and regional, subregional and international mechanisms on the ground;

20. *Reaffirms* the importance of the mandate of the Commission on Human Rights in South Sudan, with continued emphasis on the need to establish the facts and circumstances of alleged violations and abuses of human rights with a view to ensuring that those responsible are held to account, and welcomes the recommendations made by the Commission on ending impunity and ensuring accountability;

21. *Decides* to extend the mandate of the Commission on Human Rights in South Sudan, composed of three members, for a period of one year, renewable as authorized by the Human Rights Council, with the following mandate:

(a) To monitor and report on the situation of human rights in South Sudan, and to make recommendations to prevent deterioration of the situation with a view to its improvement;

(b) To determine and report the facts and circumstances of, to collect and preserve evidence of, and to clarify responsibility for alleged violations and abuses of human rights and related crimes, including sexual and gender-based violence and ethnic violence, with a view to ending impunity and providing accountability, and to make such information available also to all transitional justice mechanisms, including those to be established pursuant to chapter V of the Revitalized Agreement, including the hybrid court for South Sudan, once established in cooperation with the African Union;

(c) To provide guidance on transitional justice, including accountability, reconciliation and healing, as appropriate, and to make recommendations on technical assistance to the Government of South Sudan to support accountability, reconciliation and healing;

(d) To engage with the Government of South Sudan, international and regional mechanisms, including the United Nations, the United Nations Mission in South Sudan and the African Union, including by building upon the work of the African Union Commission of Inquiry on South Sudan and African Commission on Human and Peoples' Rights, the Intergovernmental Authority on Development, including the Partners Forum, the Chair of the reconstituted Joint Monitoring and Evaluation Commission and civil society, with a view to promoting accountability for human rights violations and abuses committed by all parties;

(e) To make recommendations on technical assistance and capacity-building, including to law enforcement institutions, on the promotion and protection of human rights and fundamental freedoms, including on addressing sexual and gender-based violence;

(f) To make recommendations on technical assistance and capacity building for implementation of chapter V of the Revitalized Agreement;

(g) To make recommendations on a follow-up process for the provision of technical assistance and capacity-building to South Sudan;

22. *Requests* the Commission on Human Rights in South Sudan to convene, two workshops on transitional justice, with the participation of relevant stakeholders;

23. *Also requests* the Commission on Human Rights in South Sudan to work collaboratively with the African Commission on Human and Peoples' Rights, including with the Country Rapporteur for South Sudan;

24. *Requests* the Office of the High Commissioner to provide all the administrative, technical and logistical support necessary to enable the Commission on Human Rights in South Sudan to carry out its mandate, including computer software to support the Commission's evidence collection function;

25. *Also requests* the Office of the High Commissioner to provide the Revitalized Transitional Government of National Unity with technical assistance in order to support the realization of the indicators contained in the present resolution;

26. *Requests* the Commission on Human Rights in South Sudan to present an oral update to the Human Rights Council at its forty-fifth session, including on progress made for provisions within the present resolution, during an enhanced interactive dialogue, with the participation of representatives of the African Union, and to present a comprehensive written report to the Council at its forty-sixth session during an interactive dialogue;

27. *Also requests* the Commission on Human Rights in South Sudan to submit its report and recommendations to the Human Rights Council and then to share them with the African Union and all relevant organs of the United Nations, including the United Nations Mission in South Sudan;

28. *Decides* to remain seized of the matter.
