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FROM: The Deputy Chairperson, CTSAMVM

DATE: 18 February 2022

SUBJECT: CTSAMVM REPORT 2022/05—KILLING IN NYORI REFUGEE CAMP

Dear CTSAMVM Technical Committee Senior Party Representatives,

Please find attached a report on violations of the R-ARCSS which took place in Central Equatoria State on 24 October 2021.

Please accept the assurances of my highest consideration.



Brigadier General Saeed Mohamed Alshiekh
Deputy Chairperson

Ceasefire and Transitional Security Arrangements Monitoring and Verification Mechanism

CTSAMVM REPORT 2022/05

EXECUTIVE SUMMARY

On 24 October 2021 armed soldiers from the SSPDF Mobile Force Unit at Lasu entered the UNHCR refugee camp at Nyori. One of the soldiers asked for and then aggressively demanded money from a civilian camp resident. Upon being denied this request by the resident, the soldier accused him of being a “rebel sympathiser,” threatened to arrest him, and told him he deserved to be killed.

The soldier then grabbed the camp resident’s mobile phone from a table and placed it into his own pocket, after which he (the soldier) aimed his AK-47 rifle at the resident’s leg and fired a round, resulting in a grazing wound. When the soldier aimed his rifle at the resident’s chest, the resident grabbed the barrel of the weapon to divert its aim away from himself. The two struggled over the possession of the rifle and, during this struggle, the soldier fired the weapon at least two or three times.

At the time of the weapon’s discharge, it was pointed indiscriminately at the house of Nyori Refugee Camp Chief Joseph Malis. One of the bullets entered Chief Joseph’s abdomen, causing a serious wound from which he later succumbed at Yei Hospital in Yei town.

The SSPDF is responsible for serious breaches of several provisions of the ACOH of 21 Dec 2017 and the R-ARCSS of 12 Sep 2018, specifically:

- Failing to protect the human rights of civilians and to ensure the safety and dignity of individuals and communities (ACOH, Art. 5.1; R-ARCSS, Art. 2.1.10.7.4 and 2.2.3.1)
- Attacking members of the civilian population (ACOH, Art. 6(a); R-ARCSS, Art. 2.1.10.5);
- Committing offenses against property (ACOH, Art. 6(e); R-ARCSS, Art. 2.1.1.5)
- Unlawfully entering a refugee camp (ACOH, Art. 6(g); R-ARCSS Art. 2.2.3.1)

ASSAULT AND KILLING IN NYORI REFUGEE CAMP

INTRODUCTION

1. Background: UNHCR operates the Nyori Refugee Camp, which was established in 2009 to support refugees from the DRC. The camp is occupied by refugees from DRC and South Sudanese IDPs seeking refuge from the violence and deprivation caused by the internal armed conflict in South Sudan. Security in the area has been a concern since September 2021 when the camp was attacked by NAS soldiers who looted homes, destroyed medical facilities and abducted civilians, (CTSAMVM Report 2022/01).
2. Allegation: It was alleged that on 24 October 2021 that there was a shooting incident at Nyori Refugee Camp in which the Nyori Chief was killed and a youth leader wounded by a soldier from the SSPDF Mobile Force based at Lasu Payam, Yei County, Central Equatoria State.
3. Aim: The aim of this report is to present the findings of CTSAMVM investigations into alleged or suspected violations of provisions of applicable agreements, to attribute responsibility for breaches of the agreements, and to make recommendations with regard to compliance actions that will help foster peace and reconciliation.
4. Methodology:
 - a. CTSAMVM carried out targeted monitoring at Nyori, Lasu and Yei from 25 - 28 October 2021 and follow up enquiries at Nyori on 3 February 2022.
 - b. Interviewees included:
 - i. Authorities: Yei County Commissioner;
 - ii. Victims: The civilian wounded in the shooting incident;

iii. Medical Providers:

(1) Yei County Hospital Director;

(2) Head Clinical Officer Africa Committee for the Rehabilitation of South Sudan (ACROSS);

iv. Traditional leaders: Acting Director Lasu Payam;

v. SSPDF:

(1) Commander SSPDF 1 Bde, Yei;

(2) Acting Commander SSPDF Mobile Force Unit, Lasu;

vi. UNHCR: Nyori Refugee Camp Border Monitor.

- c. The standard of proof used by CTSAMVM to determine whether there is sufficient evidence to verify that a Party is not in compliance with the provisions of the Agreements is “reasonable grounds to believe that the incident that is the subject of the investigation occurred.” This is in accordance with accepted practice for monitoring mechanisms and human-rights- and humanitarian-entities and signifies that sufficient facts and evidence have been collected to conclude that an event has occurred.

FINDINGS

5. Since the NAS attack on 22 September 2021 the SSPDF based in Lasu have provided security patrols around the Nyori Refugee Camp area. There is no marked perimeter of the camp but the camp is long established and the inhabitants are very familiar with the limits of the camp. SSPDF patrols are routinely conducted outside the refugee camp area. If for any reason soldiers need to enter the camp, then there are local arrangements for weapons to be left in the custody of the Community Policing offices located within the administration section of the camp.

The measures to control weapons at Nyori were set up between UNHCR and an NGO, the Mission to Alleviate Suffering in South Sudan (MASS). UNHCR prohibits the carriage of weapons in the Nyori Refugee Camp, but signage is poor. Some SSPDF soldiers adhere to the weapon-control policy and leave weapons in the custody of the Community Policing offices. Unfortunately, some blatantly ignore the policy, and camp administrators raised this as a concern with CTSAMVM.

6. On Sunday, 24 October 2021, between two to four armed SSPDF soldiers entered the refugee camp. They were part of a routine patrol, but other patrol members remained outside. The soldiers retained their weapons. Two of the soldiers were identified as Lance Corporal (LCpl) Chep and Private (Pvt) Atiyan. Witnesses stated that the soldiers were drunk. The soldiers approached Mr. Sam Allora in the vicinity of the camp market, which is open for business on Sundays. Mr. Allora was known to LCpl Chep, who proceeded to ask for money from Mr. Allora. When camp-resident Allora responded that he had no money at the moment, LCpl Chep became aggressive and violent in comportment, threatening to arrest Sam Allora and accusing him of providing support to “rebels” and of being a “NAS rebel sympathiser.” Further, LCpl Chep continued to threaten Allora by asserting that many soldiers had been killed by local residents and that, therefore, Allora deserved to be killed as well. LCpl Chep then grabbed Allora’s mobile phone from a nearby table, placed it into his own pocket and refused to return it to Allora. LCpl Chep then threatened to shoot Allora and aimed his rifle at Allora’s leg. When Allora pulled his leg away, LCpl Chep fired a round from the rifle that grazed Allora’s leg, causing him injury. LCpl Chep next aimed his weapon at Allora’s chest. Allora immediately grabbed the barrel of the rifle to attempt to divert its aim from himself, whilst LCpl Chen retained control of the rifle’s trigger. As the two struggled, LCpl Chep fired one to three rounds – at this time, the barrel of the rifle was indiscriminately aimed at the house of Nyori Refugee Cano Chief Joseph Malis, who was in his home at that moment. One of the bullets fired from LCpl Chep’s AK-47 hit Chief Joseph in the abdomen, causing serious injury which ultimately – at Yei Hospital later that evening – caused his demise.

7. The shooting was reported to the SSPDF Mobile Force Unit in Lasu, which dispatched a vehicle to evacuate the wounded civilians to Yei Hospital. They also rendered first aid until the casualty evacuation was completed.
8. The injuries sustained by Mr. Malis were severe and while undergoing treatment at Yei hospital he died. Mr. Allora was treated for minor injuries on his right leg and was subsequently released. LCpl Chep later returned to the SSPDF camp at Lasu where he was promptly arrested. SSPDF officers indicate he will be charged at a General Court-Martial at Yei.
9. CTSAMVM interviewed Brig Gen. John Lual, Commander, SSPDF Bde 1, who confirmed that a soldier from the Lasu SSPDF Mobile unit had gone to the Nyori Refugee Camp, where he had argument with some civilians in the camp. He stated that the soldier had earlier been accused of forcibly taking items/property from the camp inhabitants. This indicates that such activity was not an isolated incident.

ASSESSMENT

10. The death of Nyori Refugee Camp Chief Mr. Joseph Malis resulted from the criminal actions of an SSPDF soldier present within the Nyori Refugee Camp in an unauthorized status.
11. Mr. Malis was killed because SSPDF soldiers entered the refugee camp with weapons which should have been in safe custody and, exploiting the opportunity of being within the refugee camp armed, one of those soldiers assaulted, stole a mobile phone, and attempted to steal cash from one of the refugee-camp residents. In the process of this assault and robbery and attempted robbery, he discharged his AK-47 rifle at least twice.
12. The SSPDF soldier who perpetrated the series of assaults, the robbery and attempted robbery, and the shooting that resulted in the injury to one refugee-camp resident and the death of another was clearly engaged in activity on refugee-camp premises that was wholly distinct from and unrelated to any legitimate patrolling or security-related activity.

13. The perpetrator engaged in criminal behaviour by assaulting a refugee-camp resident both by pointing his AK-47 rifle at him and by purposely shooting him in the leg and then pointing the weapon at his chest, as well as by stealing that refugee-camp resident's mobile phone and attempting to deprive that refugee-camp resident of any cash he might have on his person. The evidence obtained by CTSAMVM indicates that the soldier aimed and purposely fired his AK-47 rifle at camp-resident Sam Allora's leg, the bullet grazing Allora's leg. Upon realizing that he had only grazed Allora's leg, the SSPDF soldier aimed his AK-47 rifle at Allora's chest. This constitutes a separate, completed assault (i.e. the aiming of the weapon at the victim's chest).
14. The perpetrator, SSPDF LCpl Chep, was responsible for the death of Mr Joseph Malis.
15. The perpetrator attempted robbery because his intent at the time he raised his rifle was to take money from the refugee-camp resident that did not belong to him, the perpetrator/SSPDF-soldier. The perpetrator also took the phone belonging to Mr Sam Allora and placed it in his pocket. This latter act constitutes a completed robbery, and not merely an "Attempt," as there was a successful "taking" by assailant SSPDF soldier LCpl Chep of victim Sam Allora's mobile phone.)
16. SSPDF have clearly accepted responsibility for LCpl Chep and his actions at the Refugee Camp. Commander Bde 1 informed CTSAMVM that the soldier was being detained in custody at SSPDF 1 Bde HQ in Yei and would appear before a court-martial "for the crimes he had committed against civilians" in the Nyori Refugee Camp.
17. SSPDF routinely enter the refugee camp at Nyori. Article 2.2.3.1 of the R-ARCSS requires the demilitarization of "civilian areas." The Article expressly includes facilities such as the Nyori Refugee Camp.
18. The SSPDF soldier who fired the rounds that resulted in injury to one civilian refugee-camp resident and death of another committed several criminal offenses

under South Sudanese law, specifically the South Sudan Penal Code, during the course of the incident.

CONCLUSIONS

19. SSPDF soldiers who were reported to be drunk entered Nyori Refugee Camp, a civilian area that the R-ARCSS expressly requires to be demilitarised.

20. The SSPDF is responsible for serious breaches of several provisions of the ACOH of 21 Dec 2017 and the R-ARCSS of 12 Sep 2018, including the following;

- a. Failing to protect the human rights of civilians and to ensure the safety and dignity of individuals and communities (ACOH, Art. 5.1; R-ARCSS, Art. 2.1.10.7.4 and 2.2.3.1)
- b. Attacking members of the civilian population (ACOH, Art. 6(a); R-ARCSS, Art. 2.1.10.5)
- c. Committing offenses against property (ACOH, Art. 6(e); R-ARCSS, Art. 2.1.1.5)
- d. Unlawfully entering a refugee camp (ACOH, Art. 6(g); R-ARCSS Art. 2.2.3.1)

21. The behaviour of the SSPDF soldiers in the Nyori Refugee Camp indicates that they were poorly trained, ill disciplined, badly led, and unaware of their responsibilities to protect civilians. The soldiers paid no attention to local prohibitions on the carriage of weapons in the refugee camp.

22. While the local commander took commendable action in response to the incidents in Nyori, it is clear that the appropriate training, command and control procedures and community liaison to support security patrols had not been enacted.

23. Activities and behaviour of SSPDF soldiers continues to evidence the fact that the SSPDF/Government has ignored and continues to ignore the requirement within both the ACOH and the R-ARCSS to “ensure that its affiliates and all forces or armed groups under its command and control at all times observe the Agreement, particularly the provisions on prohibited acts. This requires all parties to educate and train their forces on the obligations and prohibitions set forth in the provisions of the Agreement and to hold them accountable for breaches of those requirements.

Observations and Recommendations

24. The commander of the SSPDF unit to which the soldier responsible for the above crimes in the Nyori Refugee Camp belongs should be commended for rendering immediate first aid and evacuation to the casualties, taking responsibility for the action of LCpl Chep and ensuring the prompt arrest and detention of the perpetrator.

25. If there is a necessity to conduct security patrols of the area near to or within which the Nyori Refugee Camp is located, it is advisable that:

- a. Plans for such patrols should be carefully considered and discussed with the following:
 - i. The Central Equatoria state security committee or similar county mechanism.
 - ii. Local political leaders such as the County Commissioner and Payam Administrator.
 - iii. Local Traditional Leaders such as the Paramount Chief and Sub Chiefs.
 - iv. The UNHCR officials that oversee operation of the Nyori Refugee Camp.

- v. The Chief Commissioner of the Yei SSNPS (South Sudan National Police Service) and any of his subordinate officers with responsibilities in the area within which the Nyori Refugee Camp is located.
 - vi. Commanders of SSPDF and any SPLM/A-IO units in the area.
 - vii. The JDB (Joint Defence Board), which is responsible for exercising command and control over all forces.
- b. Any plans for patrolling near to or within a civilian area such as a Refugee Camp, IDP Camp, or Protection of Civilian Site should consider including:
- i. The composition of such patrols (including leadership). Consideration should be given to include SSNPS representatives as a standard operating procedure.
 - ii. Under what circumstances, if any, should a patrol enter into or onto a facility's grounds. , to include but not limited to defining the purpose of entering the area, defining the area permitted to be visited, defining the issues to be addressed, and the persons who may be addressed.
 - iii. Measures to prevent military personnel from entering such civilian areas with weapons.
 - iv. Determining the minimum rank of an Officer or Non-Commissioned Officer needed to accompany soldiers that might be permitted to enter such areas.

26. UNHCR should be encouraged to improve the signage at key points in the Nyori refugee camp area, especially at entry points, to remind all visitors that weapons are prohibited.

27. All Party-Signatories should inform the CTSAMVM what they have done, are doing, and/or will do to “ensure compliance of their forces” with the requirements of the Agreements