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From: The Chairperson, CTSAMVM

Date: 23 May 2022

SUBJECT: CTSAMVM REPORT 2022/12 – VIOLATIONS AGAINST CIVILIANS INCLUDING SGBV IN ABEGI SUB-BOMA, WOTOGO BOMA, YEI RIVER COUNTY IN CENTRAL EQUATORIA STATE

Please find attached a report on violations of the R-ARCSS which took place in Pakakule village, Abegi Sub-Boma, Wotogo Boma of Otogo Payam, Yei River County in Central Equatoria State on 26 February 2022 and 06 March 2022 respectively.

Please accept the assurances of my highest consideration.

Lt Gen Asrat Denero Amad
Chairperson CTSAMVM



CTSAMVM REPORT 2022/12
VIOLATIONS AGAINST CIVILIANS INCLUDING SGBV IN CENTRAL
EQUATORIA STATE

EXECUTIVE SUMMARY

CTSAMVM was made aware of and investigated one case of rape against an elderly disabled woman perpetrated by one SSPDF soldier in Wotogo Boma, Otogo Payam, Yei River County on 26 Feb 2022.

The second case is the arrest and detention of civilians including a pregnant woman perpetrated by the SSPDF Mobile Force Unit at Abegi Barracks.

Following the incidents of beating civilians, arresting civilians, looting property and raping an elderly disabled woman which took place in Wotogo Boma, the SSPDF arrested 16 soldiers including the commanders of the Mobile Unit.


It is the conclusion of this CTSAMVM investigation that Mr Karasvino Luate and Moses Lasu have been unlawfully detained for more than two months in SSPDF Yei Barracks, as they have not been charged in any Court of law and neither have they been handed over to Police to be held in civil prison as per the requirement of the law. CTSAMVM further concludes that by failing to protect civilians (especially women and girls), and by failing to control their soldiers and thus they commit rape, the SSPDF has acted in violation of articles 3(2)(g), 5 (2)(a), 5(3) and 6(b) of the ACOH of 21 December 2017, and articles 2.1.10.2, 2.1.10.5, 2.1.10.7.1 and 2.1.10.7.5 of the R-ARCSS of 12 September 2018.



VIOLATIONS AGAINST CIVILIANS INCLUDING SGBV IN CENTRAL EQUATORIA STATE

INTRODUCTION

1. Background

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- a. In December 2020, CTSAMVM published a report (2020/09) on SGBV trends, which suggested that SGBV cases perpetrated by military personnel had reduced since the signing of the R-ARCSS, and that there was evidence that the Parties were increasingly accepting responsibility for the actions of their soldiers and holding those involved accountable for their actions.
 - b. However, violence against civilians including SGBV by military personnel remains a serious challenge in Southern Central Equatoria State. Since the signing of the R-ARCSS, CTSAMVM has so far reported 12 cases of rape/SGBV in the area, 9 of which were attributed to the SSPDF.
 - c. The situation seemed to have improved until recently in February/March 2022 when CTSAMVM received information about the arrest and detention of civilians and rape of an elderly disabled woman both of which involved SSPDF soldiers of Abegi Barracks in Yei River County, Central Equatoria State.

2. Incidents:

- a. This report covers two incidents:
 - i. Incident 1: The arrest of eight (8) civilians including a pregnant woman from Pakakule Village, Abegi Sub Boma, Wotogo Boma, Otogo Payam, Yei river County on 26 Feb 2022.

- ii. Incident 2: The rape of an elderly disabled woman at her house in Pakakule village, Abegi Sub-Boma, Wotogo Boma of Otego Payam, Yei River County on 06 March 2022.
 - b. All incidents involved armed and uniformed SSPDF soldiers.
 - c. After the two incidents, 16 SSPDF soldiers were arrested and are to face Court Martial in Yei.
3. Aim: The aim of this report is to present the findings of CTSAMVM investigations into alleged or suspected violations of provisions of R-ARCSS and ACoH, attribute responsibility for breaches where applicable and to make recommendations with regard to compliance actions that will help foster peace and reconciliation.
4. Methodology:
- a. The investigations were undertaken with the full participation of CTSAMVM National Monitors and discussed at the JMCO. CTSAMVM interviewed a wide range of witnesses as follows:
 - i. Incident 1: CTSAMVM interviewed a wide range of witnesses who were directly connected to and those relevant to the alleged incident. The team visited the ECSS IDP Camp (with IDPs from Abegi & Nyarju Sub Bomas), SSPDF Barracks in Abegi Sub-Boma and Gimunu Boma, of Yei Payam in Yei River County. Meetings were held with Yei County Paramount Chief, Mr. Joseph Brown Luware, SSPDF 1 Bde Intelligence Officer Major John Bulu, SSPDF Abegi Barracks Commander, Major James Oga, Secretary of Wotogo Boma, Mr. Amule Samuel, the Abegi Sub Boma Chief, Mr Michael Lomure; Abegi Sub Boma Youth Leader, Mr. Peter Tonga. CTSAMVM also made engagements with SSPDF 1 Bde Intelligence Officer, SSPDF Unit Commander at Abegi Barracks,

Chief of Abegi Sub Boma and Secretary of Wotogo Boma, Otego Payam.

- ii. Incident 2: In the process of investigating the incident, the team conducted Short Duration Patrols and made face-to-face interviews with persons directly connected and those relevant to the alleged incident. The MVT visited the, SSPDF 1 Bde Ground Forces HQs, Yei County, and had engagements with SSPDF Commanders, the Military Intelligence officer and Local Chiefs. The team held meetings with the Abegi Boma Sub-Chief, the Yei River County Paramount Chief, SSPDF Commander of Mobile Force, Deputy Chairperson of Episcopal Church of South Sudan (ECSS) IDP Camp, Youth leader of Abegi Sub-Boma, an official working with an NGO in the area, the women representative of Abegi Boma, Abegi youth leader, Yei Civil Hospital one stop Centre coordinator department of SGBV, Secretary of Wotogo Boma, Wotogo Boma Executive Chief, SSPDF 1 Bde Intelligence Officer and the rape victim in Hai-Peace area Yei Payam.
- b. 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. Incident 1:
 - a. On the morning of 25 Feb 2022, an SSPDF soldier by the name Sgt Manyeil Ajai went to the nearby villages in search of foodstuffs from the community, he disappeared and did not return to his duty station at SSPDF Abegi Barracks, in Abegi Sub Boma.

- b. The said soldier was last seen alive in the company of 3 persons from Pakakule village of Abegi Sub Boma. The three persons are Mr. Karasvino Luate, Mr. Moses Lasu and Mr. Alberto Lubari Tomas. They were seen taking alcohol at Mr. Alberto Lubari's home in Pakakule village until sunset on 25 Feb 2022. Thereafter, Mr. Alberto Lubari accompanied the soldier to the Yei-Lasu main road which is about 3.5 kms from Pakakule Village.
- c. At around mid-night of 25 Feb 22, four gunshots were heard from the direction of Yembe Bridge, located along Yei – Lasu road about 1.5 Kms North East of SSPDF Abegi Barracks.
- d. Early the next morning of 26 Feb 2022, a group of SSPDF Soldiers from Abegi Barracks went to Yembe and after searching the area, they saw signs of wrestling with scattered foodstuffs on the ground suspected to be those collected by the missing soldier at a place about 200 meters from Yembe Bridge. However, the soldiers couldn't get any clues leading them to whereabouts of Sgt. Manyeil.
- e. The SSPDF soldiers went to Pakakule village where Sgt. Manyeil was last seen taking alcohol and arrested eight (8) civilians including a pregnant woman who is Mr. Alberto Lubari's (prime suspect) wife.
- f. After interrogation, six (6) of the arrested 8 people were released on 28 Feb 22, while the remaining two (2) persons namely Mr. Karasvino Luate Mineri and Mr. Moses Lasu Alex were accused of the disappearance of the SSPDF soldier, Sgt Manyeil Ajai. They were detained at SSPDF Abegi Barracks, from where they were later transferred to SSPDF 1 Bde HQ in Yei town.
- g. After several days of searching for the missing soldier, one SSPDF soldier going to Lutaya Market on 3 March 22, noticed a dead body dumped under Yembe Bridge on Yei – Lasu road after sensing a bad smell while crossing the bridge. He immediately informed SSPDF Abegi Barracks, who then sent a

group of soldiers to the area and pulled out a decomposing body from Yembe stream, identifying it as the body of Sgt Manyeil.

- h. The Medical Officer of SSPDF Abegi Barracks, Sgt Maj John Lukolalyo confirmed to CTSAMVM that Sgt Manyiel's death was caused by gunfire, after being shot two bullets in the back from a very short distance.
- i. SSPDF Abegi Soldiers forced about six (6) male civilians to carry the dead decomposing body to their Barracks in Abegi, where he was later buried. Abegi soldiers severally invaded Abegi Community and harassed civilians, looted their properties.
- j. All witnesses stated that the prime suspect in the murder of Sgt Manyeil Ajai is Mr Alberto Lubari Tomas who is on the run and suspected to be hiding in DRC Refugee camps. At the time of writing this report, Mr. Karasvino Luate and Moses Lasu were still being held at SSPDF 1 Bde HQs in Yei. The Abegi SSPDF soldiers demanded for blood compensation of Sgt Manyeil before the two can regain their freedom.

5. Incident 2:

- a. The victim, who is an elderly disabled woman was raped according to Yei Civil Hospital Examination Report. Unfortunately, the case was not reported to any police station and hence the victim didn't get police criminal form No 8.
- b. The rape incident occurred on 06 March 2022 at about 2100 hrs in the victim's house in Pakakule village, Abegi Sub Boma, Wotogo Boma, of Otogo Payam, Yei River County of Central Equatoria State.
- c. On 06 March 22, SSPDF soldiers of Abegi barracks stormed Abegi Sub-Boma, of Wotogo Payam, arrested and beat up civilians, looted property following the death of their colleague who was discovered dead after he had gone missing for six days.

- d. On the fateful day (6 Mar 22), 6 SSPDF soldiers entered into Mr. Alberto Lubari's (the prime suspect in the killing of SSPDF soldier) house and found his mother (rape victim), an elderly disabled woman who was staying alone at home. They asked her why she was still in the village while other people had left the village. She replied that, "I am sick and disabled and I have no one to help me to move, so that is why am still here in the house".
- e. In the statement recorded from the victim, it is stated that, **".....the soldiers then left her but one of them later came back to her house at 2100hrs and asked her to come out of the house, she declined telling him it was late and she could not move because she was sick. She further said that the soldier insisted and pointed a gun at her while his face was masked up with a cloth and he pulled her mattress and threw it outside and forced her outside, where he then picked a polythene bag wrapped around his penis, raped her, and then left"**.
- f. Being alone in the house and disabled, the victim couldn't immediately report the case to the police or any other appropriate authorities. After staying for four days, on 10 Mar 2022, she crawled to the secretary's house one Mr. Amule Samuel where she narrated to him what had happened to her and then Mr. Amule Samuel facilitated her travel to ECSS IDP Camp in Yei town.
- g. When the ECSS IDP Camp Deputy Chairperson got to know, he immediately communicated with an NGO staff, who then took the victim to Yei Civil Hospital where she was given medication and counselling services.
- h. The place where the woman was raped, i.e. Pakakule village in Abegi Sub Boma, Wotogo Boma of Ootogo payam falls under the area of responsibility of the SSPDF Mobile Unit currently based at Abegi Barracks which is responsible for providing security and protection to the civilian community.
- i. The victim is an elderly disabled widow with a son named Mr. Alberto Lubari Tomas who is 35 years old with whom they used to live in Pakakule village.

The son is the prime suspect in the killing of an SSPDF soldier who suddenly disappeared and the mother does not know his whereabouts.

- j. Before raping the victim, the armed soldier, asked her the whereabouts of her son to imply that he is the one who killed the SSPDF soldier, and then he (the soldier) threatened to kill the victim if she did not comply with his orders.
- k. All the statements provided by the witnesses indicate that the rape incident was in revenge for the death of the SSPDF soldier named Sgt Manyeil Ajai suspected to have been killed by Mr Alberto Lubari, (the victim's son).
- l. The prime suspect of the rape incident was Cpl Lual Deng Tonga, (as identified and confirmed by SSPDF 1Bde Intelligence Officer) who disappeared from SSPDF Abegi Barrack since the rape incident. He hid himself in the bushes until when he showed up at SSPDF Morsaq Barracks in Otogo Payam at about 0200 hrs on 11 Mar 22, in possession of his weapon. When he was stopped at the quarter guard, he defied the order to stop. Upon being warned several times, he continued moving forward and being late in the night and he could not identify himself he was shot dead. His body was picked and taken to SSPDF 1 Bde ground force HQ in Yei where he was buried.

Actions by the SSPDF:

- 6. Following the incidents of beating civilians, arresting civilians, looting property and raping an elderly disabled woman which took place in Wotogo Boma, the SSPDF arrested 16 soldiers including the commanders of the Mobile Unit as confirmed by the Military Intelligence officer of SSPDF 1Bde HQ.

ASSESSMENT

- 7. The act of invading civilian villages, harassing civilians, threatening them by shooting in the air, forcing them to carry a body of the dead soldier, beating them up and looting property by the SSPDF soldiers to the point of leaving their homes to seek refuge at ECSS IDP Camp in Yei town is illegal and against the

requirement and duty to protect civilians as per Peace Agreements, ACoH of 2017 and R-ARCSS of 2018.

8. The two civilians Mr. Karasvino Luate, and Moses Lasu are being detained by the SSPDF 1 Bde HQs in Yei County, without a court warrant, and have been unlawfully deprived of their fundamental human rights of due process before any court of law.
9. The SSPDF neither has the jurisdiction to detain nor to try civilians suspected of a civil offence. It is illegal for the SSPDF to hold these suspects for over 2 months without trial. The responsibility to arrest and prosecute civilian suspects lie with the Police hence upon arrest, the SSPDF should have handed them over to the Police for prosecution.
10. All the above actions by SSPDF constitute violation of the R-ARCSS provisions, **Articles 2.1.10.5, 2.1.10.7, 2.1.10.7.1, 2.1.10.7.4, 2.1.10.7.5** and ACoH, Protection of civilians and Humanitarian Access; **Articles 3 (1), 5 (1), 6 (a), (c), (i)** among others.
11. According to the engagements made by CTSAMVM, there is sufficient evidence to confirm that a crime of rape was committed against the victim on 06 March 2022 at about 2100 hrs by an SSPDF soldier, known as Cpl Lual Deng Tonga, and that the crime was not reported/booked at any police station but was reported to the local civil authority after four days.
12. The incident of civilian harassment and subsequent rape is a clear violation of ACoH Articles 3.2) (g), Art 6 (b) and R-ARCSS Articles 2.1.10.2, 2.1.10.5, 2.1.10.7.1, 2.1.10.7.4.
13. Intimidating and finally raping an elderly and disabled woman is a clear violation of R-ARCSS Articles 2.1.10.2 and 2.1.10.7.5

14. The Commander of SSPDF Mobile Force Unit at Abegi Barracks failed to exercise his responsibility of command and control of his troops to stop the incidents that happened in Abegi resulting to violation of ACoH Art 2 1), 6 (a, b, c and i) and R-ARCSS Art. 2.1.2.

CONCLUSIONS

15. It is the conclusion of this CTSAMVM investigation that two civilians; Mr Karasvino Luate and Moses Lasu have been unlawfully detained for more than two months in SSPDF Yei Barracks, as they have not been charged in any Court of law and neither have they been handed over to Police to be held in civil prison as per the requirement of the law. Detaining civilians in a military custody is not compatible with South Sudanese law on regulations governing handling of suspects.
16. CTSAMVM concludes that by failing to protect civilians (especially women and girls), and by failing to control their soldiers and thus they commit rape, the SSPDF has acted in violation of articles 3(2)(g), 5 (2)(a), 5(3) and 6(b) of the ACOH of 21 December 2017, and articles 2.1.10.2, 2.1.10.5, 2.1.10.7.1 and 2.1.10.7.5 of the R-ARCSS of 12 September 2018.
17. CTSAMVM has reasonable grounds to believe that an SSPDF soldier, Cpl Lual Deng Tonga raped an elderly and disabled woman, which constitutes a clear violation of the R-ARCSS, specifically Articles 2.1.10.2, 2.1.10.5, 2.1.10.7.1, 2.1.10.7.4, 2.1.10.7.5 and ACoH Articles 3 2) (g), Art 6 (b).

RECOMMENDATIONS

18. It is recommended that SSPDF 1 Bde HQs transfers the two detained civilians Mr. Karasvino Luate and Moses Lasu to civilian detention facilities under the control of Yei County Police instead of detaining them in military detention facilities.

19. The County Authorities should ensure that the two detained civilians are either freed or receive due process in accordance with South Sudanese law.
20. The JDB/SSPDF Unified Command should condemn the action by SSPDF 1 Bde officers to detain civilians in military camps for more than two months without any legal trial or a valid arrest warrant from a National court.
21. The SSPDF in coordination with the National Police and appropriate National Authorities should do whatever is possible within the law to arrest the prime suspect of murdering the SSPDF Soldier; Mr. Alperto Lubari and the process of arrest be pursued using appropriate government channels from the refugee camp in DRC where he is suspected to be.
22. SSPDF Commanders be made aware of their roles to adhere to the Peace Agreements, ACoH of 2017 and R-ARCSS of 2018.
23. Violations of the R-ARCSS are reported for purposes of remedial action and accountability. The action taken by the SSPDF to arrest the 16 soldiers who were involved in the incidents of beating civilians and looting civilians' property is commendable.
24. That SSPDF leadership should consider compensating the victim since the suspected perpetrator is deceased.
25. The police in Yei County should embark on creating awareness to the population about the value and importance of reporting cases of Sexual and Gender Based Violence.
26. SSPDF leadership should ensure that the Commanders are properly guided on their roles of command responsibility and the need to adhere and comply to the Peace Agreements particularly the protection of women and girls R-ARCSS specifically Articles 2.1.10.2, 2.1.10.5, 2.1.10.7.1, 2.1.10.7.5 and ACoH Articles 3.2 (g), Art 6 (b).