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FROM: The Chairperson, CTSAMVM

DATE: 24 October 2023

SUBJECT: CTSAMVM REPORT 2023/08 - CHILD RAPE IN CENTRAL EQUATORIA STATE

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 in April and May 2023.

Please accept the assurances of my highest consideration.

Major General Hailu Gonfa Edossa

Chairperson

Ceasefire and Transitional Security Arrangements Monitoring and Verification Mechanism



CTSAMVM REPORT 2023/08
CHILD RAPE IN CENTRAL EQUATORIA STATE

EXECUTIVE SUMMARY

On 14 April 2023 an SSPDF soldier based at the SSSPDF barracks in Gimmi boma, Morobo County allegedly raped a girl of 12 years. The girl was known to him. He denied he raped her, claiming she consented to having sexual intercourse with him.

On 4 May 2023, another SSPDF soldier from the same unit allegedly had sexual intercourse with the same girl. Both the soldier and the girl denied this, but medical evidence proved otherwise.

CTSAMVM concluded that at least one SSPDF soldier had sexual intercourse with a minor. The soldier concerned knew the girl and was aware of her age. It is irrelevant whether or not she gave consent because she was a minor. The key issue is that the SSPDF soldier concerned was not aware that it was wrong to have sexual intercourse with a minor, which implies a failure by the SSPDF to train all their soldiers thoroughly, and thereby a failure of its obligations under the R-ARCSS to protect civilians.

The SSPDF and civilian authorities acted correctly once the allegations became known. Both the soldiers involved were arrested and found guilty by Court Martial.

CHILD RAPE IN CENTRAL EQUATORIA STATE

INTRODUCTION

1. Background:

- a. About 24% of all reports submitted by CTSAMVM since the signing of the R-ARCSS are either exclusively about or include SGBV violations. A number of these concern child rape.
- b. The last SGBV incident reported by CTSAMVM involving military personnel in Central Equatoria was CTSAMVM Report 2023/02, which concerned the rape of a young woman by two SSPDF soldiers.
- c. The CTSAMVM MVT based in Yei undertook a routine Long Duration Patrol (LDP) to Morobo County between 8 and 11 May 2023. During this patrol they were given information about the alleged rape of a young girl by two SSPDF soldiers.

2. Allegations: On 8 May 2023 CTSAMVM was told by the County Chief Executive of Morobo County about the alleged rape of a 12 year-old girl by two SSPDF soldiers in two separate incidents on 14 April and 4 May 2023. The soldiers had been arrested and were in custody.

INVESTIGATION

3. Investigations were undertaken with the full participation of National Monitors.
4. CTSAMVM interviewed a wide range of witnesses including:
- a. Morobo County Executive Director
 - b. NSS and Police officers in Morobo.
 - c. The victim.

- d. The victim's father.
 - e. The two alleged perpetrators
5. 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

6. The victim, a 12-year old girl in 'primary two' class at school, lives in the barracks of SSPDF Bn 1 in Gimmi Boma with her mother. Her father is an SSPDF soldier. She was known to both the alleged perpetrators.
7. On the night of 14 April 2023 the victim was walking home from a party when she met an SSPDF soldier. She told CTSAMVM that the soldier held her by the neck and raped her in a nearby bush and thereafter threatened her with consequences if she reported the matter to anyone. A few days later, her father found out about the incident and took her to hospital for medical attention. He later reported the incident to Morobo police station and the soldier was arrested. The soldier claimed that indeed he had sexual intercourse with the girl but that it was consensual. He said that she asked for money, which he gave her.
8. On 4 May 2023 the same girl was given a lift on a motorbike by another SSPDF soldier. She told him she did not want to go home and he took her to the house of a relative. The following morning her father found her and reported the matter to the police and the soldier was arrested. The girl maintained that she had not had any sexual intercourse with or been raped by the soldier although medical examination proved otherwise. The soldier denied having sex with the girl.

9. Both soldiers were transferred to SSPDF 1 Brigade in Yei before being brought before a court martial convened on 30 May 2023.

ASSESSMENT

10. It is clear that at least one SSPDF soldier had sexual intercourse with a child of 12 years. It is irrelevant whether or not the child gave consent, because under the South Sudanese Penal Code a minor does not have the capacity to give consent. The soldier knew the victim and must therefore have been aware of her age. He claimed that it wasn't rape because it was consensual, which indicates that he was ignorant of the law.
11. The R-ARCSS is very clear about the obligations of the Parties to protect the Human Rights of civilians. It is also clear about the obligations of the Parties to "protect the needs of women, girls and those of other groups with special needs". The Parties have a *command responsibility* to ensure that their military personnel not only refrain from all prohibited actions, including "all forms of sexual and gender-based violence including sexual exploitation and harassment", but also actively protect civilians – especially the vulnerable – in the areas where they operate.
12. Compliance with both the spirit and the word of the R-ARCSS should have ensured the protection of a vulnerable 12-year-old child.
13. There is no suggestion that that the SSPDF and the civil authorities have acted in anything other than the correct manner following the allegations. However, in this instance the SSPDF has failed, through the actions of at least one of its soldiers, to protect a young and vulnerable member of society.

CONCLUSIONS

14. CTSAMVM concludes that, through the actions of least one of its soldiers for whom it had clear command responsibility, the SSPDF has:

- a. Failed to comply with the R-ARCSS, specifically Articles 2.1.10.7 4 and 2.1.10.7.5 quoted above.
- b. Acted in violation of R-ARCSS article 2.1.10.2 quoted above.

OBSERVATIONS AND RECOMMENDATIONS

- 15. The key issue in this case is that the perpetrator should have known that to have sex with a minor is a criminal offence, whether it was consensual or not. This suggests a failure by the SSPDF to train its soldiers in the basics of its Rules and Regulations in accordance with the laws of the Republic of South Sudan, IHL and the protection of civilians expected from the forces under the R-ARCSS.
- 16. CTSAMVM recommends that the SSPDF reviews and improves the training and discipline of its personnel in order to prevent such incidents.