

## The Human Rights Team of experts Press Briefing

### Q&A

**Question** – *Atiol El Malik* - Freelancer for Shooaa News Agency – In a compromised peace agreement, talking about accountability and crime against humanity, and there is a joint court that is supposed to be established. How far have you gone meeting with the government and the party from the IO and SPLA in the government for the implementation of the transitional court?  
*(Rephrased)*

**Question** – *Atem Simon (Turkish New Agency)* – My question will go direct to Ms. Yasmin, when are you going to submit your final report on human right situation in South Sudan?

**Kenneth Scott** - I will answer the question. Briefly and without dismissing or minimizing the difficulties and circumstances that obviously the people and the government of South Sudan encounter or face at this time, nonetheless we must report with some sadness that there has been very little progress to establish these institutions over the past year. In fact in terms of the hybrid court, all the officials that we have met with during the past week, officials of the South Sudan government indicated that nothing has been done to establish the hybrid court over the last twelve months. They are waiting for the African Union commission to send a proposal to them but they uniformly said that the ball is in the African Union Commission's court and they are simply waiting to respond to any proposal put to them by the AU. It appears preliminarily that also on the African Union side, there has been also the most limited progress on establishing the court. When we go on to Addis today, and we will be there for the next few days, that's one of the chief issues that we anticipate raising with representatives of the African Union, that efforts need to be redoubled to establish the hybrid court as quickly as possible. So that's where that stands. Unfortunately the other institutions under chapter five, the truth commission and the reparations authority equally seem to be a bit stagnant or dormant without any indication of real activity about establishing those two bodies. So unfortunately it's fair to say that after 13 months since the peace agreement was signed, none of these institutions are much closer to being established now than they were 13 months ago

**Yasmin** – The commission's mandate requires that it files its report for the March session to the Human Rights Council. However in the interim period so as to provide updated reports on the situation, we will be releasing some sort of press briefing once we've concluded the entire visit.

And that means once we've gone to Addis and have met with AU and actors there, as well as to Uganda, then we will do some kind of preliminary report which we will release.

**Question** – Hakim George (*Reuters News*) - I am just wondering because the atrocities that now the commission is being established for in South Sudan. It didn't start this July or eighteen months or whatever you guys are saying because we have the whole of 2013 incidence and then things have been happening. We haven't seen any reports that was poured out. It was always some small commissions that are raising reports up. My question on this is, we know that sometimes the government of South Sudan doesn't cooperate with some agencies around here, and you guys have all the reports, you will raise it somewhere. What is the measure in case the government didn't cooperate with the commission, what is the measure that you have put in place to support the document that you have?

**Question** –Chan Deal (*World Now Agency*) My question to Madam Yasmin, you have said that you've met the transitional government members and civil society and other organizations in South Sudan. When you met the transitional government, did you agree with them when the process of the transitional justice will start, and when will they appoint the judge and others process for the transitional Justice? Thank you.

**Kenneth Scott** - In terms of the time period that they were covering this gentleman asked about, of course in terms of writing our final report which will be provided at the Human Rights council next March, we will be considering the entire conflict and in fact previous to the conflict in terms of the causes and events leading up to the outbreak of the conflict in December 2013. So we will certainly be looking at and considering the entire history of recent conflict in the country. In particular at the moment, we are focusing on events that have happened since January 2016 this year. For this reason, that is as you've indicated, there have been a number of ongoing inquiries embodies over the last couple of years .the last report was put out by the Office of the high commissioner for Human Rights , was put out in March of this year reported and that covered the events thorough roughly December 2015. We don't want to necessarily spend all of our time covering things that others have covered and so we are going to focus in particular on events since the first of the year. But having said that certainly our entire report will focus on the entire conflict.

**Yasmin-** You raised the question of a time frame for the establishment of the institutions which are set out on chapter 5 of the peace agreement. Now obviously on the hybrid court this is primarily the first responsibility of the African Union to begin to develop some kind of framework and which will give rise to a law. In our discussions with government they have indicated that they stand ready to take on the task of concluding an agreement with the African Union, which will give effect to ensuring that the hybrid court is able to secure the cooperation of the government. In addition I think they indicated to us what the process is for some kind of domestication. Of course if we are looking at these issues, I think one can predicate this by saying it is very important to ensure that under South Sudanese law one incorporates the question of serious international crimes. And at this point I think there seems to be lack of clarity on whether or not this draft bill was actually passed or not. And we know we will when we leave South Sudan, do this quite formally, and write a letter to the government asking for the requisite documents as well as reports of the previous commissions of inquiry and in addition to that trying to get some kind of time frame from them on the transitional justice institutions such as the truth commission and of course the question of the authority on reparations. The government has said that a lot of the efforts have been hampered by the ongoing outbursts of violence and of course not being able to give effect fully to the peace agreement. But if you read the peace agreement quite carefully it's quite clear that these institutions need to be set up in a way concurrently and so it is absolutely critical that the government begins to deal with these issues and we will certainly explore what is suitable time frame is . And as my colleague pointed out, time is running out.

*Question Deng Machal (Africa News TV)* I think this is not the first time for the human rights violation to be reported in South Sudan. It has been there since the conflict broke out in 2013. And the government is also rejecting because in the report it is saying the men in uniform and government is saying so many men in uniform. What are the peacekeepers doing this to control the situation ?

I think you'd appreciate that this is very much a first visit by commission members to South Sudan and what we have been doing is obtaining reports and feedback directly from those who have been affected by the violence. Many of them indicate that they call them 'Men in Uniform' and perhaps they may know which element and which side the men in uniform belong to. It is also true to say that a number of militias which are operating in different parts of the country and

in fact as a number of people have said the question of child recruitment is on an increasing level. I think in terms of peacekeepers, this is not a question that I can answer, but I do know that there is an investigator who is in the country currently who is going to be looking at that particular issue. Unfortunately that is not within the domain of our mandate. But I can assure you that when we finalize our report we will try to be as precise as possible to establish the identity or at least the affiliation of the perpetrator grouping. But on this visit this is not really possible.

**Question – Emmanuel Tombe (NBC)** -You have confirmed that the violation of human rights in South Sudan. But can you specify and give us who are the people most affected by these actions. Are they children, women, youth? Thank you

**Kenneth Scott** – thank you for that question. You know I think it true that unfortunately in all conflicts the people who suffer the most are women and children. That's not to say the men don't suffer as well, we all know that they do, but when you go into the POC's, when you deal with the IDP's, when you look at the people who are trying to get by in the country side, what you see repeatedly are mothers and children and clearly they bear the biggest brunt of the tragedy that's happening in this country. Having said that clearly men are suffering as well being killed not only in terms of military actions, being executed, summarily killed without judicial proceedings and abused in their own rights. So certainly everyone, the entire country suffers from this conflict as you all know very well. But certainly women and children and the elderly bear perhaps the greatest brunt the conflict and the tragedy involved.

**Yasmin** – You know women are the ones who actually go outside of the POC sites to find firewood and to find food. They have indicated that if the men go out, then it's quite likely that they get killed so the young girls and women take the risk of going out to **search** for food and firewood. And of course in that context, they are increasingly insecure and that is when they are preyed upon effectively by armed men in uniform. We were particularly struck by one of the meetings in the POC with women, where there was a row of elderly women sitting on the floor and one woman said, "what do you think that does to me when I have to deal with the fact that the young boy raping me is old enough to be my grandchild. I think there is an enormous burden that women are facing in this conflict. As you know they are the ones who are really carrying the family. We also spoke to a group of young women who've walked all the way from there through incredible territory and their experiences, the kind of attacks, the savageness with which

this is happening. These things are intolerable and should really not be allowed. And of course the reason that they continue to happen is because of impunity. And it's absolutely clear that there is a real need to establish these mechanisms to ensure accountability.

**Question** –James Philip, (*Samaritan Radio*). You said the commission is formed to inform and monitor the human rights situation on the ground. But how will the commission reach some of the areas that are totally not accessible even by the government forces. How will the commissioner work on that like Morobo, Yei and Magwi counties? How will they reach?

**Yasmin** – On this trip we were very very fortunate that UNMISS has provided support for us to travel Benitu and Malakal. It was not possible on this trip to go to other parts of the country, but we do hope when we get back, that we are able to travel to different parts. Of course you've pointed out that the access to many parts of the country is not possible. I think it's very difficult for us at this point to say where we can reach and where we cannot. But rest assured that what we will try to do is to ensure that even if we are not able to visit these spots directly we will try to obtain some kind of information, but obviously that is circumstances permitting. I think the big question is also the unrestricted access which we have raised as a major concern. And this is true not just for UNMISS but also for humanitarian actors. I guess that's what needs to improve actually.

**Question** - Mabior Sherelo (*Al Arabia TV*) There are many UN committees, who come investigate and get reports and they go back. And the reports remain there. And sometimes these reports go to New York and they will issue just Strong condemnation. So your committee, how are you going to confirm that this time any action is going to take place against the violators of human rights? Thank you

**Kenneth Scott** – As you might imagine, that's a fairly complicated question. As all of you know, ultimately the actions of the UN in particular are governed by the General assembly and more importantly the Security Council. And again as all of you know, once matters reach the Security Council, international politics becomes an issue and the positions of the various members of the Security Council comes whether actions can be approved or taken. So all I can do is refer to you things that you already know in terms of the dynamics of the Security Council, the position of the various countries. There has been ongoing debate about whether arms embargo should be imposed, there's been ongoing debate whether sanctions should be involved on senior officials

and individuals that have been involved in the conflict. Those debates continue today and as all of you know the Security Council was just here a few days ago. So at some level we have to look to Security Council in terms of UN , in terms of providing leadership to the international community , we have to look to the Security Council to make those ultimate decisions . Having said that, as we have been saying this morning, the peace agreement itself provides to the chapter 5 institutions already. They do not in a nut themselves require any action by the Security Council. The ball squarely is in the African Union's court to establish the hybrid court. The wanted that responsibility when the peace agreement was negotiated, they insisted on having that responsibility and it is their responsibility to put that court it place . It is also the Republic of South Sudan's responsibility under the peace agreement to put the truth commission in place and to put the reparations authority in place. Those obligations exist now and have existed I the past 13 months. And those issues of getting those bodies in place cannot be blamed on the UN or Security Council. We call on again on the African Union to move forward as quickly as possible, with a greater effect to establish the hybrid court and we call on the government of South Sudan to establish the truth commission and the reparations authority without further delay.