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CTSAMM Headquarters

CEASEFIRE AND TRANSITIONAL SECURITY ARRANGEMENTS MONITORING MECHANISM



TO: The Chairman, JMEC

FROM: The Chairman, CTSAMM

DATE: 22 March 2016

SUBJECT: CTSAMM report 003: Violations of the PCTSA in Western Bahr el Ghazal State concerning Protection of Civilians

Your Excellency,

Please find attached a CTSAMM report on violations of the Permanent Ceasefire and Transitional Security Arrangements (Chapter II of the Agreement on the Resolution of the Conflict in the Republic of South Sudan of 26 August 2015) that took place in Western Bahr el Ghazal State.

Major General Molla Hailemariam
Chairman

Ceasefire and Transitional Security Arrangements Monitoring Mechanism

CTSAMM VIOLATION REPORT NUMBER 003
FAILURE TO PROTECT CIVILIANS IN WESTERN BAHR EL GHAZAL STATE

Executive Summary

The situation in the area south of Wau is complex, with issues between the local people and the Government which predate the current conflict.

Recent events in the area involving offensive operations by Government Forces led to allegations being raised by the SPLM/A-IO that violations were committed at the end of December 2015 in the Momoi area and that 6 civilians were killed in Bangari.

The MVT have not yet been able to get to Bangari, but have confirmed that violations were committed by Government Forces in the Momoi area, specifically that they failed to protect civilians during security operations in the area.

VIOLATIONS IN WESTERN BAHR EL GHAZAL STATE

1.0 Introduction

1.1 Background: The situation in the area south of Wau is complex, with issues that predate the current conflict. There have been reports of tension and clashes.

1.2 Allegations: The allegation that the MVT investigated specific to this report come from the SPLM/A-IO letter 'Ceasefire Violation Reports' dated 31st December 2015 and given to CTSAMM at the meeting of 6 January 2016. It is quoted verbatim as follows:

- On 2000 Hrs of 29 Dec 2015 a convoy of 11 landcruiser pickups mounted and a T-55 tank of SPLA-Juba attacked and burnt down Momoi (civilian populated centre) village, arrested 25 young men and displaced the population. The convoy then proceeded to Bangari village where they killed 6 civilians. The SPLA-Juba convoy was from Greenti Barracks [5th Division barracks in Wau]. *Note: Momoi is sometimes referred to as Moi Moi or Mormoi.*

1.3 Incidents:

- Referring to the allegations outlined in paragraph 1.2, the MVT were able to investigate the following incident related to the allegation:
 - The burning of Momoi village and displacement of its population.
- The MVT was unable to investigate the alleged killings in Bangari village due to access issues which will be resolved. CTSAMM will return to Bangari in due course.

1.4 Aim: The aim of this report is to outline the details of the incidents and investigations for JMEC with assessments and recommendations.

1.6 Methodology:

- The MVT based in Aweil deployed to Wau to investigate the allegations. On 10 February they visited Momoi (which was deserted) and then Busseri together with UNMISS Force Protection and MLOs, but Government Forces soldiers did not allow them to talk to the local population.

- Following discussions with the Acting Governor and the Chief of Operations at the Government Forces 5th Division HQ, the MVT was able to return to Busseri on 12 February and conduct interviews with local people. The MVT also spoke to Government-Force officers and the Deputy Governor.
- Attempts to visit Bangari on a later date were unsuccessful.
- Locations: Momoi is a village covering a large area the centre of which is about 8 Kms south / southwest of the centre of Wau on the Tabura/Yambio road. Busseri is a further 7-8 Km south on the same road.

2.0 VIOLATIONS OF THE PCTSA DIRECTED AT THE CIVILIAN POPULATION

2.1 Displacement of the people of Moimoi:

- There are no people in Momoi at all. The MVT observed that many of the houses had been burnt down.
- Government Forces were present in the village commanded by a Lieutenant who said that the young men had gone "into the bush" and the women and children to Wau.
- The officer also claimed there had been several attacks by unknown armed groups operating in the area, the last being on 5 February when one SPLA soldier and one member of the armed group were killed a few Kilometres north of Momoi.
- The Government Forces officer also said that the armed group were not members of the SPLM/A-IO but local people. They wore a variety of police and wildlife uniforms and civilian clothes.

2.2 Information from Busseri: The MVT were able to interview a variety of local people in Busseri, which they noted was sparsely populated and devoid of young men; the MVT saw only old men, women and children. There were reportedly only 200 people left out of a population of 1450. The road was closed. The information the MVT gained is summarised as follows:

- The recent problems in the area started in October 2015 when Dinka cattle-keepers came into the area in the dry season. Crops were destroyed and the local people apparently moved to protect them, and clashes developed between the locals and the cattle-keepers. The cattle-keepers were reported as being armed and aggressive.

- Government Forces are seen by the local people as the protectors of the cattle-keepers and therefore against the locals. People are afraid of them and have fled. There is also a feeling that, following clashes between Government Forces and armed groups in the Bazia area (south of Busseri), the Government regards the locals as 'rebels' and treats them accordingly.
- Killing and looting: The MVT received reports of the killing of civilians by Government Forces, specifically an old woman and a deputy sultan of the area. The local people also reported that Government Forces had burnt some houses and looted property.
- It was clear to the MVT that the settlements along the road were firmly under the control of Government Forces.

3.0 Assessment:

- 3.1 The situation south of Wau is complex. There are tensions between the Government and local people that predate the current conflict, and that have been exacerbated by the current conflict and also by the presence of cattle-keepers who appear to be wandering further than usual from Warrap and Lakes states.
- 3.2 There are armed groups operating in the area, and there are credible reports suggesting that Government Forces have been subject to attacks and provocation. The MVT found no evidence to suggest that these armed groups were affiliated to or under the orders of the SPLM/A-IO.
- 3.3 According to the Government authorities the SPLA are deployed in the area to protect the local people from the cattle-keepers. However, the locals were all living in fear of Government Forces; indeed, they appeared to be more scared of Government Forces than of the cattle-keepers.
- 3.3 The MVT witnessed that houses have been burnt in Momoi and that the civilian population had fled. They also witnessed that Busseri – the next village down the road from Momoi – was nearly deserted and the remaining people were living in fear of Government Forces and many gave witness to violent acts committed by such forces. All the evidence obtained by the MVT in the area indicate beyond any reasonable doubt that in exercising control over the area Government Forces have failed in their duty under the PCTSA to protect civilians.

4.0 Conclusion

4.1 It is the opinion of the JTC that Government Forces have violated Article 1.7 of the PCTSA in the Moimoi area, particularly:

- Article 1.7.5: Acts of hostility, intimidation, violence or attacks against the civilian population....

4.2 Additionally, the JTC finds that Government Forces have violated 3.1 of the Cessation of Hostilities Agreement of 23 January 2014 (COH), BOTH through its attacks AND by failing to protect "human rights, life and property."

- The PCTSA is based upon the COH of 23 January 2014 and, therefore, the COH is incorporated in full in the PCTSA. (PCTSA, Articles 1.2, 1.4, and 1.5)
- Pursuant to the COH, the Warring Parties have an affirmative obligation to "commit to the protection of human rights, life and property as provided by various national, continental and international instruments^[1]" Such instruments include, of course, Geneva Protocol II (1977) and the *Geneva Convention Act, 2012* signed into South Sudanese law by President Salva Kiir Mayardit on 5 June 2012.

5.0 Recommendations and observations:

- 5.1 The issues in the area south of Wau predate the current conflict. CTSAMM is unable to confirm whether or not the local armed groups operating in the area are under the orders of the SPLM/A –IO, but all indications suggest this is a local problem that does not involve SPLM/A-IO forces. However, the articles of the PCTSA still apply and, by failing to protect the civilian population and by using excessive measures such as the burning of buildings and displacement of populations, Government Forces are in violation of the PCTSA.
- 5.2 It is recommended that JMEC encourages all parties involved to resolve the issues affecting the area in order that there is no further escalation, and that people can return to their homes in peace.
- 5.3 It is recommended that the Warring Parties be reminded that they have an Affirmative Obligation to develop policies, programmes, and procedures that protect human rights, life and property. That is, in addition to ensuring their Forces refrain from attacking civilians and their property, such Forces are required to develop and to practice proactive measures to protect them.

- 5.4 Observation by Government members of CTSAMM: Government members of CTSAMM wanted to emphasise that their forces in the area the incident took place have been subject to significant provocations, including attacks and ambushes.