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TO: The Chairman, IGAD Council of Ministers
The Chairman, JMEC

FROM: The Chairman, CTSAMM

DATE: 22 February 2018

SUBJECT: CTSAMM REPORT 2018/07 – FIGHTING IN THE NASSIR AREA 12
FEBRUARY 2018

Your Excellencies,

Please find attached a full and final CTSAMM report on violations of the Agreement on Cessation of Hostilities, Protection of Civilians and Humanitarian Access (21 December 2017), specifically fighting at NYATOT near NASSIR area which took place on 12 February 2018.

As discussed at the 2nd HLRF meeting this report will not be published on the website until you have provided guidance as to how the reports are to be communicated to the parties. Because the report contains names of personnel deemed to be implicated in violations the version which is finally published will require the names to be redacted.

Major General Ibrahim Abduljelil
Chairman



Ceasefire and Transitional Security Arrangements Monitoring Mechanism

CTSAMM REPORT NUMBER 2018/07
FIGHTING AT NYATOT NEAR NASSIR

Executive Summary

The situation in the NASSIR area has been reasonably calm for some time, although the Government made retrospective allegations that civilians moving to and from NASSIR have been subject to harassment by the SPLA-IO (RM).

The SPLA made contradictory allegations about one or several of their soldiers being kidnapped by the SPLA-IO (RM) whilst fishing at KEDBECK on the 10 or 12 February. A large number of SPLA soldiers left NASSIR and in the early morning of 12 February mounted a deliberate dawn attack on NYATOT, about 8 Km from NASSIR.

NYATOT is under the control of the SPLA-IO (RM), which has a barracks 2 Km to the north of the village. The SPLA attacked the village from the south, shooting civilians, destroying homes, looting and killing livestock. There were no SPLA-IO (RM) soldiers in the village at the time of the attack. As the SPLA force left to the north of NYATOT they were engaged by SPLA-IO (RM) forces from the barracks and a battle ensued which left around 50 SPLA and 4 SPLA-IO (RM) soldiers' dead. A total of 22 civilians were killed in NYATOT.

In prosecuting a deliberate attack against a civilian community CTSAMM finds the SPLA in clear and blatant violation of the ACOH, and calls on the IGAD Council of Ministers and JMEC to take action at the political level to ensure the TGoNU takes the appropriate action and holds those responsible to account.

FIGHTING AT NYATOT NEAR NASSIR

1. Background:

1.1. The situation in the NASSIR area has been relatively calm for a long time. The last time CTSAMM published a violation report about NASSIR was for offensive operations by the SPLA against SPLA-IO (RM) positions in the area in December 2016/January 2017.

1.2. NASSIR is held by the Government, although the surrounding areas are largely held by the SPLA-IO (RM).

1.3. A CTSAMM MVT visited NASSIR on 8 February for verification and were told then by the SPLA that the situation is tense in the area because of the activities of the SPLA-IO (RM), who allegedly harassed civilians moving back into Nassir town. The Government authorities claim the SPLA-IO (RM) stop local civilians from returning to NASSIR.

1.4. Allegations:

1.4.1. By the Government:

1.4.1.1. In a letter, **Reference A**, dated 12 February 2018 from JMCC and signed by Major General [REDACTED] the Government claimed that "SPLA-IO forces loyal to Dr Riek Machar attacked our position in Nasir yesterday 11 February 2018 and early morning today at 6.00 AM". The letter was supported by a report on the allegations,

Reference B, dated 12 February 2018 which was submitted to the Chairman of CTSAMM and also signed by Major General [REDACTED]. The report stated that:

- SPLA-IO (RM) Maj Gen [REDACTED] in NYATOAT harassed and stole from civilians from CHIENG NYATHOL who had been to NASSIR on 8 February to get non-food items that were being distributed. On 9 February he captured the chief from CHIENG NYATHOL and stole cattle.
- On 10 February Maj Gen [REDACTED] captured 4 SPLA soldiers while they were fishing and took them to NYATOAT where they were allegedly tortured.
- On 11 February at 06.30 armed youth from CHIENG NYATHOL attacked NYATOAT and got back their cattle and freed the 4 SPLA soldiers.
- The report concluded by stating that: "This is what happened in Nassir this morning and it has nothing to do with the SPLA".

1.4.1.2. A letter from the Acting Governor of what is known as Latjor State **Reference C**, dated 12 February and given to the CTSAMM MVT on 13 February stated that an SPLA soldier was attacked and kidnapped by the SPLA-IO (RM) whilst fishing in KEDBECK at 06.00 Hrs on 12 February, after which the SPLA 'pursued' the SPLA-IO (RM) to NYATOT.

1.4.1.3. The MVT was on 13 February also given a letter, **Reference D**, by the Acting Governor dated 8 February 2018 which listed several allegations about the SPLA-IO (RM) harassing civilians going to and from NASSIR, and the wounding of two members of the security forces (one policeman and one soldier) on 9 and 31 January respectively who had been escorting civilians. These incidents were reported to MVT Nassir during a visit on 8 February 2018 but were not subject to an investigation.

1.4.2. By the SPLA-IO (RM):

1.4.2.1. At the HLRF discussion in Addis Ababa on 12 February the SPLA-IO alleged that early in the morning their position at NYATOT was attacked by Government Forces from NASSIR. The attack was believed to have occurred in the early hours of 12 February. This allegation was later repeated in a press statement from the Opposition Group. **Reference E**

2. **Aim:** The aim of this report is to summarise the results of CTSAMM investigations into the fighting which took place in the NASSIR area on and around 12 February 2018, to attribute responsibility for violations of the ACOH where appropriate and to make recommendations.

3. Methodology:

- 3.1. In response to the allegations made by the Parties CTSAMM deployed an MVT to NASSIR on 13 February and then to MADENG and NYATOT on 15 February in order to observe the effects of the violence and to meet witnesses.

3.2. CTSAMM was also able to access information from other sources.

3.3. In NASSIR:

3.3.1. The MVT met with the commander of Nassir garrison Major General [REDACTED] SPLA-IO (TD) and his deputy Col [REDACTED]. They also met with the Acting Governor of what is known as Latjor State Mr [REDACTED] [REDACTED] and others from the civil and military administration including the Commissioner of Nassir County and the Mayor of Nassir. The civil administration all live within the military garrison.

3.3.2. The MVT also met with UNMISS officers from whom they were able to get first-hand observations about the events of 11 and 12 February 2018.

3.4. In MADENG: The MVT visited the clinic and interviewed witnesses who had been injured on 12 February and subsequently fled from NYATOT. They also met local traditional leaders and White Army Commander, [REDACTED] of the CHIENG NYATHOL youth group. MADENG is about 20 Km downstream from NYATOT.

3.5. In NYATOT: The MVT travelled by boat from MADENG to NYATOT, where they met with the SPLA-IO (RM) Sector 4 Commander General [REDACTED] and 3 Infantry Division Commander Major General [REDACTED]. The MVT was able to walk around the whole village, see the destruction and the bodies of SPLA soldiers where the main fighting took place. There were no civilians remaining in the settlement following their displacement on 12 December 2018.

4. Findings:

- 4.1. A large number of soldiers left the SPLA garrison in NASSIR on the evening of 11 February and moved past the UNMISS base in a southerly direction. This was witnessed by UNMISS personnel. At about 06.15 on 12 February, gunfire and explosions were heard from the direction of NYATOT. NYATOT is about 5 Km beyond KEDBECK, south east from NASSIR on the northern bank of the SOBAT river. It is under the control of the SPLA-IO (RM).
- 4.2. The SPLA claimed that one of their soldiers had been kidnapped whilst fishing in the KEDBECK area, and that is why they attacked the SPLA-IO (RM) position at NYATOT. In a written statement given to the MVT the Acting Governor of what is known as Latjor State said that the soldier was attacked and kidnapped at KEDBECK at about 06.00 Hrs on 12 February, and that the SPLA pursued the attackers up to NYATOT. They told the MVT they were not able to rescue the soldier, but they did claim they had released what they described as civilian detainees. The SPLA-IO (RM) based in NYATOT denied the allegation that they had kidnapped an SPLA soldier.
- 4.3. The SPLA and Government civil administration claimed that there had been a series of incidents involving the SPLA-IO (RM) in recent weeks including the ambush and injuring of a policeman who was escorting civilians on 9 January and the wounding of a soldier involved with similar duties on 31 January. The MVT was introduced to the injured soldier. Neither of these incidents had been reported to CTSAMM at the time of occurrence but were reported when MVT Nassir visited on 8 February 2018. The purpose of the MVT visit was to verify forces and did not amount to an investigation.

4.4. Attack at NYATOT:

4.4.1. The SPLA attacked NYATOT from the south at about 06.00 on 12 February. The attack came from the south and was directed at the civilian settlement. Information gathered by the MVT suggests that about two companies were involved; in the region of about 200 soldiers. This is corroborated UNMISS reports of large number passing their base in NASSIR on the evening of 11 February. The SPLA- IO (RM) barracks is about 2 Km to the north of the village; there were no SPLA-IO (RM) soldiers in the village at the time of the attack. To attack from the south the SPLA would have had to swing round NYATOT (probably to the east). The SPLA-IO (RM) were caught by surprise: they told the International Observers that they had reduced their defensive measures (guards and patrols) after the signing of the ACOH, and that all their soldiers were in barracks.

4.4.2. SPLA forces burnt tukuls and shot cattle and goats as they advanced north through the village. 16 civilians were reportedly killed in the attack including women and children and three elderly men. The MVT saw fresh graves by the river. The SPLA-IO also claimed that 500 cattle and goats had been killed; the MVT witnessed that the village was strewn with the bodies of animals; one team member started trying to count but stopped at 107. There were also a large number of wounded cattle in and around the village. The team took extensive photographs of the village which are at Enclosure 5 to this report.

4.4.3. Civilian survivors interviewed by the International Observers at MADENG reported the SPLA moving through the village, looting and shooting randomly at everything and everybody.

4.4.4. A total of 22 civilians died. 16 were killed in the village, and a further 6 subsequently died in the clinic at MADENG. 72 civilians were wounded; 38 are receiving treatment at MADENG clinic and 34 more serious have been referred for treatment elsewhere. Names and details of the casualties were recorded by the clinic and witnessed by International Observers.

4.4.5. As the SPLA exited the village at the northern side they were engaged by SPLA-IO (RM) forces who had come out of their barracks that is about 2 Km north of the village. A force-on-force fight ensued. The SPLA-IO (RM) claimed to have killed "over 50" of the attackers. The MVT counted 34 bodies but there were others they saw in the distance which could not be counted due to time constraints. Most of the bodies had been stripped but some still had bits of uniform which the International Observers were able to identify as SPLA. The SPLA-IO (RM) said they had lost 4 soldiers killed and 3 wounded.

4.4.6. The entire civilian population of NYATOT fled following the attack. CTSAMM does not yet have accurate figures but a large number of people have been displaced as a result of the attack.

4.4.7. The investigation found that statements made in the allegations from JMCC and the state governor were contradictory in regard to key times and activities. For clarity the inconsistencies are tabulated at Annex A to this report.

5. Assessment

5.1. It appears likely that civilians going to and from NASSIR have been subject to harassment by the SPLA-IO (RM), however CTSAMM was unable to find any evidence to confirm that the SPLA-IO (RM) had kidnapped a soldier (or soldiers)

prior to the incident as claimed by the SPLA. The SPLA-IO (RM) denied they had done so, and if they had it would be likely they would have been on a high level of alert. All the evidence suggests that the SPLA-IO (RM) were surprised by the attack.

5.2. All the evidence gathered by CTSAMM indicates that SPLA forces left NASSIR on the evening of 11 February and moved into position to mount a deliberate dawn attack against NYATOT. This attack was directed at the civilian settlement, not the SPLA-IO (RM) barracks. The SPLA forces deliberately burnt houses and shot livestock. Civilians were killed and wounded in the attack. There were no SPLA-IO (RM) soldiers in the village at the time of the attack; they were all in their barracks to the north.

5.3. Fighting took place to the north of NYATOT when SPLA forces leaving the village after the attack were engaged by SPLA-IO (RM) forces from the barracks. The SPLA suffered heavy losses before breaking free and returning to NASSIR.

5.4. Claims by the SPLA that the attack was carried out by CHIANG NYATHOL youth are not supported by any evidence. The leader of the CHIANG NYATHOL youth was interviewed in MADENG alongside those who had suffered in the attack. All evidence collected indicated that the the attack was conducted by SPLA-IG forces from NASSIR.

6. Conclusions

6.1. Whatever provocations the Government authorities and SPLA-IG in NASSIR might have been subject to, the response in the form of the attack on a civilian settlement was wholly disproportionate.

6.2. CTSAMM finds the SPLA-IG in clear violation of all those prohibited actions and obligations in the ACOH which pertain to the Cessation of Hostilities and Protection of Civilians. Specifically:

Article 1 (2) & 11 (6) Failing to freeze its forces and moving without notification or authority of CTSAMM ON 11 Feb 18.

Article 2 (1) – failing to implement the agreement in full and in good faith by procuring an attack on civilians and SPLA – IO (RM) on 12 Feb 18.

Article 2 (4) and Article 3 (1) – failing to abide by international human rights law and humanitarian law that prohibits targeting and attacking civilians.

Article 3 (2) Carrying out hostile military actions prohibited under this Article, against SPLA – IO (RM) and Civilians on 12 Feb 18.

Article 5 (1), (2), Article 6 (a), (e) and (i) by attacking and killing civilians and perpetuating other human rights violations.

7. Observations and recommendations

7.1. The attack against NYATOT was an attack by the Government against its own people. The action was directed at the civilian settlement, NOT the SPLA-IO (RM) barracks. The deliberate killing of civilians, the burning of houses and killing of livestock constitutes an atrocity as bad as anything perpetrated during the current conflict.

7.2. It is of deep concern that the attacks were conducted with impunity and in total disregard of the ongoing peace talks (HLRF). The attack indicated that orders and instructions arising from the governments stated adherence to the provisions of the ACOH have not been implemented. The commander of Nassir garrison was responsible for the forces which carried out the attack and must be held accountable.

7.3. CTSAMM calls upon the IGAD Council of Ministers and JMEC to ensure its senior leadership take the appropriate action at the political level to persuade the TGoNU to accept responsibility for this violation and take the urgent action to not only hold those responsible to account, but also to ensure such acts are not repeated in accordance with Article 13 of the ACOH.

Annex A. Table showing inconsistencies in JMCC and State Governor's allegations.

References:

- A. JMCC Letter to CTSAMM Dated 12 Feb 18.
- B SPLA-IG Report on allegations of violations at 'NAYATOAT' dated 12 February 2018.
- C. Letter from Acting Governor 'Latjor state' dated 12 February 2018.
- D. Letter from Acting Governor 'Latjor State' dated 8 February 2018.
- E. Copy of Opposition Group press statement 12 February 2018.

Enclosure. CTSAMM Photographs of NYATOT (Taken 15 Feb 2018).