



Abandoning Abyei

Destruction and Displacement, May 2008

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Abandoning Abyei

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Map of the Abyei Area 1

Summary2

Methodology5

Recommendations 6

 To the Government of Sudan 6

 To the Government of Southern Sudan7

 To UNMIS.....7

 To the United Nations and member states 8

Acronyms..... 10

Background..... 11

 Abyei: Unresolved under the Comprehensive Peace Agreement..... 11

 Building Tensions 13

 Outbreak of Fighting 15

SAF and SAF-supported Militia Attacks on Civilians and other Breaches of International Law in Abyei..... 17

 Killing of Civilians 17

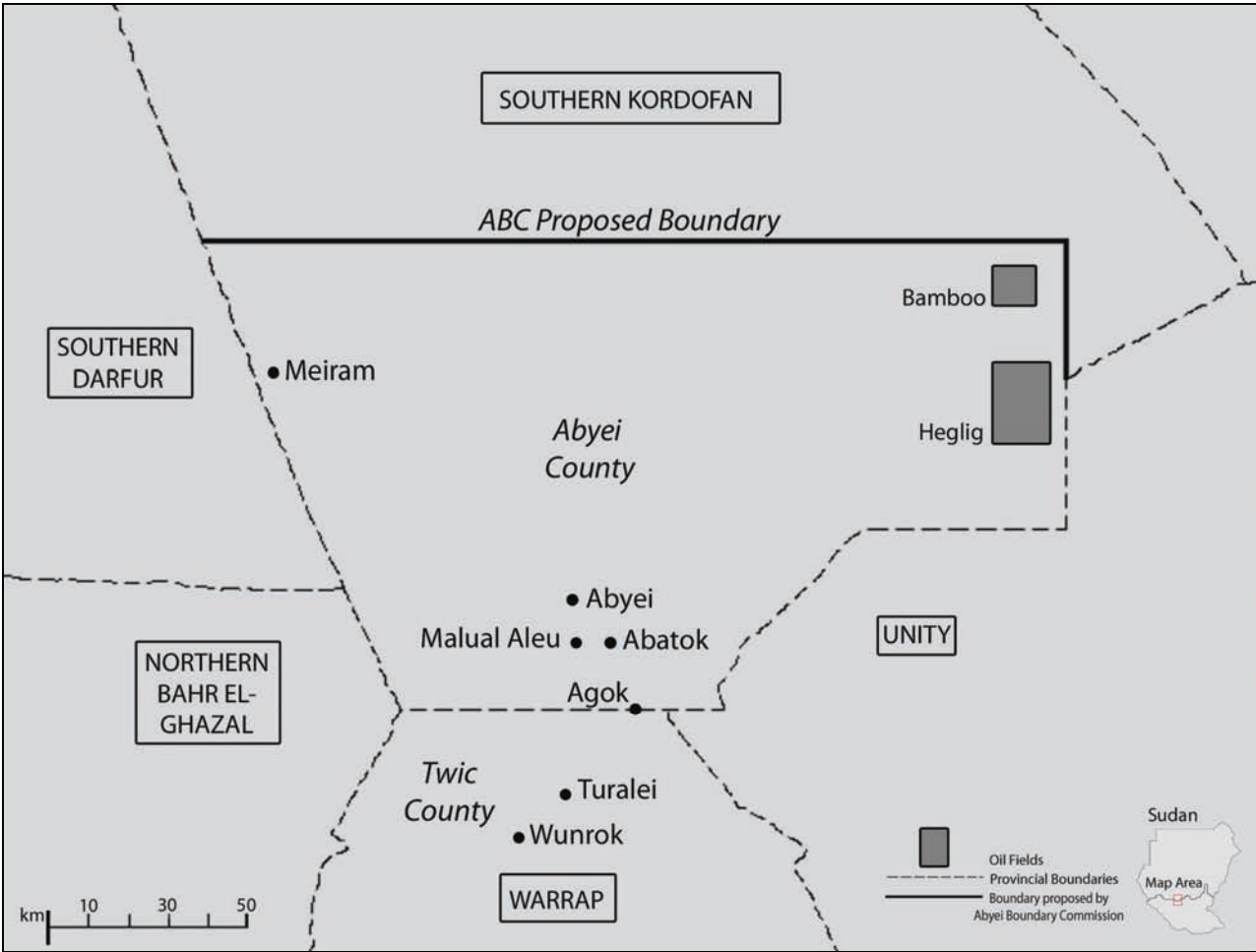
 Looting, burning and destruction of property..... 19

 Displacement..... 21

The Abyei Roadmap23

Role of the United Nations Mission in Sudan (UNMIS)..... 26

Map of the Abyei Area



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Summary

60,000 people fled during and after fighting between the Sudanese Armed Forces (SAF) and the Sudan People's Liberation Movement/Army (SPLM/A) in the politically disputed town of Abyei in May 2008, in which SAF and SAF supported militia also deliberately killed civilians and carried out massive looting and destruction of the town. More than half the homes in Abyei were burned to the ground and the market was completely destroyed. The parties reached an agreement to restore security on June 7, but have been slow to implement it. Meanwhile tens of thousands of civilians are still internally displaced, and the area remains tense.

Two months after the fighting, the number of civilian fatalities and the circumstances of their deaths are still unknown. A full and independent investigation into the alleged violations has so far not been possible because SAF forces restricted access to Abyei in the weeks following the fighting. In addition the National Congress Party (NCP) and the SPLM - the dominant parties in central government and the Government of Southern Sudan (GOSS) respectively – have made no significant efforts towards establishing accountability for human rights violations and violations of international humanitarian law (IHL) in Abyei. Displaced people, however, are vocal in their call for accountability.

The political and administrative status of oil-rich Abyei is one of the most contentious outstanding issues in the implementation of the Comprehensive Peace Agreement (CPA), the 2005 agreement between Khartoum and the SPLM that brought an end to 20 years of civil war. Abyei, an area populated by ethnically Southern Sudanese Ngok Dinka, and on a seasonal basis by Arab Misseriya cattle-herding nomads, remains a potential flashpoint as Khartoum, GOSS and local communities position themselves ahead of a local referendum scheduled for 2011. The referendum will decide whether Abyei will join Southern Sudan or will remain part of South Kordofan state (administratively part of the North). Trouble in Abyei has the potential to upset the consolidation of peace between Northern and Southern Sudan.

Human Rights Watch interviewed scores of Dinka witnesses who fled South from Abyei, but was not able to physically access populations to the north of Abyei. The eye-witness testimony collected by Human Rights Watch is therefore largely reflective of the Dinka Ngok experience. Witnesses who fled from Abyei told Human Rights Watch that SAF soldiers shot civilians as they ran and detained and then arbitrarily killed others. Their testimony suggests that at least 18 civilians were killed in the fighting. In the days that followed the fighting, government soldiers and Misseriya militia looted and torched the market and civilian houses in Abyei town. By May 17 all of the market and more than half the homes in Abyei were completely destroyed, yet the destruction and looting continued into late June. Soldiers and militia also robbed and severely damaged the compounds and property of UN agencies and NGOs who had been supporting post-conflict reconstruction and humanitarian assistance in Abyei.

Almost the entire population of Abyei fled. While some 10,000 fled to the north, the rest – some 50,000 people – fled south to Twic County in Southern Sudan. In mid July they were still living in temporary shacks or crowded into homes with other families. Many told Human Rights Watch they are unwilling to return until the Khartoum government fully withdraws its SAF military forces from the town.

In the aftermath of the fighting political representatives from Northern and Southern Sudan signed an agreement—the Abyei Roadmap – to restore security in Abyei. However, implementation has been slow. Delays by both sides in withdrawing troops and agreeing on a new Abyei administration threaten to undermine the delicate process of restoring peace and security in Abyei. On July 7, 2008 an SPLA soldier shot and injured a UN military observer and a SAF monitor in Agok, Twic County, raising the specter of renewed violence.

In the run up to and during the fighting the United Nations Mission in Sudan (UNMIS) was severely hampered in its ability to protect civilians and to support implementation of the CPA. This was the result of inherent limitations in the UNMIS mandate, lack of sufficient personnel and resources, and movement restrictions imposed by both SAF and the SPLA. Displaced civilians told Human Rights Watch

they had lost confidence in the ability of UN peacekeepers to provide protection for them.

The United Nations and governments with influence, who reacted rapidly and vehemently to the outbreak of fighting in Abyei, should now maintain pressure on the two sides to implement the Abyei Roadmap in full. UNMIS should urgently deploy a strengthened contingent of troops to Abyei to assist in implementation of the Roadmap and provide protection for civilians in accordance with a robust interpretation of UNMIS mandate.

Methodology

This report is based on a fact-finding mission to Twic County, south of Abyei, in June 2008. Human Rights Watch conducted more than 50 interviews with civilians who fled the fighting, humanitarian workers, local leaders and other sources. The names of persons interviewed have been withheld for security reasons.

Human Rights Watch was unable to visit Abyei town or areas north of Twic County because of movement restrictions imposed by the Sudanese Armed Forces. The information provided by those interviewed has been supplemented by telephone interviews and other remote research.

Recommendations

To the Government of Sudan

- Provide access for international human rights monitors, under the auspices of the Office of the High Commissioner of Human Rights (OHCHR), to all areas of Abyei and to all civilians displaced from Abyei to carry out a full investigation into allegations of killing of civilians, looting and destruction of civilian property and other violations of human rights and international humanitarian law carried out during the fighting by any armed forces and government-supported militia.
- Carry out a full criminal investigation into any allegations against SAF or government-supported militia of violations of human rights and international humanitarian law amounting to serious crimes; prosecute, in accordance with international standards, those responsible, including those in a position of command who should have known about the crimes and failed to prevent them.
- Provide compensation for the victims of violations of human rights and international humanitarian law perpetrated by SAF or government-supported militia.
- Permanently remove any limitations on the freedom of movement of UNMIS in accordance with Security Council Resolution 1590 and the UNMIS Status of Forces Agreement.
- Immediately complete the withdrawal of all SAF forces (other than those in the Joint Integrated Unit) and government-supported militia from the Abyei administrative area in accordance with the June 7, 2008 'Abyei Roadmap.'
- Support and facilitate reconstruction of Abyei, including of burned homes, hospital buildings and NGO premises.
- Ensure that any return of displaced people to Abyei is voluntary and with full and informed consent.
- Implement and support local reconciliation efforts that include mechanisms to address the issues of accountability for breaches of international humanitarian law and human rights violations.

To the Government of Southern Sudan

- Provide access for international human rights monitors, under the auspices of OHCHR, to all areas of Abyei and to civilians displaced from Abyei to carry out a full investigation into allegations of killing of civilians, looting and destruction of civilian property and other violations of human rights and international humanitarian law carried out during the fighting by any armed forces and militia.
- Carry out a full criminal investigation into any allegations against SPLA/M forces of violations of human rights and international humanitarian law amounting to serious crimes; prosecute, in accordance with international standards, those responsible, including those in a position of command who should have known about the crimes and failed to prevent them.
- Provide compensation for the victims of violations of human rights and international humanitarian law perpetrated by SPLA/M forces.
- Permanently remove any limitations on the freedom of movement of UNMIS in accordance with Security Council Resolution 1590 and the UNMIS Status of Forces Agreement.
- Immediately complete the withdrawal of all SPLM forces (other than those in the Joint Integrated Unit) from the Abyei administrative area in accordance with the June 7, 2008 'Abyei Roadmap.'
- Ensure that any return of displaced people to Abyei is voluntary and with full and informed consent
- Implement and support local reconciliation efforts that include mechanisms to address the issues of accountability for breaches of international humanitarian law and human rights violations.

To UNMIS

- Support the deployment of human rights monitors, acting under the auspices of OHCHR, to carry out a full investigation into allegations of killing of civilians, looting and destruction of civilian property and other violations of human rights and international humanitarian law carried out during the fighting by any armed forces or militia. The results of the investigation should be made public.

- Deploy a strengthened contingent of UNMIS peacekeeping personnel that has sufficient manpower and resources to respond effectively to future threats against civilians in Abyei, as well as full freedom of movement across the entire Abyei area (UNMIS Sector VI) in accordance with UNMIS mandate and the UNMIS Status of Forces Agreement.
- On completion of the investigation into the role of UNMIS requested by the Security Council on June 24, 2008 issue a public report on the role and activities of UNMIS in the run up to, during and after the fighting, together with recommendations for any changes needed either to the mandate or military and security capacity of UNMIS.
- Urgently undertake the military capabilities study called for by the UN Secretary General in January 2008. Based on this and the report on the investigation into the role of UNMIS in Abyei, make recommendations for the reconfiguration of UNMIS and any additional support required to ensure UNMIS has sufficient military capacity in Abyei and other potential flashpoints to fulfill its mandate to protect civilians under imminent threat of physical violence.
- Press for, monitor and report on the conduct of criminal investigations and prosecutions to be conducted by the government of Sudan and the Government of Southern Sudan into allegations against their military forces or allied militia of violations of human rights and international humanitarian law amounting to serious crimes.
- Provide ongoing training and support to the new SAF/SPLA Joint Integrated Unit in Abyei to ensure that the unit is and remains fully integrated.
- Provide ongoing training and support to integrated police units deployed to Abyei.

To the United Nations and member states

- Maintain pressure on the National Congress Party and the Government of Southern Sudan to fully implement the Comprehensive Peace Agreement, including the Abyei Protocol and Roadmap. In particular, ensure that mechanisms for monitoring implementation of the CPA such as the Assessment and Evaluation Commission operate effectively and report regularly and publicly on breaches of the CPA.

- Call for, and provide dedicate resources to enable, OHCHR to deploy a team of international human rights monitors to carry out a full investigation into allegations of killing of civilians, looting and destruction of civilian property and other violations of human rights and international humanitarian law carried out during the fighting by armed forces and allied militia, and report publicly on the findings.
- Ensure UNMIS immediately undertake the military capabilities study called for by the Secretary General in January 2008; Based on this and the results of the UNMIS investigation currently underway into the role and activities of UNMIS in the run up to, during and after the fighting in Abyei, provide additional support to UNMIS to ensure it has sufficient military capacity in Abyei and other potential flashpoints to fulfill its mandate to protect civilians under imminent threat of physical violence.
- Support local reconciliation efforts that include mechanisms to address the issues of accountability for breaches of international humanitarian law and human rights violations.
- Support and facilitate reconstruction of Abyei, including of burned homes, hospital buildings and NGO premises.

Acronyms

ABC	Abyei Boundaries Commission
CJMC	Ceasefire Joint Military Committee
CPA	Comprehensive Peace Agreement
GNU	Government of National Unity
GOSS	Government of Southern Sudan
NCP	National Congress Party
OHCHR	Office of the High Commissioner for Human Rights
SAF	Sudanese Armed Forces
SPLA	Sudanese Peoples Liberation Army
SPLM	Sudanese Peoples Liberation Movement
JIU	Joint Integrated Unit

Background

Abyei: Unresolved under the Comprehensive Peace Agreement

The oil-rich border area of Abyei has long been a potential flashpoint for conflict between Northern and Southern Sudan, and remains so today. The 2005 Comprehensive Peace Agreement (CPA) that ended more than 20 years of civil war between central government and the Sudan People's Liberation Movement/Army (SPLM/A) attempted to put in place a mechanism to resolve the contentious issue of Abyei. However, partly due to delays in implementation, this has had only limited success.

Under the CPA, Abyei is one of three 'transitional areas' (along with the Nuba Mountains in South Kordofan State and the Blue Nile State) for which the two sides agreed to postpone final resolution of its boundaries and, by extension, political settlement. Under a protocol to the CPA, the 'Abyei Protocol,' the parties agreed to establish the Abyei Boundaries Commission, which comprised representatives of the Khartoum government, the SPLM and international experts, to determine the geographic borders of Abyei. The presidency of the new Government of National Unity (GNU), formed by the NCP and the SPLM after signing the CPA, would then appoint a local interim administration for Abyei to govern the area until 2011.¹

Unlike the other two transitional areas, the citizens of Abyei were granted the right to decide by local referendum in 2011 whether to remain in North Sudan or become part of Southern Sudan. This referendum is to be conducted independently from the national referendum under which residents of Southern Sudan will vote whether to become an autonomous state or remain part of Sudan.

The Protocol provides that, for the period until the referendum in 2011, the net oil revenues from Abyei will be shared between the GNU and the Government of

¹ Under the CPA the 'Presidency' is defined as the President of Sudan (President Omer al-Bashir), and the two Vice-Presidents – however in relation to the making of appointments the President is to make decisions with the consent of the First Vice-President – who is the President of the GOSS and SPLM Chairman: Salva Kiir. (CPA, Chapter II, Part II, article 2.3)

Southern Sudan (GOSS), with small percentages allotted to local populations.² However, the ruling NCP has interpreted the Protocol to mean that this arrangement does not begin until the Abyei border has been agreed, which has not yet happened. The Abyei Boundary Commission presented its findings to the presidency on July 14, 2007, but the NCP has repeatedly rejected it.³ The NCP argues that with no boundary yet determined it is not obliged either to appoint a local administration or to share oil revenues from the Abyei area. The stakes are high. The boundary proposed by the Commission includes 3 major oil fields—Heglig, Diffra and Bamboo Complex—whose 2005-2007 revenues were roughly \$1.8 billion.⁴

Mounting resentment over lack of implementation of the CPA in general, and in particular the Abyei Protocol, culminated on October 10, 2007 with the SPLM withdrawing from the GNU.⁵ While the SPLM agreed to rejoin the GNU in December 2007, the status of Abyei remained unresolved.

National political tensions have exacerbated longstanding local ethnic and resource disputes. The Dinka Ngok, a sub-group of the Dinka ethnicity, has villages, agricultural land and wet and dry season pasture for their cattle throughout the area. Other Dinka groups from further south also farm and pasture cattle in the area. The Dinka is the largest and most geographically extensive ethnic group in Southern Sudan and regards Abyei as belonging to it.

Meanwhile, Misseriya Arab nomads – largely allied with the northern government – also claim rights over the land, which they pass over each year to vital dry season grazing along the river Kiir (Bahr Al Arab) and its tributaries in Southern Sudan. Some Misseriya have settled in the area around Abyei and many Misseriya traders live in Abyei town. This arrangement has sometimes led to clashes between Misseriya and

² Under the Abyei Protocol net oil revenues from Abyei are to be shared as follows: The National Government 50%, the Government of Southern Sudan 42%; Bahr el Ghazal region 2%; Western Kordofan 2%, locally with the Ngok Dinka 2% and locally with the Misseriya people 2%. Abyei Protocol to the CPA article 1.2.3

³ International Crisis Group, “Sudan’s Comprehensive Peace Agreement: Beyond the Crisis,” Africa Briefing No. 50, March 13, 2008 <http://www.crisisgroup.org/home/getfile.cfm?id=3341&tid=5329&l=1> (accessed July 14, 2008) p9

⁴ International Crisis Group, “Sudan: Breaking the Abyei Deadlock”, Africa Briefing No. 47, October 12, 2007 http://www.crisisgroup.org/library/documents/b47_sudan_abyei_web.pdf (accessed July 14, 2008) p8

⁵ The Government of National Unity is the national government of Sudan, established by presidential decree on September 20, 2005, largely based on the power sharing agreement under the CPA that provided for members of the SPLM to be represented in the national government (as well forming the government of South Sudan).

Dinka, but these disputes have been settled locally, generally without serious escalation.

National dynamics played into local tensions throughout the war years. However, since the discovery of oil in the area and the signing of the CPA, these tensions have taken on a new dimension. The arrangements for a future referendum provided the NCP and the GOSS with both the time and the incentive to influence the population count and the ethnic composition of Abyei in an effort to influence whether Abyei and its precious oil revenue remain with the North or join Southern Sudan.

Dinka Ngok leaders have accused the northern government of using Arab Misseriya as militia to drive out the Dinka and resettle Abyei with NCP supporters,⁶ while others point out that the SPLM has been encouraging return of Dinka populations to Abyei from Khartoum and Kenya, which they interpret as an attempt by the SPLM to increase southern support in the town. NGO staff who had been working in Abyei at the time told Human Rights Watch that some 6,000 Dinka returnees arrived in Abyei in April alone.⁷

Building Tensions

Between January and May 2008 both Khartoum's SAF and the SPLA deployed additional forces to Abyei.

The CPA provides that Abyei be secured by a Joint Integrated Unit (JIU) made up equally of SAF and SPLA forces, operating together and with a common mandate, uniform and doctrine. The two forces deployed a JIU of some 300 soldiers each to

⁶ Interviews with two Dinka Ngok leaders displaced from Abyei, Agok, June 20, 2008

⁷ Interviews with staff of humanitarian NGO who had been present in Abyei in April, Juba and Turalei, June 15 and 17, 2008; United Nations Mission in Sudan 'The CPA Monitor; Monthly Report on Implementation of the Comprehensive Peace Agreement' April 2008, <http://www.unmis.org/english/cpaMonitor.htm> (accessed July 14, 2008) p9

Abyei in January 2006,⁸ but both sides accused the other of failing to withdraw their individual forces from the area.⁹

In particular, the SPLA complained that the NCP failed to withdraw a SAF brigade ('Brigade 31') that remained stationed in the town. Instead, in mid April 2008, an additional 220 heavily-armed SAF arrived in Abyei to reinforce it.¹⁰ The SPLA denied the SAF commander's counterclaim that the SPLA was building up its own forces in Abyei, but witnesses told Human Rights Watch of a build up of SPLA along the border to the south.¹¹

With so many forces present, skirmishes occurred frequently in and around Abyei. In one such incident on February 7, fighting broke out between soldiers from Brigade 31 and the SPLM after their vehicles collided on the road from Debab to Abyei, and seven people, including Gal Deng Alek, the SPLM commissioner of Bien Nhom, were killed in the accident and the fighting that followed. While an UNMIS investigation found that the incident was sparked by a road traffic accident, Dinka Ngok relayed it to Human Rights Watch as an 'ambush' by Brigade 31 – underlining the level of mistrust between the two sides.¹² Residents of Abyei told Human Rights Watch that this incident significantly exacerbated existing tensions between Dinka and Arab communities.

While the SAF Brigade 31 is largely made up northern Sudanese ethnic groups, including Misseriya, it also incorporates some 200 southerners formerly part of the South Sudan Unity Movement (SSUM). The SSUM, originally a militia group allied with Khartoum, was formally incorporated into the SAF after the CPA came into effect. Residents of Abyei told Human Rights Watch that between 2005 and 2008, SPLM authorities in Abyei complained to SAF and UN officials that SSUM soldiers were abusing civilians in Abyei and surrounding villages, including allegations that they

⁸ United Nations Mission in Sudan 'The CPA Monitor: Monthly Report on Implementation of the Comprehensive Peace Agreement', October 2006, - <http://www.unmis.org/common/documents/cpa-monitor/CPA%20Monitor%20-%200610%20-%20ofinal%20-%20Three%20Areas.pdf> (accessed July 13, 2008) p3

⁹ United Nations Mission in Sudan 'The CPA Monitor; Monthly Report on Implementation of the Comprehensive Peace Agreement' April 2008, <http://www.unmis.org/english/cpaMonitor.htm> (accessed July 14, 2008) – para 168

¹⁰ Displaced Dinka Ngok from Abyei confirmed the presence of Brigade 31; see also *ibid* - para 168

¹¹ Confidential Interview, Juba, June 15, 2008

¹² Interviews with displaced Dinka Ngok from Abyei, Agok, June 19 and 20; correspondence with UNMIS staff, Juba, July 3 2008.

had raped two Dinka women in Todayj, north of Abyei town, between February and April 2008.¹³

In addition to building up forces in Twic County, south of Abyei, the SPLA also deployed some 80 additional forces to Abyei itself in March 2008 as ‘bodyguards’ for the newly-appointed SPLM representative, Edward Lino. The NCP saw the appointment of Lino, a former senior commander in the SPLA, formerly head of its intelligence branch, itself as provocation, accusing the SPLM of making a preemptory appointment of an administration for Abyei, something that the parties agreed under the CPA be the prerogative of the Sudanese presidency.¹⁴

On a local level, the SAF also accused the SPLM of setting up a series of unauthorized checkpoints in northern parts of Abyei. One such checkpoint was put up at Dukra, 10 km north of Abyei town – the scene of the initial skirmish that triggered serious fighting in May.¹⁵ Witnesses also told Human Rights Watch that the SPLA arbitrarily detained a prominent Misseriya leader and an NCP representative in April 2008. According to their statement to UNMIS, they were held for four days without food before being released following threats by Misseriya leaders to launch an attack on the SPLA.¹⁶

Outbreak of Fighting

According to witnesses, on the evening of May 13, 2008 fighting broke out between SSUM soldiers of SAF’s Brigade 31 and Southern Sudan’s SPLA police at the checkpoint at Dukra. One SAF and one SPLA police were killed in the fighting, and another SAF (from the SSUM) was taken to the hospital in Abyei town. This incident brought tensions in Abyei to boiling point. The next morning a group of heavily armed SSUM/SAF in three pick-up trucks went first to Dukra where they again clashed with the SPLA, and then to the hospital where they found that the injured man had died in the night.

¹³ Interview with Dinka Ngok leader displaced from Abyei, Agok, June 20, 2008

¹⁴ “NCP rejects SPLM administration to Sudan’s Abyei,” *Sudan Tribune*, March 31, 2008 <http://www.sudantribune.com/spip.php?article26567> (accessed July 11, 2008)

¹⁵ Interview with United Nations Department of Peacekeeping Operations (DPKO) personnel, New York, July 3, 2008

¹⁶ Correspondence with UNMIS staff, Juba, July 14, 2008

One medical worker told Human Rights Watch:

Lots of soldiers came inside the hospital with guns so the medical staff ran away. The soldiers refused to leave their guns outside. They had machine guns and AK 47s.¹⁷

According to residents who fled the fighting, at about 11.30 am the SAF began shooting apparently at random around the hospital and market area. SPLA soldiers responded, and over the next few hours there was extensive exchange of fire, including of mortar and heavy artillery, around the hospital, the market and residential areas.¹⁸ The JIU quickly divided into its Northern and Southern components, with the SAF element being brought under the command of the 31st Brigade, and fighting against the SPLA element.

When fighting broke out most civilians were able to flee the town. However, some who were forced to stay or who returned told Human Rights Watch that in the following days SAF soldiers and Misseriya militia coming from the north extensively looted and destroyed civilian homes and buildings. By May 17th up to half of the buildings in the town had already been burned to the ground.¹⁹ In the early morning of May 20, the SPLA launched a fresh offensive with reinforcements but were again pushed back, with a high numbers of casualties on both sides.²⁰

¹⁷ Interview with staff of humanitarian agency from Abyei, Agok, June 21, 2008

¹⁸ Interview with staff of humanitarian agency in Abyei Agok, June 21, 2008

¹⁹ Interviews with displaced persons from Abyei, Agok, June 22, 2008

²⁰ Interview with local leader, Turalei, June 17, 2008; interview with SPLM medical personnel, Turalei, June 18, 2008

SAF and SAF-supported Militia Attacks on Civilians and other Breaches of International Law in Abyei

Killing of Civilians

Eyewitnesses reported to Human Rights Watch the killing of at least 18 civilians between May 14 and 21, at least 15 of whom were reported to have been killed deliberately by SAF or government-supported militia.

One eyewitness, a woman who had fled the fighting on May 14, told Human Rights Watch:

I saw my neighbor shot dead by his house. That's why I ran. He had run to release his goats but a soldier came and shot at him and stole his goats. My neighbor was not a soldier, he was not wearing uniform. As we ran out we saw other dead bodies on the ground.²¹

A man who fled the fighting in the market on May 14 said:

They [armed men] came on horses—they were shooting at us as we ran away. There were two or three people on a horse, and two would jump down and start shooting. They were all in uniform. I saw five civilians killed.²²

A man who remained in Abyei for several days after the first fighting told Human Rights Watch that his wife had seen a teacher from Abyei captured by SAF soldiers and his hands tied. Days later, the teacher's body was found by the river, along with the bodies of eight other civilians.²³

²¹ Interview with displaced woman, Turalei, Twic County, June 17, 2008

²² Interview with displaced man, Abathok, June 20, 2008

²³ Interview with displaced man, Agok, June 21, 2008; the finding of the bodies was independently confirmed by two staff of the South Sudan Relief and Rehabilitation Commission (SSRRC) interviewed in Agok, June 21, 2008.

Darfuri traders who had fled the fighting in Abyei market told Human Rights Watch that while many Arab traders fled to the north or took refuge in the SAF barracks, most of the Darfuris chose to flee south into Twic County with assistance from SPLA troops. One Darfuri trader told Human Rights Watch how SAF soldiers came to the Abyei market on May 17 and rounded up the Darfuri traders demanding their money and later setting fire to their shops. He said he witnessed the soldiers taking a group of six Darfuris to the barracks where he has been told by other traders they were killed.²⁴ This cannot be confirmed as no independent party has had access to the SAF barracks.

Because SAF restricted access to the town in the weeks following the fighting, no independent body had been able to conduct a comprehensive investigation of the total number of civilians killed nor the circumstances of their deaths. On the few occasions SAF allowed international diplomats and UN agencies to visit the town, it restricted their movements to certain areas.²⁵

It was not until mid-June – a month after the fighting – that the International Committee of the Red Cross (ICRC) was able to begin clearing bodies from the town. Civilians who were also able to access Abyei at the same time told Human Rights Watch that they found the bodies of at least 18 civilians. Given the lack of access to Abyei in the first days after the fighting, this may be only a fraction of the total. According to leaders of three of the nine Ngok Dinka sub-tribes from Abyei, more than 100 civilians remained unaccounted for a month after the fighting²⁶.

International Humanitarian Law (the laws of war) applicable to internal armed conflict²⁷ prohibits direct or indiscriminate attacks on civilians.²⁸ The parties, in this case the SAF, SAF-supported militia, and SPLA forces, must also take precautionary

²⁴ Interview with Darfuri traders displaced from Abyei, Turalei, June 18, 2008.

²⁵ Interviews with Southern Sudan Relief and Rehabilitation Committee staff and Dinka Ngok leaders who visited the town subject to restrictions imposed by SAF, Agok, June 22, 2008

²⁶ Ibid

²⁷ Under international law, the conflict in Abyei would be considered a non-international (internal) armed conflict, in which the applicable law derives primarily from article 3 common to the four Geneva Conventions of 1949, the Second Additional Protocol of 1977 to the Geneva Conventions (Protocol II) and customary international law.

²⁸ Protocol Addition to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 1125 U.N.T.S. 609, entered into force December 7, 1978. Article 13. Acceded to by Sudan July 13, 2006, with the Protocol coming into force for Sudan on January 13, 2007.

measures to minimize incidental loss of civilian life. International humanitarian law also prohibits summary executions.²⁹ Human rights law prohibits the arbitrary deprivation of life.³⁰

Looting, burning and destruction of property

Eyewitnesses told Human Rights Watch that in the days following the initial clashes on May 14, the SAF and SAF-supported Misseriya militia, wrought havoc in Abyei, torching the market and at least half the houses, and systematically looting property from civilian homes and NGO premises.

A woman who spent the night of May 14 in her house in Abyei told Human Rights Watch how SAF soldiers came to her house the next morning:

When the fighting calmed down I came back to my house. At 10am the next day men came and asked us to leave–told us that ‘we’ll take everything and we’ll burn your house’. I tried to take one bag but they wouldn’t let me. They were wearing green khaki camouflage.³¹

A trader from Abyei market told Human Rights Watch how he had witnessed his home being destroyed:

I left everything in Abyei when the fighting started. I saw some people fighting and ran out – I saw my house burned – it was set fire by a 31 brigade soldier in uniform – camouflage. I have two wives and eight children, we came by foot in one day – even though the children are small. When the fighting started we had to run, the 131 were chasing me.³²

²⁹ Protocol II Article 4

³⁰ International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No.16) at 52, U.N. Doc A/6316 (1966), 999 U.N.T.S. 171 entered into force March 23, 1976, acceded to by Sudan 18 March 1986, art. 6; African Charter on Human and Peoples’ Rights (ACHPR), adopted June 27, 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), entered into force October 21, 1986, acceded to by Sudan 3 September 1982, art 4.

³¹ Interview with displaced woman from Abyei, Turalei, June 16, 2008

³² Interview with displaced trader from Abyei, Turalei, June 16, 2008

Eyewitnesses who were in the market when the looting began on May 14 reported to Human Rights Watch that merchants who refused to give their money to the looters – SAF soldiers and militia were threatened with being shot:

[When the fighting began] we were in the mosque and we came out and went to our shops. The 31st Brigade came and called us out. We came out. They said bring your money. Those who refused their orders they threatened to shoot, but even those who handed over the money were detained. I left my money in the shop so they broke into it using a gun. They entered and took the money. They kept me in the market with others. They used matches and grass to burn the shops. I watched my shop burn.³³

One elderly woman who was unable to flee Abyei at the start of the fighting as she was ill remained in her *tukul* [hut] for the next two weeks. She was repeatedly robbed and threatened:

I was sick in my house. I heard the sound of guns but could not move. Soldiers came into my house. One of them cocked his gun but the other said not to shoot. Instead they put me on the floor and took my bed and all other items. They took water. They threatened to light the house on fire. One day two men came – they took my water. On another day a lady came and said do not fear, they won't kill you, come out. But I did not want to move. I drank rain water. I survived on food that I had already prepared in the house.³⁴

Several eye-witnesses who stayed in Abyei after May 14 told Human Rights Watch they saw soldiers and government supported militia set fire to houses. An eye-witness saw SAF soldiers moving through the town with AK47s burning and destroying tukuls and property. He told Human Rights Watch that while walking from the SAF barracks toward the UNMIS compound:

³³ Interview with displaced trader from Abyei, Turalei June 18, 2008

³⁴ Interview with displaced woman from Abyei, Agok, June 22, 2008

I saw Misseriya, some in uniforms, some in civilian clothes, burning houses. They used torches made from grass they set on fire with matches. I saw burning buildings and the tukuls near the market were all burned down.³⁵

By May 17, he said, the whole of the market and more than half the homes in Abyei had been razed to the ground³⁶.

SAF and allied militia also looted and severely damaged the premises of UN agencies and NGOs, taking furniture, air-conditioners, and even removed electrical wiring from the walls³⁷. The looting continued for at least six weeks after the first fighting.³⁸

Under international humanitarian law ‘civilian objects,’ which include homes and property (including that of humanitarian agencies), are protected, and direct or indiscriminate destruction or looting of civilian objects is prohibited. The parties must take precautions to minimize damage to civilian objects.³⁹ Pillage, according to the Statute of the International Criminal Court, is a war crime in non-international armed conflicts.⁴⁰

The destruction of homes is also a breach of human rights, violating the basic rights to housing and to the protection of one’s property.⁴¹

Displacement

A woman who ran with her family from her home in Abyei town to Abatok told Human Rights Watch:

³⁵ Interview with displaced man from Abyei, Agok, June 21, 2008

³⁶ *ibid*

³⁷ Interview with SSRRC representative who visited Abyei on June; photos of the destruction seen by Human Rights Watch

³⁸ Telephone interview with UNMIS Military Observer in Abyei, June 29, 2008

³⁹ Protocol II Article 4

⁴⁰ Rome Statute of the International Criminal Court (Rome Statute), U.N. Doc. A/CONF.183/9, July 17, 1998, entered into force July 1, 2002, art. 8(2)(e)(v)

⁴¹ ACHPR, art 14; International Covenant on Economic, Social and Cultural Rights (ICESCR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 49, U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3, entered into force January 3, 1976, acceded to by Sudan March 18, 1986, art. 11

We ran to the east and kept running until we got to Majak where we spent the night. The next morning we heard some artillery—a big sound, boom... boom.... So everyone ran again. We could see smoke from Abyei.⁴²

The United Nations Office for the Coordination of Humanitarian Affairs (OCHA) estimate that some 60,000 civilians fled the fighting in Abyei. They estimate that 50,000 are still living in temporary shacks or crowded into homes with other families in Twic County, south of Abyei, with the remainder having fled north.⁴³

Civilians in Agok, Turalei and Abatok, told Human Rights Watch they were unwilling to return until the Khartoum government fully withdraws SAF military forces, and new joint military and police forces replace them.

A woman who had fled Abyei and spent the next two weeks in Twic County sharing one *tukul* [hut] with seven other adults and nine children, told Human Rights Watch that despite having to live in such conditions, they would not consider returning to Abyei until Brigade 31 withdrew: “we want to go back, we will go back, but until the 31st goes it won’t be possible.”⁴⁴

Following a conflict displaced civilians have the right to return to their homes of origin in safety and voluntarily, on the basis of informed consent.⁴⁵ The SAF and SPLA should ensure that civilians are able to access Abyei to assess the current situation before consenting to return, and that they are not subject to any pressure to return unless they freely consent to do so.

⁴² Interview with displaced woman from Abyei, Abathok, June 21, 2008

⁴³ ‘South Sudan – Abyei Displacement,’ OCHA situation report No 20 for reporting period 28 June to 4 July 2008 - <http://www.reliefweb.int/rw/rwb.nsf/db900sid/KKAA-7GB7HR?OpenDocument&rc=1&emid=ACOS-635PJQ> (accessed July 16, 2008)

⁴⁴ Interview with displaced woman from Abyei, Turalei, June 16, 2008

⁴⁵ UN Commission on Human Rights, Guiding Principles on Internal Displacement, UN Doc. E/CN.4/1998/53/Add.2 (1998), noted in Resolution 1998/50, Principle 28.

The Abyei Roadmap

In early June 2008, while the SAF remained in control of Abyei town and looting and destruction continued, negotiations to reestablish security there began in Khartoum and Juba. On June 7, 2008 government officials from the ruling National Congress Party (NCP) and the SPLM signed a new agreement on Abyei, the Abyei Roadmap, much of which reflected commitments already made under the Abyei Protocol to the CPA.

The Roadmap provides for the withdrawal of both sides' armed forces from Abyei and their replacement with a new Joint Integrated Unit (JIU) of SPLA and SAF forces to replace the one that had divided so quickly after the first clashes, as well as a joint integrated police force. The new JIU was to be deployed by June 17, and the SPLA and SAF withdrawn as soon as the JIU had assumed their duties. The agreement also provided for the presidency to appoint a civil administration for Abyei.⁴⁶

The Roadmap also addresses the contentious issue of border demarcation, perhaps the most politically sensitive issue in relation to Abyei given its implications for oil revenue sharing and the anticipated 2011 local referendum. However, there is concern that it may have introduced unfortunate ambiguity into an already vexed matter.

Under the Roadmap the parties stipulated that if they could not agree the boundaries to the nine Ngok chiefdoms proposed by the Abyei Boundaries Commission in July 2007 (the 'ABC Boundary') by the end of June, the issue would be referred to the International Court of Arbitration for determination, which the parties formally did on July 7.⁴⁷ In the interim, the parties agreed to share oil revenues from the ABC Boundary area, as previously agreed in the Abyei Protocol.

⁴⁶ A similar arrangement was previously agreed to under the CPA, but never implemented.

⁴⁷ "Abyei's roadmap gets boosted as SPLM and NCP strike a deal on administration and arbitration," *New Sudan Vision*, July 7, 2008 <http://www.newsudanvision.com/news/abyeis-roadmap-gets-boosted-splm-and-ncp-strike-a-deal-administration-and-arbitration-1136> (accessed July 15, 2008)

However the Roadmap also provided for a more limited ‘interim’ boundary for Abyei, which excludes Meiram and the oilfields at Heglig. It is over this more limited area that the provisions regarding deployment of JIU, withdrawal of SAF and SPLA forces, and appointment of an interim administration apply. Thus while the Roadmap provides for the GoSS to receive oil revenues from Heglig, they will have no military or political presence in that area.

While the Roadmap does appear to address a number of outstanding issues concerning Abyei, there have already been delays in implementation. The new JIU deployed quickly, arriving in Abyei on June 18, 2008.⁴⁸ However, the SAF did not begin to withdraw until July 4, and by July 18 had yet to complete their withdrawal.⁴⁹ The SPLA has also yet to completely withdraw from areas south of Abyei.⁵⁰

Appointment of an administration for Abyei has also been delayed. Under the Roadmap the presidency was to appoint the new Abyei administration by the end of June. However, the parties could not reach agreement on the Deputy Chief Administrator,⁵¹ so appointment of the administration has been postponed until the end of July. The slow implementation has allowed tensions to mount once again between the two sides. On July 7, 2008 an SPLA soldier shot and injured a UN military observer and a SAF monitor in Agok.⁵²

In addition the Roadmap includes no provisions either for compensation or accountability for abuses carried out by any party during the fighting, both issues that residents who had fled the fighting told Human Rights Watch was essential⁵³. Due to SAF’s restrictions on access to the town, by early July no independent body had been able to conduct a full investigation into violations of human rights or international law during the fighting, nor had either the government of Sudan or the

⁴⁸ Interviews with SPLM representatives, Agok, June 18, 2008

⁴⁹ Interview with UNMIS staff, July 18, 2008

⁵⁰ Correspondence with UNMIS staff, Juba, July 18, 2008

⁵¹ The Roadmap provides for the Deputy to be nominated by the NCP. The NCP nominated a Misseriya candidate, but the SPLM has refused to accept him, insisting that all of the administration must be Dinka (Interview with SPLM representative in Juba, June 24, 2008).

⁵² “UN: UN observer, army monitor shot in Abyei region of Sudan,” Associated Press, July 8, 2008 http://news.aol.com/story/_a/un-un-observer-army-monitor-shot-in/n20080708104409990013 (accessed July 14, 2008)

⁵³ Interviews with displaced people from Abyei, Agok, May 19 and 20, 2008

GOSS made any move towards a criminal investigation into those violations that amounted to serious crimes.⁵⁴

The Roadmap states that the civilian population should return to Abyei on completion of the security arrangements – that is the deployment of the JIU and joint police force – which the Roadmap stated were expected to be finalized by the end of June. The arrangements are unlikely to actually be complete before the end of July, and in the meantime displaced people repeatedly told Human Rights Watch that they were unwilling to return. Others also pointed out that so much of the town has been destroyed that they will not be able to return until at least some reconstruction is complete. The NCP and SPLM should ensure that any return of displaced people is voluntary and based on full information of the situation in Abyei, particularly with regard to security.

Finally the Roadmap makes no provisions for local peace and reconciliation efforts, which many displaced people from Abyei told Human Rights Watch will be essential for future co-existence.⁵⁵ Any such efforts must also address the issues of accountability for breaches of international humanitarian law and human rights violations.

⁵⁴ In July UNMIS dispatched an investigation team to Abyei, but this team is mandated to investigate the role of UNMIS rather than human rights and humanitarian law violations by the parties to the fighting. The Ceasefire Joint Military Committee (CJMC) also plans to conduct an investigation, but this is currently planned to include only military personnel and to focus on violations of the CPA (Interview with DPKO staff, New York, July 15, 2008).

⁵⁵ Interviews with population and Dinka Ngok leaders displaced from Abyei, Wunrock and Agok, 19-21 June 2008

Role of the United Nations Mission in Sudan (UNMIS)

Both in the run-up to and during the fighting, UNMIS in Abyei lacked the ability to carry out two key aspects of its mandate: monitoring implementation of the CPA, and protecting civilians.

Under Security Council Resolution 1590, UNMIS is mandated to support the implementation of the CPA, largely through the monitoring and verification of the Ceasefire Agreement and other elements of the CPA, for which purposes the parties should provide free movement for UNMIS throughout Sudan.⁵⁶

However, both Khartoum and GOSS have repeatedly imposed restrictions on the movement of UNMIS. In March 2006 the SAF notified UNMIS that a number of towns in areas north of Abyei, including Al Fula, Muglad and Meiram, were to be excluded from monitoring and verification.⁵⁷ These areas are within the boundary proposed by the Abyei Boundary Commission – but that the NCP argues that these areas do not fall within the accepted boundaries of Abyei, and therefore are not UNMIS does not have the mandate to monitor there.⁵⁸ In September 2006 SPLA representatives informed UNMIS and the SAF that it would be imposing restrictions on movement of UNMIS monitors south of Abyei.⁵⁹ Although these restrictions were briefly lifted in December 2007⁶⁰ and again in April 2008⁶¹, this was only temporary and only in relation to limited areas. As a result UNMIS was unable to fully investigate allegations of troop build up and other violations north of Abyei. When SAF and the

⁵⁶ United Nations Security Council Resolution 1590 (2005), S/RES/1590 (2005) <http://daccessdds.un.org/doc/UNDOC/GEN/No5/284/08/PDF/No528408.pdf?OpenElement> (accessed August 19, 2007); Status of Forces Agreement between the Government of Sudan and the United Nations concerning the status of the United Nations Mission In Sudan - <http://www.unmis.org/english/documents/sofa.pdf> (accessed July 15, 2008).

⁵⁷ United Nations Mission in Sudan, 'The CPA Monitor; Monthly Report on Implementation of the Comprehensive Peace Agreement,' May 2008, <http://www.unmis.org/english/cpaMonitor.htm> (accessed July 14, 2008) para 129

⁵⁸ Interview with DPKO staff, New York, July 3, 2008

⁵⁹ United Nations Mission in Sudan, 'The CPA Monitor; Monthly Report on Implementation of the Comprehensive Peace Agreement,' May 2008, <http://www.unmis.org/english/cpaMonitor.htm> (accessed July 14, 2008) para 129

⁶⁰ Report of the UN Secretary General on the Sudan, S/2008/64, paragraph 30, January 31, 2008 <http://daccessdds.un.org/doc/UNDOC/GEN/No8/217/07/PDF/No821707.pdf?OpenElement> (accessed July 15, 2008).

⁶¹ Report of the UN Secretary General on the Sudan, S/2008/267, April 22, 2008 - <http://daccessdds.un.org/doc/UNDOC/GEN/No8/306/90/PDF/No830690.pdf?OpenElement> (accessed July 15, 2008) – paragraph 4

SPLA police clashed in Dukra on May 13th, lack of information and contacts in that area hampered UNMIS' ability to respond effectively.⁶²

Resolution 1590 also mandates UNMIS to take action to protect civilians under imminent threat of physical violence, providing that:

UNMIS is authorized to take the necessary action, in the areas of deployment of its forces and as it deems within its capabilities... and, without prejudice to the responsibilities of the Government of Sudan, to protect civilians under imminent threat of physical violence.⁶³

The protection mandate is made explicitly subject to UNMIS capabilities within a given area, and of course decisions regarding the deployment of UNMIS military capabilities are critical in determining its ability to protect civilians. Despite increasing awareness, particularly since October 2007, that Abyei was a potential flashpoint for new conflict,⁶⁴ the unit there was designed with a view to carrying out monitoring activities rather than protection of civilians.⁶⁵ The force of some 200 soldiers then in Abyei was inadequate, both in terms of manpower and equipment, either to prevent the fighting or to intervene once fighting had begun on May 14.⁶⁶ UNMIS evacuated humanitarian staff on the evening of May 14, and was able to provide assistance to civilians who came to the base seeking protection. When they were told by SPLM representatives of some civilians still trapped in Abyei two weeks after the fighting, UNMIS were able to collect them from their homes and bring them back to the UNMIS compound.⁶⁷ However, for most of the four weeks following the fighting they were unable to deter ongoing violations such as continuing looting by SAF soldiers and government-supported militia, and for the most part remained bunkered in their compound.⁶⁸

⁶² Interview with DPKO staff, New York, July 3, 2008

⁶³ UN Security Council Resolution 1590, article 16 (i)

⁶⁴ See for example the Report of the UN Secretary General on the Sudan, S/2008/64, January 31, 2008 – <http://daccessdds.un.org/doc/UNDOC/GEN/No8/217/07/PDF/No821707.pdf?OpenElement> (accessed July 15, 2008)

⁶⁵ Interview with DPKO staff, July 3, 2008

⁶⁶ Interviews with UNMIS staff, SPLM representatives and displaced people from Abyei.

⁶⁷ Correspondence with UNMIS staff, July 16, 2008

⁶⁸ Interviews with displaced people and humanitarian workers from Abyei.

As the UN Secretary General reported to the Security Council in January 2008, a strategic assessment of UNMIS had indicated the need for a review of the strength of its military component.⁶⁹ That same report acknowledged that Abyei was the most crucial challenge facing the parties, due to the ongoing presence of forces from both sides in that area. In April 2008, the Secretary General called for UNMIS to develop an integrated strategy for civilian protection and conflict management, with border area flashpoints being the first priority.⁷⁰ Despite this, when the fighting broke out in Abyei the UNMIS force was insufficient to meet the challenges of this predictably volatile and politically critical conflagration. As of July 8, the military capabilities assessment had yet to take place, and is now planned for late July.⁷¹

Some civilians who had fled the fighting in Abyei told Human Rights Watch they had lost confidence in the ability of UN peacekeepers to provide protection for civilians. Community leaders told Human Rights Watch they had made complaints to UNMIS, particularly regarding the build up and behavior of SAF Brigade 31, but UNMIS had failed to resolve them.⁷²

One man who had been working with an international NGO in the centre of Abyei told Human Rights Watch: “UNMIS was very weak and could not stop anything. It had big guns outside the compound, but the men were all inside.”⁷³

Following a request by the UN Security Council on June 24, 2008, UNMIS sent an assessment team on July 4 to investigate the ‘the role played by UNMIS in relation to the violence.’⁷⁴ As of July 18 UNMIS has yet to report on its findings or on any investigation on human rights violations carried out by the parties during the attacks.

⁶⁹ Report of the UN Secretary General on the Sudan, S/2008/64, January 31, 2008 – <http://daccessdds.un.org/doc/UNDOC/GEN/No8/217/07/PDF/No821707.pdf?OpenElement> - (accessed July 15, 2008) – paragraph 77

⁷⁰ Report of the UN Secretary General on the Sudan, S/2008/267, April 22, 2008 - <http://daccessdds.un.org/doc/UNDOC/GEN/No8/306/90/PDF/No830690.pdf?OpenElement> (accessed July 15, 2008) – paragraph 46 and 48

⁷¹ Interview with UNMIS staff, July 8, 2008

⁷² Interviews with two Dinka Ngok leaders displaced from Abyei, June 21, 2008,

⁷³ Interview with staff of INGO displaced from Abyei

⁷⁴ United Nations Security Council, Statement by the President, S/PRST/2008/24, June 24, 2008 <http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/Sudan%20SPRST200824.pdf> (accessed July 14, 2008)

The CJMC (Ceasefire Joint Military Committee)⁷⁵ has begun carrying out an investigation into the fighting as specified in the Roadmap. However, this investigation will focus on military activities and breaches of the CPA, rather than human rights violations and is carried out jointly by representatives of the SPLM and NCP, as well as UNMIS staff.

None of these ongoing investigations focuses on human rights and humanitarian law violations. The United Nations should task human rights monitors to carry out an in-depth investigation into human rights and other violations carried out during the fighting and to report publicly on the findings.⁷⁶ The central government and the GOSS should cooperate fully with such an investigation, and take all necessary steps to ensure accountability for the perpetrators and compensation for the victims.

The Security Council on June 24 also requested that UNMIS “robustly deploy, as appropriate, peacekeeping personnel in and around Abyei to help reduce tensions and prevent escalation of conflict in support of implementation of the CPA,”⁷⁷ however by July 18 UNMIS had yet to deploy significant additional troops to Abyei.⁷⁸

⁷⁵ The CJMC is mandated to oversee compliance of the parties with the CPA. It is chaired by UNMIS and includes representatives of both the NCP and the GoSS.

⁷⁶ UNMIS Human Rights Monitors have conducted investigations in Twic County, but have yet to report on the findings

⁷⁷ United Nations Security Council, Statement by the President, S/PRST/2008/24, June 24, 2008
<http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/Sudan%20SPRST200824.pdf> (accessed July 14, 2008)

⁷⁸ Telephone interview with DPKO staff, New York, July 18, 2008