



SOUTH SUDAN: 'WE ARE AT RISK AND ON THE RUN'

SECURITY AGENTS TRACK DOWN PROTESTERS

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1. EXECUTIVE SUMMARY

On 16 May 2019, South Sudanese took to the streets in Australia, the United States, Ethiopia and Sudan to express their concerns about, and dissatisfaction with, the policies and action of the Government of South Sudan. These peaceful protests were organized by the Red Card Movement (RCM), a nascent South Sudanese diaspora-led youth movement, which is open to any individual who embraces its non-violent approach, and consists mainly of human rights defenders, civil society activists, students, academics and politicians. Inspired by the protests in Sudan and Algeria that led to the fall of former presidents Omar al-Bashir and Abdelaziz Bouteflika, RCM identifies itself as a “civil rights movement establish[ed] to rebuild and safeguard a fair, free and open society,” which seeks “to balance the fundamental values of liberty, equality and fraternity”¹ and operates under the mottos, “Kiir must go”² and “Don’t be silent, don’t be violent.”³

Soon after its emergence and announcements of planned peaceful demonstrations, real or perceived RCM members were targeted with arbitrary restrictions and arrest, harassment and intimidation. This briefing documents written and verbal threats against, as well as detention of RCM members and assaults of journalists by the South Sudanese government to silence criticism of the government and its leaders. In May 2019 in Juba, South Sudan’s capital, people were deterred from peacefully protesting after the government heavily deployed the military in the lead-up to planned protests, conducted house-to-house searches and intimidated, harassed and threatened members of the group. The harassment extended beyond borders. In Nairobi, protesters were denied their rights to freedom of expression and peaceful assembly by the Kenyan authorities in May 2019. On 9 July, despite having complied with Kenyan legal requirements to notify the police of their planned protest, three peaceful protesters were arrested in Nairobi and beaten in police custody. In Ethiopia, two cameramen covering the protest in the capital, Addis Ababa, were physically attacked by South Sudanese embassy personnel. According to Amnesty International’s information, protesters in Kenya and Ethiopia have been targeted by South Sudan National Security Service (NSS) agents and threatened with kidnapping. In Kenya, where the enforced disappearance of three, and subsequent execution of two, prominent South Sudanese government critics and the deportation of another since 2016 still looms large, these threats and attacks have instilled fear in South Sudanese human rights defenders, activists and civil society.

Amnesty International interviewed 10 RCM members to document cases of harassment, intimidation and threats against them as they exercised their rights to freedom of expression and peaceful assembly. Eight of the 10 interviewees were civil society activists and two members of political opposition groups. Amnesty International also interviewed two members of civil society, two students, two journalists who were eyewitnesses to the physical assault of their colleagues, and a source knowledgeable about a South Sudanese man detained by the NSS for his alleged links to the RCM. Interviews were conducted independently and demonstrate a consistent pattern of threats. Identifying details and interview locations are withheld for security reasons. Where possible, victims and eyewitness accounts have been corroborated through other means, including with information from RCM public documents and correspondence with the Kenyan police and South Sudanese Embassy in Ethiopia.

Amnesty International calls on the South Sudanese government to immediately end harassment,

¹ RCM Facebook page, https://www.facebook.com/pg/RED-CARD-Movement-2262745200437966/about/?ref=page_internal Accessed 5 July 2019.

² RCM mission and vision document. On file.

³ RCM Kenya Chapter, *Press Release on Public Protests and Public Conduct*, no date.

intimidation and targeting of individuals simply for expressing critical views of the government within and beyond South Sudan's borders. Instead, the government must respect, protect, promote and fulfill the rights to freedom of peaceful assembly, association and expression. The government should independently, thoroughly and effectively investigate all allegations of harassment, intimidation and threats against RCM members. In addition, the government should amend the 2014 NSS Act to curb the agency's unchecked powers that contravene the 2011 Transitional Constitution and reform it in line with international human rights standards.

Amnesty International also calls on the Kenyan and Ethiopian governments to put in place protection mechanisms for RCM members who have sought refuge, or who otherwise reside and operate, in their respective countries. The organization also calls on these governments to independently, thoroughly and effectively investigate all allegations of harassment, intimidation, threats against and ill-treatment of RCM members in their countries. Specifically, Amnesty International calls upon the Ethiopian police to independently, thoroughly and effectively investigate and bring to justice anyone suspected to be responsible for the physical assault of the two cameramen.

2. BACKGROUND

South Sudan's security and human rights situation is precarious, with over 2.3 million⁴ South Sudanese seeking refuge in other countries and over 181,000⁵ people internally displaced and living in UN protection sites. The 2015 peace agreement between government and opposition forces, subsequently revitalized in September 2018, remains fragile. Riek Machar, former Vice President, is set to return to South Sudan as the First Vice President in November 2019, following an extension of the pre-transitional period. The conflict has been characterized by serious violations of international humanitarian law and international human rights law, including the deliberate killing of civilians, acts of sexual violence, forced recruitment of children, arbitrary and prolonged detention and enforced disappearances.⁶

Since the start of the conflict in 2013, the NSS has accumulated unchecked power. Alongside the army and armed opposition groups, the NSS has grown into one of the main perpetrators of human rights abuses. Exceeding the NSS's constitutional mandate, which limit its powers to "information gathering, analysis and advice to the relevant authorities,"⁷ the 2014 NSS Act gives the security agency police-like powers to arrest, detain, conduct searches and seize property without adequate safeguards. The Act does

⁴ United Nations High Commissioner for Refugees (UNHCR), *South Sudan*, 31 May 2019, <https://data2.unhcr.org/en/situations/southsudan>

⁵ UNMISS, *Protection of Civilian (PoC) sites Update No. 238*, 17 June 2019, https://unmiss.unmissions.org/sites/default/files/20190617_-_poc_update.pdf

⁶ Amnesty International, *Nowhere Safe: Civilians Under Attack in South Sudan*, 8 May 2014 (Index: AFR 65/003/2014); Amnesty International, "South Sudan: Escalation of violence points to failed regional and international action" 21 May 2015; Amnesty International, *'Their Voices Stopped': Mass Killing in a Shipping Container in Leer*, 10 March 2016 (Index AFR 65/3598/2016); Amnesty International, *Denied Protection of the Law: National Security Service Detention in Juba*, 15 April 2016 (AFR 65/3844/2016); Amnesty International, *'We Are Still Running': War Crimes in Leer, South Sudan*, 28 July 2016 (Index AFR 65/4486/2016); Amnesty International, *'We Did Not Believe We Would Survive': Killings, Rape and Lootings in Juba*, 24 October 2016 (Index AFR 65/5028/2016); Amnesty International, *'It Was As If My Village Was Swept By a Flood': Mass Displacement of The Shilluk Population From the West Bank of the White Nile*, 21 June 2017 (Index AFR 65/6538/2017); Amnesty International, *'If Men Are Caught, They Are Killed, If Women Are Caught, They Are Raped' – Atrocities in Equatoria Region Turn Country's Breadbasket Into A Killing Field*, 4 July 2017 (Index AFR 65/6612/2017); Amnesty International, *'Do Not Remain Silent': Survivors of Sexual Violence in South Sudan Call for Justice and Reparations*, 24 July 2017 (Index AFR 65/6469/2017); Amnesty International, *Broken Promises: Arbitrary Detentions By South Sudan's Intelligence Agencies Continues*, 4 September 2018 (Index AFR 65/8823/2018); Amnesty International *'Anything That Was Breathing Was Killed' – War Crimes in Leer and Mayendit, South Sudan*, 18 September 2018 (Index AFR 65/8801/2018).

⁷ Transitional Constitution of the Republic of South Sudan, 2011, Section 159.

not stipulate the circumstances under which these powers can be exercised, violating the principle of legality. The Act also interferes with human rights protections in the 2011 Transitional Constitution and regional and international human rights treaties to which the country is a state party, including the rights to liberty, to freedom from torture and other ill-treatment, to a fair trial and to privacy.

The Government of South Sudan has sought to silence critics by harassing, intimidating, threatening, arbitrarily detaining and forcibly disappearing them. The NSS has arrested and detained people who are alleged to have communicated with, or supported, the opposition, as well as human rights defenders, civil society activists⁸ and academics⁹ critical of the government.¹⁰ One emblematic case is that of Peter Biar Ajak,¹¹ a civil society activist and academic arrested on 28 July 2018 on his way to a youth forum in the northern part of the country. Two months into his prolonged detention, an uprising took place in the detention centre where he was held.¹² He was subsequently charged, convicted and sentenced to two years in prison in a sham trial¹³ for disturbing the peace during the uprising. Detainees are often held for months without charge, access to lawyers, family or medical treatment, and are routinely subjected to torture and other ill-treatment. At least 24 have died from poor conditions and lack of medical care between February 2014 and July 2017.

Since 2017, the NSS has also been involved in kidnappings and enforced disappearances of prominent government critics, particularly from Kenya, instilling fear amongst South Sudanese activists operating in neighbouring countries.¹⁴ An emblematic case is that of South Sudanese critics Dong Samuel Luak, a human rights lawyer and registered refugee, and Aggrey Idri, a member of the political opposition, who were abducted in Nairobi on 23 and 24 January 2017 respectively. The UN Panel of Experts found that they were flown to South Sudan on a commercial plane chartered with the help of South Sudan's embassy in Kenya on 27 January 2017. They were detained in the 'Blue House', the NSS headquarters in Juba, then moved to the NSS training facility on President Salva Kiir's farm in Luri, near Juba. The panel of experts concluded that it is "highly probable" that the two were executed there on January 30, 2017.¹⁵ Opposition governor Marko Lokidor Lochapio was abducted from Kakuma refugee camp in Kenya in December 2017¹⁶ and detained in Blue House until his release on 25 October 2018.¹⁷ The unlawful deportation of opposition spokesman James Gadet – a registered refugee – to South Sudan by the Kenyan government in November 2016¹⁸ has also negatively affected the trust of South Sudanese in the Kenyan authorities.

Since the RCM's formation, Amnesty International has documented a flurry of cases of harassment, intimidation and threats against RCM members and individuals perceived to be RCM members by NSS agents and government supporters. According to credible accounts documented by Amnesty International, NSS agents operate in Kenya to track down RCM members.

⁸ Amnesty International, Urgent Action: South Sudanese Activist Arbitrarily Detained 27 August 2018.

⁹ Amnesty International, Urgent Action: University Professor Arbitrarily Detained 29 March 2016.

¹⁰ Amnesty International, *Denied Protection of the Law: National Security Service Detention in Juba*, 15 April 2016 (AFR 65/3844/2016); Amnesty International, *Broken Promises: Arbitrary Detentions by South Sudan's Intelligence Agencies Continues*, 4 September 2018 (Index AFR 65/8823/2018).

¹¹ Amnesty International, Urgent Action: Detained Activist Denied Access to a Lawyer, 31 July 2018.

¹² Amnesty International, "South Sudan: Juba prison revolt underscores deep problems in justice system" 7 October 2018.; Voice of America, *Prison Standoff in South Sudan's Blue House*, 7 October 2018, <https://www.voanews.com/archive/prison-standoff-south-sudans-blue-house>

¹³ Amnesty International, "Amnesty International slams sham trial that resulted in prison sentences for six men including activist Peter Biar" 12 June 2019.

¹⁴ Amnesty International, "Kenya: Court drops oversight on enforced disappearance of two South Sudanese critics" 12 February 2019;

¹⁵ Report of the UN Panel of Experts on South Sudan, 9 April 2019, UN doc S/2019/301, paras. 42- 47.

¹⁶ Sudan Tribune, "South Sudan rebel appointed governor abducted in Kenya", 1 January 2018, <https://www.sudantribune.com/spip.php?article64385> and The East African, "Africa: Are Kenya, Uganda Obstacles to South Sudan Peace?", 6 January 2018, <https://allafrica.com/stories/201801150280.html>

¹⁷ Reuters, "South Sudan frees five political detainees: intelligence agency", 25 October 2018, <https://www.reuters.com/article/us-southsudan-unrest/south-sudan-frees-five-political-detainees-intelligence-agency-idUSKCN1MZ21P>

¹⁸ Amnesty International, Urgent Action: South Sudan: Man held in poor conditions, denied family visits: James Gadet, 19 October 2017; Associated Press, "Kenya departs South Sudan rebel official over Facebook post", 4 November 2016, <https://www.apnews.com/33aaeb3a26834db2b54310c7d654adb6>

3. CONSEQUENCES OF CRITICISING THE GOVERNMENT

3.1 SOUTH SUDAN GOVERNMENT RESPONSE: MORE RED CARDS

RCM chose 16 May 2019, the day that marks the 36th anniversary of the beginning of the South Sudanese quest for independence from Sudan in 1983, to launch their first peaceful protests.¹⁹ A leader of the RCM explained to Amnesty International:

“We chose 16 May because we knew that our country was going to celebrate that day and we chose to express our view that our country is suppressed so it can capture attention of politicians and they can put into consideration our cry.”²⁰

The RCM used social media to call on South Sudanese youth around the world to assemble and protest. Protests were planned to be held in several countries, including Australia, the United States, Egypt, Sudan, Ethiopia, Kenya, Uganda and South Sudan.

But a heavy military build-up and harassment, intimidation, threats, and arrest of RCM members or perceived members by the government prevented protesters from taking to the streets in Juba. In anticipation of the protests, the South Sudanese government lined Juba’s streets with a heavy military presence and closed public spaces in the week leading up to the protests, starting 7 May 2019.²¹ Article 8.1(b) of the 2009 Southern Sudan Police Service Act gives the police sweeping powers to close public spaces “when necessity requires.” The SPLA Act does not give such powers to close public spaces to the military. Given the peaceful nature of the planned protests and RCM’s rejection of violence as a means of achieving their goals, it was not necessary for security forces to close public spaces.

On 7 May 2019, Minister of Information, Broadcasting, Telecommunications, and Postal Services Michael Makuei Lueth, warned protesters, saying that “those who want to protest are welcome but let them be ready to face consequences. We know those who are spearheading the attempts.”²² He continued, “we don’t want youth to die again. South Sudan youth should not try to reproduce what is happening in other countries.” Similarly, on 21 May 2019, during the launch of an international gateway²³ for South Sudan, President Salva Kiir Mayardit made it clear that the government would be

¹⁹ 16 May marks the creation of the Sudan People’s Liberation Army (SPLA) when southern Sudanese soldiers mutinied in Bor. Initially established as an armed group in 1983, the SPLA fought for independence from Sudan, culminating in the creation of South Sudan in 2011. Previously, celebrated as a day when South Sudanese began their quest for independence, RCM planned protests on SPLA Day to highlight the lack of respect for human rights since their country became independent.

²⁰ Amnesty International interview with RCM member, 24 June 2018.

²¹ Radio Tamazuj, “Troops deploy in Juba in anticipation of protests: residents”, 10 May 2019, <https://radiotamazuj.org/en/news/article/troops-deploy-in-juba-in-anticipation-of-protests>

²² Radio Tamazuj, “Government warns against emulating Sudan protests”, 7 May 2019, <https://radiotamazuj.org/en/news/article/government-warns-against-emulating-sudan-protests>

²³ An international gateway is hardware used for telecommunications and facilitates the flow of data between networks. See Eye Radio, “South Sudan launches international gateway”, June 2019, <https://eyeradio.org/south-sudan-launches-international-gateway/>; Radio

willing to use force if protesters exercised their right to peaceful assembly when he said, “If the government closes its mind and decides to use automatic weapons, why do you want to die for nothing.”²⁴

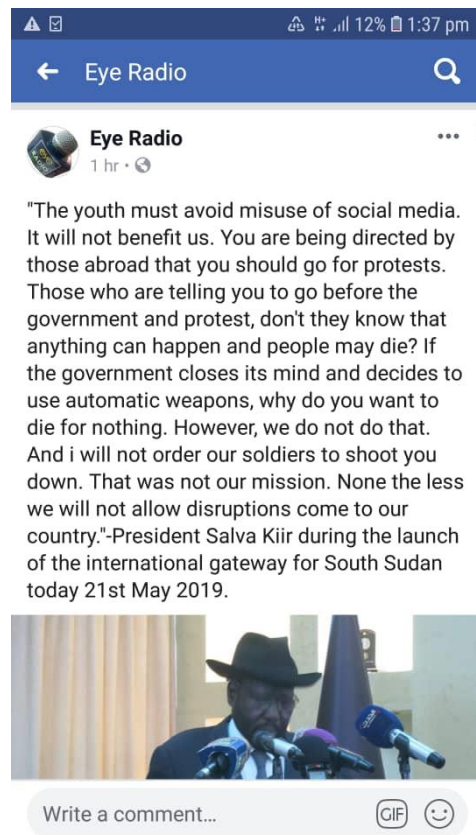


Figure 1: Quote by President Salva Kiir Mayardit during the launch of the international gateway for South Sudan on 21 May 2019 in Juba, South Sudan.

In the days before planned protests, members of the army and NSS agents conducted house-to-house searches without search warrants. Minister of Interior, Michael Chianjiek, claimed in an interview he gave to Radio Tamazuj that these widescale searches were conducted to “assure the public that Juba is secure.”²⁵ The searches took place across the city, but were concentrated in Sharikat, where many Dinka Bor reside and Gudele, largely inhabited by Nuer. In addition to general searches, various sources told Amnesty International that security forces targeted members of communities and civil society who they suspected to be affiliated to the RCM.²⁶ Security forces searched houses at day and night without search warrants.²⁷ The 2009 Police Act and 2008 Code of Criminal Procedure give the police powers to search and seize in accordance with directives by the public prosecutor, the court or a magistrate.²⁸ The 2014 NSS Act grants the NSS powers to conduct searches and seize property exceeding its constitutional mandate.

Amnesty International has also received several reports of RCM members being arbitrarily arrested. One confirmed case of arbitrary arrest is that of Garang Aher, a young man arrested by NSS agents from his

Tamazuj, “Kiir warns of ‘chaos’ ahead of planned protests”, 21 May 2019, <https://radiotamazuj.org/en/news/article/kiir-warns-of-chaos-ahead-of-planned-protests>;

²⁴ Eye Radio, Facebook page, 21 May 2019.

²⁵ Radio Tamazuj, “Troops deploy in Juba in anticipation of protests: residents”, 10 May 2019, <https://radiotamazuj.org/en/news/article/troops-deploy-in-juba-in-anticipation-of-protests>

²⁶ Amnesty International written correspondence with diplomat in Juba, 24 June 2019; Amnesty International written correspondence with civil society actor, 25 June 2019; Amnesty International written correspondence with civil society actor, 25 June 2019.

²⁷ Amnesty International interview with RCM member, 25 June 2019; Amnesty International written correspondence with civil society member, 25 June 2019; Amnesty International written correspondence with civil society member, 25 June 2019; Amnesty International written correspondence with diplomat in Juba, South Sudan, 24 June 2019.

²⁸ South Sudan Code of Criminal Procedure, 2008, Article 30.2(i).

residence in Juba on 19 May 2019 over alleged links to the RCM.²⁹ According to a relative of Garang Aher interviewed by Radio Tamazuj, three NSS officers arrested him at their home alleging that his name was found in a WhatsApp group conversation that was leaked. The family member was unable to confirm Garang Aher's ties to the RCM.³⁰ Sources Amnesty International interviewed said that NSS agents took Garang Aher to the main detention centre commonly known as the 'Blue House' where he was detained for four days and interrogated before being released without charge on 23 May 2019.³¹

The heavy military deployment in Juba and the harassment, intimidation and threats by government officials prevented South Sudanese from exercising their rights to freedom of peaceful assembly, association and expression. The government failed to respect, protect, promote and fulfil the rights to peaceful assembly and association enshrined in Article 25(1) of the 2011 Transitional Constitution³² and freedom of expression as guaranteed by Article 24(1) of the Transitional Constitution³³ and international and regional human rights treaties to which South Sudan is a state party. The rights related to peaceful protests - the right to freedom of peaceful assembly,³⁴ the right to freedom of association,³⁵ the right to freedom of expression³⁶ and the right to participate in the conduct of political affairs³⁷ - are enshrined in the International Covenant on Civil and Political Rights (ICCPR) that South Sudan's Transitional National Legislative Assembly (TNLA) ratified in June 2019.³⁸ While the ICCPR will not enter into force until three months after it is signed by the President and the instrument of accession deposited, the government must, until then, refrain from acts that defeat the object and purpose of the treaty.

3.2 THE LONG ARM OF STATE SECURITY AGENTS

Leaving South Sudan does not necessarily guarantee safety for real or perceived critics of the government. The NSS's reach extends beyond South Sudan's borders and into neighbouring countries, as demonstrated by the enforced disappearance of Dong Samuel and Aggrey Idri.³⁹ Amnesty International has documented patterns of harassment, intimidation and threats against actual and perceived RCM members by NSS agents or individuals believed to work for the NSS in Nairobi, Kenya in May 2019.

In **Kenya**, RCM leaders called off a planned protest in Nairobi on 16 May 2019 after seven of their organizers received threats to their physical safety and warnings that the South Sudanese government had instructed NSS agents to track them down and bring them back to Juba. Amnesty International is concerned that, if arrested and sent back to South Sudan, they risk being arbitrarily detained, subjected to torture and other ill-treatment and other serious human rights violations.

Members of the RCM told Amnesty International that they were followed by men in black suits and received verbal warnings and threats from other South Sudanese living in Kenya whom they suspect operate as informants for the NSS. "Anonymous people are following us. When we stop, they stop. When

²⁹ Radio Tamazuj, "Young man arrested in Juba over alleged RCM links", 20 May 2019, <https://radiotamazuj.org/en/news/article/young-man-arrested-in-juba-over-alleged-rcm-links>

³⁰ Radio Tamazuj, "Young man arrested in Juba over alleged RCM links", 20 May 2019, <https://radiotamazuj.org/en/news/article/young-man-arrested-in-juba-over-alleged-rcm-links>

³¹ Amnesty International interview with source knowledgeable about the case, 4 July 2019.

³² Article 25(1) of the 2011 Transitional Constitution: "The right to peaceful assembly is recognized and guaranteed; every person shall have the right to freedom of association with others, including the right to form or join political parties, associations and trade or professional unions for the protection of his or her interests."

³³ 24(1) of the 2011 Transitional Constitution: "Every citizen shall have the right to the freedom of expression, reception and dissemination of information, publication, and access to the press without prejudice to public order, safety or morals as prescribed by law."

³⁴ International Covenant on Civil and Political Rights (ICCPR), 1966, Art. 21

³⁵ ICCPR, art. 22.

³⁶ ICCPR, art. 19

³⁷ ICCPR, art. 25.

³⁸ OHCHR, *Press briefing note on South Sudan*, 7 June 2019, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24683&LangID=E>

³⁹ See case above. Amnesty International, "Kenya: Court drops oversight on enforced disappearance of two South Sudanese critics", 12 February 2019 and Report of the UN Panel of Experts on South Sudan, 9 April 2019, UN doc S/2019/301, paras. 42- 47.

we show up somewhere, they also showed up.”⁴⁰ Describing a meeting with a suspected informant,⁴¹ one of the RCM members told Amnesty International he was accused of “want[ing] to create a bad image about South Sudan like Dong and Aggrey. See now, they are dead. If you want to go that route, the consequences will come.”⁴² Another suspected informant told an RCM member “for purpose of your security, people are still tracking you, even now. If you do a second protest, you will not escape.”⁴³

On 13 May 2019, RCM members notified the Police Commander of Nairobi City County⁴⁴ and on 15 May 2019 they notified the Officer Commanding Police Division of the Central Police Station in Nairobi⁴⁵ in writing about their plans to organize a peaceful protest from Uhuru Park to the South Sudanese embassy to express their concerns and dissatisfaction with the policies and action of the South Sudanese government including “call[ing] for the resignation of the regime of President Salva Kiir.” The South Sudanese embassy subsequently sent a Note Verbale⁴⁶ to the Kenyan Ministry of Foreign Affairs on 15 May 2019, calling on the Kenyan authorities to protect the embassy premises and staff stating: “it has come to our attention that the demonstrations may take a violent dimension.”⁴⁷ RCM members told Amnesty International that on 15 May, they met with Kenyan police, including Nairobi County’s Police Commissioner for Operations, and were informed that the protest could not take place and if they proceeded with it, the police would disperse the protest with tear gas.

Article 37 of the Kenyan Constitution guarantees the right to freedom of peaceful assembly.⁴⁸ Under the Public Order Act, an assembly may only be stopped or prevented if there is a clear, present or imminent danger that it would breach the peace or public order.⁴⁹ In line with the Kenyan Public Order Act,⁵⁰ the RCM notified the regulating police officer of their intent at least three days before the date of the planned protests by sending a letter to the Police Commander of Nairobi City County on 13 May notifying him of the protest that was planned for 16 May.

Amnesty International wrote to the Kenyan Inspector General of Police seeking an explanation of why the police decided to prohibit RCM’s peaceful protest despite protest organizers fulfilling the notification requirements provided under the law. At the time of publication, no response has been received. Based on the information available, Amnesty International believes that the Kenyan authorities effectively chose to disregard Kenya’s obligations under international law to protect the right to peaceful assembly, prioritizing cordial bilateral relationships with the South Sudanese government.⁵¹

Kenyan police continued to intimidate and harass South Sudanese activists in Nairobi after the aborted 16 May protests. On 9 July, South Sudan’s Independence Day, students “unhappy with the arrest and unlawful detentions of fellow youths in Juba”⁵² and members of the RCM movement staged a peaceful protest in front of the South Sudanese embassy in Nairobi to “petition ... President Salva Kiir to intervene in the matter for the release of our detained brothers who have been detained for 16 days without trial.”⁵³ Despite complying with the legal requirement to notify the police about the planned protest three days in advance, they were dispersed by Kenyan police.⁵⁴ Amnesty International has confirmed that the police had not objected to the planned protest upon notification.⁵⁵ Three protestors were arrested on 9 July and charged for unlawful assembly before being released on bail the next day. They told Amnesty International how police officers at the Kilimani police station hit them on the back of

⁴⁰ Amnesty International interview with RCM member, 21 May 2019.

⁴¹ The meeting took place in May 2019.

⁴² Amnesty International interview with RCM member, 21 May 2019.

⁴³ Amnesty International interview with RCM member, 21 May 2019.

⁴⁴ RCM Nairobi Chapter Letter to Police Commander of Nairobi City County, 13 May 2019.

⁴⁵ RCM Nairobi Chapter Letter to OCPD of Central Police Station, 15 May 2019.

⁴⁶ Amnesty International obtained a photo of a note verbale that the Chief of Protocol of the South Sudanese embassy seemingly sent to the Kenyan Ministry of Foreign Affairs on 15 May 2019.

⁴⁷ The Embassy of the Republic of South Sudan in Kenya, Note Verbal, RSS/EK/(27-5) 2019, 15 May 2019.

⁴⁸ Article 37 of the 2010 Constitution of Kenya.

⁴⁹ Article 5(8)(b) of the 1950 Public Order Act of the Republic of Kenya, revised edition 2018.

⁵⁰ Article 5(2) of the 1950 Public Order Act of the Republic of Kenya, revised edition 2018.

⁵¹ Amnesty International, Letter to Kenya Inspector General of Police, 2 July 2019.

⁵² South Sudanese Students’ Association Letter to Officer Commanding Kilimani Police Station, 6 July 2019.

⁵³ South Sudanese Students’ Association Letter to Officer Commanding Kilimani Police Station, 6 July 2019.

⁵⁴ South Sudanese Students’ Association Letter to Officer Commanding Kilimani Police Station, 6 July 2019.

⁵⁵ The South Sudanese Students’ Association Letter to Officer Commanding Kilimani Police Station dated 6 July 2019 is stamped by the Kilimani Police Station showing proof of receipt. Amnesty International interview with RCM member, 10 July 2019; Amnesty International interview with student, 10 July 2019; Amnesty International interview with student, 10 July 2019; Amnesty International interview with RCM member, 10 July 2019; Amnesty International interview with RCM member, 10 July 2019.

their heads using their fist and whipped their legs with a black elastic whip and “a stick called Rungu”.⁵⁶ Two of them still complained of body pains the following day.⁵⁷ RCM members in Nairobi continue to receive written messages on social media by suspected collaborators of the South Sudanese government threatening their safety.⁵⁸

Amnesty International documented a similar pattern of threats to an RCM member in **Ethiopia** and physical attacks on journalists who attempted to report on a small protest organized by the RCM. A small group of protesters gathered at the South Sudanese embassy in Addis Ababa, Ethiopia on 16 May to hand over a letter expressing their concerns with the policies and action of the government. Their letter states their intention to protest until change happens in South Sudan: “until you peacefully hand the power to the civilians to pave way for the unity of our nation,” and calls on President Salva Kiir to “peacefully resigns (sic) from the leadership of the country and allows ... other son and daughter of the land choose their leader.”⁵⁹ Two eyewitness accounts confirm that two Ethiopian cameramen who were covering the protest for Al Ayn and Al Jazeera media were physically assaulted by two staff members of the South Sudanese embassy. One of the journalists who witnessed the assault told Amnesty International:

“When we arrived, there were five protesters clad in suits and ties. They were very calm and one of them held rolls of thick paper on which some slogans were written as we later found out [...] But at some point three men came out of the [embassy compound] gate, they had an uneasy exchange with the protesters but peaceful. Then the embassy staff darted toward the cameramen who had kept filming and slapped one working for Al Ayn and shoved away another working for Al Jazeera. [...] I saw the embassy staff member slapping the video man and another man shoving violently another cameraman.”⁶⁰ “He was badly beaten in his face,” recalled a second eyewitness.⁶¹

An RCM member in Addis Ababa told Amnesty International that a credible source had also warned him to remain silent and not appear at future protests.⁶² Richard Dak (pseudonym) said: “I’m receiving a lot of [written and oral] messages. Some are saying in public ‘we will arrest you.’ Even though no action has been taken, I cannot ignore this and need to leave.”⁶³

These threats have had a chilling effect on four RCM activists interviewed by Amnesty International who are now fearful to express their opinions as well as exercise their rights to peaceful assembly and association due to the risk of being targeted. “We are at risk and on the run,”⁶⁴ David Bol (not his real name) told Amnesty International and “We believe that speech can [get us killed] anytime,” said Malual Deng (not his real name).⁶⁵

⁵⁶ Amnesty International interview with RCM member, 10 July 2019; Amnesty International interview with student, 10 July 2019; Amnesty International interview with student, 10 July 2019.

⁵⁷ Amnesty International written correspondence with student, 11 July 2019; Amnesty International written correspondence with student, 11 July 2019.

⁵⁸ Amnesty International interview with RCM member, 10 July 2019; Amnesty International interview with RCM member, 10 July 2019; Amnesty International interview with RCM member, 10 July 2019; Amnesty International interview with student, 10 July 2019.

⁵⁹ RCM Chapter Ethiopia, Letter to South Sudan government, 16 May 2019.

⁶⁰ Amnesty International interview with journalist, 31 May 2019.

⁶¹ Amnesty International interview with journalist, 28 May 2019.

⁶² Second protests took place on 9 July 2019, South Sudan’s 8th Independence Day, in Washington DC and Nairobi, Kenya.

⁶³ Amnesty International interview with RCM member, 29 May 2019.

⁶⁴ Amnesty International interview with RCM member, 18 May 2019.

⁶⁵ Amnesty International interview with RCM member, 22 May 2019.

4. CONCLUSION AND RECOMMENDATIONS

This briefing demonstrates the long arm of the South Sudanese government, stretching through South Sudanese diaspora communities in neighbouring states to track and monitor the activities of real or perceived RCM members, and the chilling effect this has had on the human rights of these individuals. The briefing also documents that the Government of Kenya failed to protect the rights of South Sudanese to peaceful assembly, association and expression.

Amnesty International calls on the South Sudanese government to immediately end its practices of harassing, intimidating and threatening critics both in South Sudan and abroad. The South Sudanese authorities must respect, protect, promote, and fulfil the rights of everyone to peaceful assembly, association and freedom of expression.

Amnesty International also recommends that the Government of South Sudan should:

1. Publicly denounce harassment and intimidation of members of the Red Card Movement other critics, and journalists by the NSS and government supporters and embassy staff;
2. Take measures, including ordering the NSS to stop arresting real or perceived RCM members without recognizable criminal charges, to ensure the full respect of the rights of people to freedom of expression, peaceful assembly and association without fear of reprisals;
3. Independently, thoroughly and effectively investigate all allegations of harassment, intimidation and threats against Red Card Movement members and others and bring to justice anyone suspected to be responsible;
4. Amend the 2014 National Security Service Act so that it is in line with the 2011 Transitional Constitution and international standards.

Amnesty International also urges the governments of Kenya and Ethiopia to provide and ensure effective protection to all individuals, including South Sudanese, residing and operating in their respective countries. These governments should:

1. Independently, thoroughly and effectively investigate all allegations of harassment, threats, assaults, arbitrary arrests and ill-treatment of protestors, members of the Red Card Movement, journalists and other critics of the South Sudanese government and bring to justice anyone suspected to be responsible;
2. Take necessary and adequate security and protection measures to ensure that Red Card Movement members and others can freely exercise their rights to freedom of expression, peaceful assembly and association without any fear of reprisals;
3. Take necessary diplomatic and administrative measures to ensure that the activities of South Sudanese embassies do not infringe upon the rights of people to freedom of expression, peaceful assembly and association.

Specifically, and as a matter of urgency, Amnesty International calls upon the Kenyan and Ethiopian police authorities to investigate the arbitrary arrests, unlawful dispersal and ill-treatment of protestors and the physical assault of the two cameramen respectively and bring to justice anyone suspected to be responsible.

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CONTACT US



info@amnesty.org



+44 (0)20 7413 5500

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SOUTH SUDAN: ‘WE ARE AT RISK AND ON THE RUN’

SECURITY AGENTS TRACK DOWN PEACEFUL PROTESTERS

On 16 May 2019, South Sudanese took to the streets in Australia, the United States, Ethiopia and Sudan to express their concerns about, and dissatisfaction with, the policies and actions of the Government of South Sudan. The protests were led by the Red Card Movement (RCM), a South Sudanese diaspora-led civil rights movement that advocates a free, fair and open society in South Sudan, and peaceful change of government.

Soon after the RCM’s emergence and announcements of planned peaceful demonstrations, real or perceived RCM members were targeted with arbitrary restrictions and arrest, harassment and intimidation. In the South Sudanese capital Juba protests did not take place due to a campaign of harassment and intimidation that saw army troops deployed in large numbers in the streets, senior government leaders make threatening remarks, and security forces search suspected would-be protesters’ homes.

This briefing documents the domestic and cross-border campaign of harassment and intimidation of real and perceived members of the RCM, including through written and verbal threats, arrests and detention of protesters, and physical attacks in South Sudan, Ethiopia and Kenya.