

Frequently Asked Questions about the Complaint filed against the Government of South Sudan before the Committee on the Elimination of Discrimination Against Women (CEDAW) by Legal Action Worldwide (LAW) on behalf of 30 victims of Sexual and Gender Based Violence (SGBV)

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What is the Complaint about?

The Complaint (also known as the Communication) will be made on behalf of 30 women and girls (the Complainants), against the government of the Republic of South Sudan for sexual and gender based violence (SGBV), in breach of its international obligations. The SGBV was mainly perpetrated by members of the South Sudan army - currently known as the South Sudan People's Defence Forces (SSPDF) and formerly the Sudan People's Liberation Army (SPLA) - and the Presidential Guard, as well as unidentified armed groups of men in plainclothes, which took place in between June 2016 and September 2017. The Complainants have not received any type of legal redress for the violations they suffered, which include gang rape, rape, forced nudity, sexual slavery, forced marriages, abductions, forced labour, and torture (both physical and mental). The statements made by the Complainants indicate the occurrence of 'mass gang rape' (where multiple people are subjected to gang rape at the same time) in South Sudan, and SGBV as systematic and widespread. Many Complainants witnessed their family members being murdered, raped or dragged away. Some of the Complainants are mothers who have not found their children since the attacks occurred.

The Complaint is submitted to the Committee on the Elimination of Discrimination Against Women (the CEDAW Committee), which oversees the implementation of the [Convention on the Elimination of All Forms of Discrimination Against Women](#) (CEDAW).

Who are the perpetrators of the attacks?

Each Complainant provided a statement, which evidences that the sexual and gender-based violence was perpetrated by military personnel or soldiers in uniform, notably men from South Sudan's army (currently known as the South Sudan People's Defence Forces (SSPDF) and formerly as the Sudan People's Liberation Army (SPLA). One Complainant identified the Presidential Guard (also known as the Tiger Division). And some Complainants identified groups of armed men in civilian clothes.

Examples of some of the Complaints

The 30 women and girls represented by LAW include:

- K2, who was 12 years at the time of the attack, was mass raped alongside her three sisters and a family friend in front of each other in their kitchen;
- Muding, 42 years old was gang raped by SPLA soldiers whilst another soldier blew a whistle indicating when the perpetrators should finish.
- Joanna's nine years old daughter was beaten outside while she was raped inside in her home.
- Scovia, a 27-year-old mother of four, who was gang raped by five Government soldiers. While she was being gang raped, two of her children disappeared. She has not seen them since.
- Mary, 30-years-old, was gang raped by four Government soldiers in front of her children at home. After recovering she fled with her children but was captured and gang-raped alongside other women by another group of soldiers, while men and children fleeing with them were forced to watch.
- Gloria, 24-years-old, who was gang raped by Government soldiers in front of her two young sons, aged five and two years in her home. Her husband left her afterwards, saying she was infected with HIV. While Gloria did not contract HIV, she says she feels deeply ashamed about what happened to her.
- Viola, age 29, who was tied to a tree, tortured and gang raped by Government soldiers in an army camp.

What were the consequences of the attacks for the Complainants?

The consequences of the sexual and gender-based violence experienced by the Complainants include: physical bodily trauma; forced and unwanted pregnancies; sexually transmitted infections; psychological trauma; post-traumatic stress disorders; stigma and ostracisation linked to negative societal perceptions of victimhood (specifically, being a victim of rape) and suspicion of having contracted HIV. The impact of the violations has had adverse impact on the reproductive health of most of the Complainants. Several Complainants described severe physical pain and bodily trauma experienced during and after the rape. Most of them are still living with long-term, ongoing conditions resulting from the attack, as well as severe psychological trauma.

What does filing a Complaint with the CEDAW Committee entail?

The Complaint (also known as a Communication) is submitted to the Committee on the Elimination of Discrimination Against Women (the CEDAW Committee), which oversees the implementation of the [Convention on the Elimination of All Forms of Discrimination Against Women](#) (CEDAW). CEDAW calls on States to take all necessary steps "to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men." The CEDAW Committee makes determinations about whether states have violated the convention.

LAW represents 30 women and girls from South Sudan who were subjected to sexual and gender-based violence, including rape, gang rape and sexual slavery. The women and girls represented by LAW now live in a refugee camp outside of the country. They approached LAW because they want justice for the horrific violations committed against them. The 30 women and girls represented by LAW are representative of thousands of South Sudanese women and girls who have been subjected to sexual and gender-based violence since the conflict began in 2013.

The primary responsibility to protect human rights - and to protect its citizens from sexual and gender-based violence - lies with the government.

The CEDAW Committee will make a decision about whether the South Sudan has violated its obligations under CEDAW and make recommendations for action to be taken by the government of South Sudan. LAW has requested that these recommendations include the payment of compensation (reparations), rehabilitation including medical, legal and psychosocial care and for specific actions to be taken to prevent sexual and gender-based violence from occurring in future.

Why lodge a case against the government of South Sudan and not individual perpetrators?

The Complaint argues that sexual and gender-based violence committed in South Sudan is not simply isolated criminal activity by a small number of soldiers, but that it is widespread, systematic and amounts to a policy of the Government of South Sudan. Although LAW represents 30 women in this Complaint, serious sexual and gender-based violence is a reality for thousands of women and girls in South Sudan, who are not able to obtain legal redress for these serious human rights violations and abuses. By holding South Sudan accountable for its actions as a State, we address the policy of sexual and gender-based violence it has deployed throughout the course of the armed conflict. If the CEDAW Committee finds that South Sudan has violated its obligations under CEDAW and calls on the State to rectify this, the Government will be required to hold individual perpetrators of sexual and gender-based to account domestically.

Will a case be filed at the International Criminal Court (ICC)?

Much of the conduct LAW documented while gathering the statements of Complainants could amount to crimes under the Rome Statute (the key text of the International Criminal Court (ICC)). However, South Sudan is not a party to this convention and, consequently, the ICC does not have automatically jurisdiction over crimes perpetrated in South Sudan or crimes perpetrated by South Sudanese nationals. While it is possible for the United Nations Security Council to refer the situation in South Sudan to the International Criminal Court, this is not something that commonly occurs.

What are the violations of CEDAW committed by the Government of South Sudan?

The Complainants argue that the South Sudanese Government:

- ❖ Failed to adopt legislative and other measures to prohibit all forms of discrimination against women.
- ❖ Knew or should have known that women and girls would be victims of SGBV, and failed to protect them and prevent the violence from taking place.
- ❖ Failed to ensure women and girls' access to justice through the existence of independent and impartial justice mechanisms and effective and accessible legal services framework.
- ❖ Directly participated in discrimination against women through SPLA soldiers (state actors) perpetrating SGBV against the complainants.
- ❖ Failed to prevent such attacks from occurring and failed to protect women and girls attacks perpetrated by other uniformed and non-uniformed men.
- ❖ Failed to take necessary steps to eliminate harmful social and cultural patterns, as well as practices based on the idea of inferiority of women, including widespread and systematic SGBV.

Are the identities of the Complainants protected?

The full identities of the Complainants have been protected. There exist well-founded and serious concerns for the Complainants' safety were their full identities to become known. In addition to the risk of further stigma, and corresponding impact on the well-being of the Complainants, the Complainants may be subject to reprisals should their full identities be revealed. Currently, the justice system of South Sudan is unable to provide adequate protection to the Complainants.

What do the Complainants want to achieve by submitting a complaint?

The reparations the Complainants are requesting to receive are:

- ❖ Fair and adequate compensation for the suffering caused to them.
- ❖ Rehabilitation through medical and psychological care, as well as legal and social services to remedy the harm caused to them.
- ❖ That the CEDAW Committee calls upon South Sudan to establish an impartial judicial mechanism or other public institution to provide SGBV survivors and their families with remedies. This mechanism should provide access to justice for survivors who currently reside in camps for internally displaced persons or in refugee camps in other countries. It is recommended that the mechanism entail an international tribunal, hybrid court and/or truth commission specifically mandated to address SGBV.
- ❖ That the CEDAW Committee protects their identities, as they face great risks filing the Complaint for the violations they suffered.

Why is this case so important?

This is the first step in the long road to justice. LAW is starting with 30 South Sudanese women and girls who have had the courage, strength and conviction to talk about the brutal sexual violence that they have suffered in their own country, perpetrated by their own Government. The violence they have experienced is representative of what has happened to thousands of women and girls. LAW and the Complainants hope that they many more women and girls will join in their fight for justice. Importantly, both LAW and the Complainants have argued that the CEDAW Committee recognise that women and girls must have their full identity protected in order to safely make complaints regarding sexual violence by Government security forces. Currently, survivors must provide their names and identifying information, meaning that many will not come forward for fear of reprisal.

What are the expected next steps?

The CEDAW Committee will first decide whether to register the Communication, based on its own Rules of Procedure. If (and LAW expects that the Committee will register the case), it will transmit the Communication submitted by LAW to the Government of South Sudan, who will then have six months to respond. The Government's response, should it make one, will be provided to LAW and the Complainants for comment.

Subsequently, the Committee will make a determination on the Communication, including a decision about whether South Sudan is in violation of the CEDAW Convention, and recommendations for action the Government of South Sudan must undertake in order to comply with its obligations under the Convention. This is likely to happen 1 to 1.5 years after the Communication has been submitted. The Government must then submit a written response detailing action taken on the recommendations by the CEDAW Committee within a provided timeframe.

Where can I find out more?

To find out more about the Communication, or about LAW, please visit LAW's website: www.legalactionworldwide.org