



**For Immediate Release**

## **South Sudan: Abusive Security Bill**

*President Should Veto, Send Back for Revisions*

(Nairobi, October 15, 2014) – President Salva Kiir should veto a bill giving South Sudan’s National Security Service (NSS) sweeping powers, a group of national and international human rights organizations said today. The bill would allow the security service virtually unfettered authority to arrest and detain suspects, monitor communications, conduct searches, and seize property.

The bill passed its third reading in South Sudan’s National Legislative Assembly on October 8, 2014, amid considerable confusion, including walkouts by some members. As recently as October 13, legislators disagreed about whether the bill had been passed or was still pending a final reading. But officials said no further changes are expected before the bill is sent to President Kiir to be signed into law.

“Even if legislators sign off on this bill, President Kiir should refuse to make it law and send it back to be overhauled after much broader consultation with the public,” said Elizabeth Ashamu Deng, South Sudan researcher at Amnesty International. “This bill empowers the NSS to continue violations rather than limiting its powers in line with regional and international standards.”

The October 8 version gives national security officers sweeping powers, including to arrest and detain suspects, even though South Sudan’s Transitional Constitution says the NSS should focus on “information gathering, analysis and advice.”

“The scope of the powers granted to the NSS in this bill flies in the face of international norms and South Sudan’s own constitution, which envisions a service limited to intelligence activities,” said Daniel Bekele, Africa director at Human Rights Watch. “Instead the bill grants security officers wide powers without judicial oversight or clear limits on when they can use force.”

The October 8 version does not provide even minimum safeguards to ensure that the security service would be held to international standards in using its authority. Among the concerns is that it does not specify where the security service could detain people. That omission would open the door to secret detention in unknown locations inaccessible to lawyers and family members, and without the possibility of supervision by independent bodies.

Nor does the bill stipulate that detainees will have basic due process rights, including the right to inform a lawyer or relative of their arrest, the right to counsel, or the right to be tried within a reasonable period of time. There are also no explicit safeguards against inhuman or degrading treatment or punishment, or torture.

“Experiences from other countries show that when you give security services policing powers, there is a high risk of torture and ill-treatment,” said Lutz Oette, counsel for the international anti-torture and human rights organization REDRESS. “This is most worrying where crucial safeguards are missing, such as the need to prohibit secret detention and to

make sure that detainees are able to contact lawyers and relatives immediately upon arrest.”

The bill provides that judges may issue warrants to security service officers “authorizing action on any person (or) property” but does not state when such warrants are required, appearing to leave this decision up to the NSS itself. Parliament should amend the bill to require warrants for all acts by the security service – including surveillance, searches, seizures, and arrests – that have an effect on protected rights.

The bill includes some improvements on earlier versions, such as a provision for a complaints board. The bill also specifies that anyone arrested should be brought before a magistrate or judge within 24 hours. Parliament also removed a provision that would have granted broad criminal immunity to security agents.

The NSS has been responsible for some of the worst violations of freedom of expression in South Sudan since the country’s independence, frequently unlawfully detaining and intimidating media workers and cultivating an atmosphere of fear. With the outbreak of conflict in South Sudan in December 2013, the security service increased censorship of the media and detained several journalists.

“Giving the NSS extraordinary powers without adequate safeguards will lead to abuses of power and violations of human rights,” said Edmund Yakani, coordinator of South Sudan’s Community Empowerment for Progress Organization (CEPO). “The bill should be sent back to parliament, who should amend it to remove powers for the NSS to arrest, detain, conduct searches, and seize property, and ensure oversight in line with international best practices.”

*An analysis of the October 8, 2014 bill by Amnesty International, Community Empowerment for Progress Organization, the Enough Project, Human Rights Watch, REDRESS, and the South Sudan Action Network on Small Arms is available [here](#). Key recommendations are listed below.*

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**Key Recommendations for the National Legislative Assembly:**

- Amend the NSS bill to limit its powers to gathering intelligence, as envisioned by the Transitional Constitution. Powers to arrest, detain, conduct searches, seize property, and use force should be excluded;
- If powers of arrest are retained in the bill, include explicit guarantees of due process rights and custodial safeguards required under the Transitional Constitution and

regional and international human rights law, including: the right to be informed of the reasons for arrest and any charges brought; the right to be tried within a reasonable period of time; the right of access, without delay, to a lawyer; the right to be free from torture and other cruel, inhuman, and degrading treatment and punishment; and the right to freely access complaints and oversight mechanisms;

- Specify permissible places of detention in the bill;
- Strengthen provisions for judicial oversight by making clear that warrants are required for all acts by NSS that have an effect on protected rights, such as surveillance, conducting searches, seizing property, and making arrests;
- Strengthen the proposed parliamentary oversight mechanism by, for example, requiring the security service to report to parliament on a regular basis and giving parliament the authority to conduct unrestricted and unannounced visits to all places of detention, compel the production of evidence, and have access to all files, premises, personnel, archives, and registers, as necessary for the exercise of its oversight functions; and
- Strengthen the proposed Complaints Board by, among other things, specifying a time frame for dealing with complaints and ensuring the independence of the board by providing that no security service employee will serve as a member.