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August 31, 2020

To:

Ministry of Interior & Coordination of National Government
Harambee House, Harambee Avenue
P.O Box 30510,00100
Nairobi

Office of the Inspector General
Taifa Road, Jogoo House "A" 4th Floor
P.O Box 44249-00100
Nairobi, Kenya

Transmitted via Email: [REDACTED];

Your Excellencies,

Re: Role of Kenyan authorities in harassment and disappearance of South Sudanese government critics

I am writing on behalf of Human Rights Watch to share our findings from research on the role of the National Security Service in South Sudan and in neighboring countries including Kenya.

As you may know, Human Rights Watch is an independent organization that monitors human rights in more than 90 countries around the world. We produce reports on our findings to raise awareness about human rights issues and to promote policy recommendations for change. We have documented human rights developments throughout the Sudans for more than 20 years and have reported on human rights concerns in South Sudan since its independence.

Our findings are based on interviews with former detainees and families of victims of abuses by National Security Service conducted between September 2018 - May 2020.

We have documented four cases which indicate that Kenyan authorities have harassed, intimidated and forcefully returned South Sudanese from Kenya to South Sudan. Some of these operations were carried out unlawfully, without warrants or extradition orders.

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The forced return or expulsion of South Sudanese refugees or asylum seekers from host countries to South Sudan where they face a high risk of torture and other abuses, violates international obligations under UN and AU refugee conventions.

These cases include:

- James Gatdet Dak, spokesperson of Riek Machar and the chairperson of Sudan People's Liberation Movement in Opposition (SPLM/A-IO), a recognized refugee in Kenya by UNHCR, as deported from Kenya to South Sudan on November 3, 2016 to South Sudan. Upon his arrival in South Sudan he was detained by the National Security Service at the Blue House detention facility in solitary confinement for almost two years. In February 2018, a South Sudanese High Court convicted him of treason, publishing false information prejudicial to South Sudan and insulting or undermining the authority of the president and sentenced him to death by hanging. He was pardoned by President Kiir in February 2019.
- Marko Lokidor Lochapo, an official with the SPLA/IO was abducted from the Kakuma refugee camp by Kenyan police at the behest of South Sudanese authorities on December 29, 2017. His family members and SPLA/IO officials reported his abduction to Kenyan police in Kakuma immediately following his disappearance. He was driven over land for three days to Kapoeta in South Sudan through Lokichogio and Nadapal. He was then flown to Juba by plane chartered by South Sudan's NSS. He was detained without charge in the Blue House detention facility in Juba until October 25, 2018.
- Dong Samuel Luak, a renowned South Sudanese human rights lawyer and activist, and Aggrey Ezbon Idri, a vocal government critic and member of the SPLA/M-IO, were abducted off the streets of Nairobi on January 23 and 24, 2017, respectively by persons believed to be affiliated with South Sudan's and Kenya's security agencies. Human Rights Watch, Amnesty International, domestic groups and other actors have over the years called on Kenya and South Sudan to conduct effective investigations into the disappearance of the two men and hold those responsible to account. On January 27, 2017, a Kenyan high court ordered Kenyan Police to thoroughly investigate the "Criminal abduction" of the two men. On January 17, 2019, [a Kenyan High Court ended its 24-month](#) oversight of the Kenyan police investigation initiated immediately after the disappearance of both men in Nairobi. According to a [2019 report issued by the UN Panel of Experts on South Sudan](#), the men were transported to South Sudan on a commercial airline, hired with the support of the South Sudanese embassy in Kenya on January 27, 2017. The report also stated that the two men were highly possibly killed on January 30, 2017 by NSS officials in Juba.

The patterns in these cases indicate that Kenyan authorities knew and participated in or should have known that the forceful rendition of these individuals took place.

Human Rights Watch is committed to producing material that is well informed and objective. We have therefore listed questions below about the above findings to enable us include your responses in our forthcoming report.

1. Please respond to the allegations that your government has collaborated with South Sudan's government to take action against South Sudanese citizens in Kenya, who have expressed dissent or criticism of South Sudan's government.
2. Please clarify the circumstances and grounds under which James Gatdet Dak, Marko Lokidor Lochapo, Dong Samuel Luak and Aggrey Ezbon Idri, were removed from Kenya including what laws, if any were broken in these removals?
3. Please provide any details of any investigations undertaken or underway into the above cases including how many Kenyan officials have been investigated, suspended from duty, disciplined, or prosecuted for abuses, and what are their ranks and titles? If possible, we would appreciate the details of who conducted any investigations and the outcome of the inquiry.
4. What arrangements or understanding does the Kenyan government have with South Sudan regarding requests to forcibly return South Sudanese citizens to South Sudan, including any arrangements the Kenyan government has permitting South Sudan's National Security Service to operate in Kenya?

Thank you for your consideration and we look forward to your responses by September 14, 2020 so that we can include them in our report. We would also welcome the opportunity to discuss these issues with you further over the phone or other medium.

Should you have any questions, please do not hesitate to contact our South Sudan researcher Nyagoah Pur on email ([REDACTED]) or phone ([REDACTED]).

Yours sincerely,

Jehanne Henry

Jehanne Henry
Director, East Africa
Human Rights Watch

CC: Ministry of Foreign Affairs and International Trade, 