

Civil society joins UPR submission-Sudan Nov /2010

Summary prepared by civil society human right forum in Juba south Sudan in accordance with paragraph 15(c) of the annex to Human Right council resolution 5/1

The present report is a summary of 17civil society Human right submissions to the universal periodic reports. It follows the structure of the general assembly guidelines adapted by human right council. It does not contain any option , review or suggestions on the part of the office of the United Nations High commission for Human Rights (OHCHR) or nor any judgment or determination in relation to specifics claims. The information included herein has not been altered. Lack of information or focus on the specific issue may be due to the absence of submissions received are available. The report has been prepared taking into consideration the four–year periodic review from 2006- 2010.The information contain herein are base on fact finding.

A.METHODOLOGY

Sudan followed the structure of the general Guideline adopted by the Human right council resolution5/1of 18th Junes 2007, it contains institutional building package. The submission involved broader consultation of 17 stakeholders. Background Sudan is the largest country in Africa that formed new government after signing comprehensive peace Agreements in January 9th 2005.The Interim Constitution of Sudan 2005 allows the formation of two government;The Government of National Unity operate in the North (GONU) and semi autonomous Government of Southern Sudan in South. The One country is still ruled under one general president of the Republic and his First Vice President is president of southern Sudan. This mean the Northern Sudan have civil societies in north eastern and western Sudan Darfur. There are twenty five states in whole of Sudan and each states have its own constitution derived from the Comprehensive peace agreement 2005 and Interim constitution of Sudan. Other states in Sudan is expected to submit their own report and we are only having those who we have been working together. These Civil societies representatives were train by official on UPR review process by UNMISS and certified before commencement of the review only included Central Equatoria states.

B .Institutional and human right structure

The southern Sudan human right commission (SSHRC) was formed under presidency of government of southern Sudan with consent of the president of the republic of Sudan in 2006 under Article 149(1) of Circuits derives its powers from the interim constitution of south sudan 2005.Institution was formed not on the basis of Paris principle with consultation of the civil society organization pursuant to its pledges of candidacy to Human right council 2006 and commitment to implementation of CERT/CEDAW, committee of CAT echoed by national

committee and victims of torture. The institution had dragging time to implement ICCPR Article (27) minority rights in constitutional support for Human rights as parliamentarians reports are subject to presidential order. The commission took long time to establish structures at all the 10 states due to lack of professionally trained human rights officers, limited funds allocated to run the activities and structural-infrastructure constraints of the commission. At the establishment it had train 24 human right monitors. The constitution mandate of SSHRC is promotion and protection of human rights and fundamental freedoms at all level with the Bill of rights in ICSS as well international Human right treaties and conventions that have been ratified by republic of Sudan. The SSHR indicated that in its pledges to council, Southern Sudan to accelerate the process to adhere to two optional protocols to CRC and the optional protocol to CEDAW The government of the southern Sudan yet to fulfill this pledges.

C promotion and protection of human rights in the ground

Equality and non-discrimination

In Sudan there serious of discrimination especially among women who lost their marriage partners, in most cases the properties of the decease are taken away and she has no saying. Disable people are being discriminated especially in work it very rare that you find a physically disable woman working in office except in church organization. Equal representation in the Assembly. Up to now we do not have any representative of people with disabilities in the ssla. disability is not inability. Why not give them a room says southern Sudan Deaf Development Concern-Juba. PWDs express that, women are more subject to double discrimination and continues to miss out on Education, training, unemployment. Stresses that exist among the PWDs has grown beyond 95 % among the CSHRWG basing on the fact they don't have interpreters service, yet for their goodness sake, they needs to understand their right as person with disabilities. Sudan is a state that has sign the international convention on the protection and promotion of the rights and dignity of a person with disabilities A/611(2006),but it has not been implemented. SS-Deaf-D-CONCERN states that 532,000 person are deaf in which 250,000 are in the southern Sudan comprising of children, adult and army combatants, deaf and blind.

Administration of Justice and Rule of law

The interim constitution of southern Sudan Article (128) provides formation of independent Judiciary and courts. The president of the supreme courts and appeal is appointed by the president of the government of southern Sudan and approved by 2/3 majorities in assembly. However the courts are not independent subject to government pressure regarding verdicts, sentences and allegation of corruption in the judicial system. Most of the Judges were trained in the Arabic patterns and the government of southern Sudan had to take 50 Judges for English course training in Nairobi (MTDF funding) this has been challenges in interpretation of the legal jurisprudence and hence many case are left pending or un attending, most people stay in prison

for long time without trial because they could interpret the laws. Courts and public prosecution can refuse cases lodged by victims of state abuse. The state officials are not punished for Human rights abuses committed and the constitution of ICSS, 2005 confirm immunity for investigation of prosecution of individuals governments official who were subject to complains of system of torture, this call for the need of the codification of the international convention against torture. Access to justice is been hampered by high cost of court fee and the hostility of the environment ,strange and intimidating due to the complex language(Arabic) and the court procedure which a lay citizen from exile do not understand due to their illiteracy and lack of formal education. This further erodes their confidence in the administration of justice in southern Sudan.

Among army men, it worst because taking a case that took place on the 26 august , Yei county central equatoria one SPLA soldier move to home looking for wife and on finding, he tied the family member all(8 in number) and shoot them all one by one.(doc Unmis)and took the wife and rape her repeathy. On discovering the man the following morning, the man was arrested. Such actually undermine the right of a person to life and we appeal to the government of southern to end this kind crime that normally send strong signal that the SPLA soldier will not enjoy impunity for crime committed against civilian. On 13th August the high court in Torit Eastern equatorial state convicted four southern Sudanese police Service (SSPS) personnel of charges including rape under the 2008 southern Sudan penal code. They were sentenced to period of imprisonment between 7-13 years. In court the SSPS personnel admitted taking two Kenyan women to bush near Torit o 23rd may 2009 and beating them with sticks. The defendants claimed they acted under orders, having told by a superior to interrogate the women till they confessed to a crime. This is and important case in the fight against impunity for gender based violence in southern Sudan. In summoning up the Judge made it clear that the policemen were not obligated to obey orders which are inherent criminal. Both the SSPS and the SPLA are encouraged to incorporate this case into training program for recruitments and seasoned officers, making clear that a culture of impunity within state forces will not be tolerated.

Arbitrary Arrest and detention by police force

The interim constitution of southern Sudan Article (162) foreseen a decentralization of the police force. It's worth noting the act of signing of the CPA 2005; the police were not included in the negotiations which bring the complexity in the structures of the police. The security sector reform program to nationalize the police came into force by integrating the former Soldiers into the police force but had not yet become police service. Accordingly, Northern and southern Sudan have distinct police force each having separate claims of command and political leadership. The SSPS police the whole of the southern Sudan and answerable to the GOSS. Despite of this distinct and separately administered polices forces in southern Sudan and northern, there are considerable similarities in patterns of the arbitrary arrest and detention. There were effort by UNPOL to build the capacity of the police on law enforcement, community police and human rights, protection of the civilians during election several irregularities are still recorded. An SPLM_ Democracy Change member was released from SPLA custody on 14

August following his arrest and detention without charges for over four month. He is one of the five SPLM-DC member arrests by SPLA between 22-26 may in Malakal County on suspicion on involvement in the killing of the Shilluk paramount chief and six civilians panyikang, upper Nile states. Elsewhere, in Rumbek, lake states, a former SPLM-DC members arrested by SSPS on 14 July was released on 5 August following UNMIS Human rights intervention. Although not These releases are welcomed aspect for personal liberties contained in the interim constitution of Sudan. The Government of southern Sudanese forces refrain forms political motivated arrest and to either release the remaining four splm-dc members detained since may or have them transferred to police custody for trials by the courts.

Excessive use of Arrest and Detention in criminal investigation

The Sudanese laws of criminal procedure allow the police to arrest a criminal suspect without first obtaining the arrest warrant in relation to many of the most common offences. The police tend to make excessive use of this unchecked power. Every arrest constitutes a limitation of the human right to physical liberty and the police must use restraints. The police may also resort to arrest where it is necessary because there is significant risk that the suspect may abscond, destroy evidence, influence witnesses or commit further serious crimes. At the detention centre the police mix both male and juveniles together. This poses challenges to the victim getting higher chances of abuse. Similar report of arbitration was recorded in yei prison, police, Terekeka and Juba central prison where the facilities build for 450 inmates now accommodates 900. This has resulted to overcrowding in the prison center's while rights to access to justice is delayed, representation by legal attorney denied to most of them, and at least 79 Juveniles are reported on remand by ministry of gender, GOSS. The recommendation is the most of the juvenile's case requires argent trials and instead of imprisonments they should be in reformatory schools and center's which still absence. The Civil societies visited the prison and they confirm to be given rights to vote for self determination during the referendum(program televise of state TV Juba) but still there is no law currently available to enhance the rights of prisoners to participate in national program like elections and referendum. The Government of Sudan is signatory Treaty on abolition to death penalty but still prisons are being executed by hugging every week. There is still new hope in the police service since the enactment of the SSPS and NISS Act 2009.

Right to life, liberty and social security of persons.

The interim constitution of southern Sudan, 2005 article (25) restricts states from execution of death penalty. Despite the fact that Sudan is signatory to the international instrument on death penalty it's still imposed to serve as punishment in prisons in Juba human rights and special There are several attempts to visit the prison by various civil society, the only agreement we acknowledge is that the prison for the time will vote during 2011 referendum challenges still remains no law amend for the voting rights of the prisoners and argue the government to codify the law. Land policies have not been established and land acquisition is haphazardly done and at a risk (2009 World Bank).The land commission is undertaking important work in defining

policies and framework for allocation of land consistent with the CPA 2005 and the interim constitution ICSS, 2005. In the absence of an overarching land policy and specific land legislation at GOSS level, government land constrains to be allocated in some states but not others outside Juba town. Land is being seized arbitrarily by force, by simple marking, and by negotiating that these methods will deliver distribution of land at its highest and best economic use. The land commission formed in 2006 has accordingly been constituted and land policy in southern Sudan. The interim ICSS, 2005 has significant attention to land and natural resources in Southern Sudan. This focus is appropriate since land, is more than any other commodities of Southern Sudan. The ICSS gives the power to regulate land tenure, rights and use of land, to the appropriate level of government but recognized that customary land rights shall be recognized and all land traditionally and historically held or used by local communities shall be protected by law, customary seasonal rights of access to land shall be protected, the development of subterranean natural resources is permitted only after consultation with the communities enjoying rights in the land and only after assuring equitable compensation in the evens of acquisition of land in the public interest.

The land commission has been accordingly been constituted and is functional and the act has been approved in 2009. Yet to be framed and applied from the perspective of investment and growth there are three key issues in land policy; (i) Ownership and tenure (ii) land records and registration (iii) effective property rights. Most of the land in southern Sudan is owned by communities; members of the communities enjoy traditional rights in land and can even transfer these rights (although in some communities transfer rights do not exist) without any problems. However such transactions are governed by customary laws and no easily verifiable records is maintained of such transaction. Private investor therefore finds it difficult to verify ownership for some reason, land cannot be mortgaged and this inhibits the capacity of the private investors to leverage their asset. Some Land in cities has been plotted by the government and leased to investors. These urban areas are relatively more secure in terms of land titles and records and registration of transfers are more easily established. However the supply of such plotted land is limited against the rapid increase in the urban population estimated at around 25 percent of the total population 2008. Tension within and communities contributed to low public investment in land. The dispute between the government of central equatoria with respect to ownership of the assets of the coordinating council of Southern Sudan is still not resolved and the GOSS to appropriate these real estate assets in contested by the central equatorial. In Juba, despite the huge shortfall in housing, there has been significant investment in the formal real estate sector because land ownership is unclear, the process of accessing community land is uncertain and ownership or lease holds remains uncertified and based on mutual trust and informal agreement. With the approval of the land Act in 2009 and the operationalization of the land commission it is expected that a comprehensive land policy will soon be in place (2009, World Bank).

Freedom of expression Association and peace full Assembly and right to participate in public and private life

Freedom of expression and association must be respected and brought into line with international standard. Parliamentary approval of a new laws to regulate political associations and explains that this requires association to be approved by the ministry of Justice, who can also request the supreme court to issue a resulting to have the Association dissolved and liquidate its finance. In this new territory lack of legislation have resulted to infringement on freedom of association. During Sudan general election of April 2010 there had been very limited freedom of expression, association and public Assembly request for gathering has be obtained from police General. Most political parties, independent candidates face challenges of intimidation, harassment Arrest in lawful manner. The southern sector the state owned TV (SSTV) SS Radio broadcasting only activities of the ruling party (SPLM). There are other private media closer of mirayas FM and radio Bhakita for some weeks. There is only few daily news paper (Juba Post, Citizen News paper, Southern Sudan Eye, Sudan Mirror, Khartoum monitor, Sudan tributes) ha limitation on reporting. The Journalists faces threat of press censorship when broadcasting issue relating to Government official especially issues relating to torture and corruption of public office; Media editor of Juba post and Citizens of had been arrest several time. Though the election ACT 2009 provided accreditation of media, Journalists and international, National observers had to work with the provisional orders of ministry of broadcasting and information on the Election Day several Domestic elections observers were arrest on polling day till intervention of the EU, USAID and UNMIS to rescues observers from the police station. The media law is not codified. Instead non registered Human rights organization received letter from the ministry of gender, social welfare and religious affairs asking them to cease their activities or face legal presecution. The southern Sudanese laws prohibited unauthorised public gathering of more that five people and public gathering need to be notified to the ministry of interior 24 hours in advance. There is need for amendment on laws of public gatherings, meetings, procession further increase legislation constraints. Demonstration organized in public places are sensitive places are sticking prohibited and public meeting or emonstration has to be notified to the head public security atleast 3 days in advance organized and participants of prohibited demonstration faces prison sentences of up to 6months (Arrest of SPLM Secretary General Others) in Khartoum during the lection campaign. Meetings forbidding and speech or discussion infringing on public orders or moral, but leaves public orders or moral in define. the ministry of broadcasting and information provision into compliance with Article(21) of the international covenant for civil and political rights no participation in unregistered organistion. The detainees are released without trial oracess to Attorney often restricted in early stages of detention, Attorney Must stick a court order to counter into duties.

The Rights to adequate standard of living

The country wide sector of the population are suffering from extreme poverty, however there is no data to show measurable estimates for the exact number people leaving \$ 1per day. The higher number of families seeking aid from ministry of humanitarian affairs, ministry of Gender, social welfare and religious affairs and Southern Sudan relief and rehabilitation commission and

charity funds from development partners. The families of 8.2 millions. The natural economy generally tens of thousands of jobs each but an employment is estimated at around 15% of the population due to fact that only 11% of the newly created jobs for southern Sudanese citizen due to exploitation and low wages of domestic and foreign workers in private sector. The independence research indicates that minimum income of SDG 300 per month nurse in private clinic. The observed minimum wage in the government sector SDG 800 where as the is minimum wage for private sector. The mass naturalization motivated by securing a support base for the regime has addressing reflection itself on the being of the citizen relevant to states support job opportunity, Housing, education and medication. According to human rights reports Goss wages of housing crisis because of corruption and unjust distribution of wealth and land. The staffs of the government under pension scheme faces eviction from house as most of the government employee in Government of national Unity will become migrant's workers after referendum. The land act 2009 states owners of land belong the people. There is need for the UN and world bank/IMF to enforce the provision of adequate standard of living by retrieving public lands from the private hands to enable fair distribution of wealth among citizens and right of property. There is estimated application of government support service for housing to increase service delivery of such services collected houses crisis within the societies with demolition of Juba that left more than 2 million people homeless. The state policy has been to encourage foreign investment with permission condition on environment criteria in country.

Child Right

Orphans shall in this case be referred to a child whose both parents are dead and the child is under 18 years of age. Sudan has ratified the convention of the right of children (UNCRC). The UNCRC lays out specific terms and legal duties of the government to children. By ratifying the UNCRC Sudan pledge to safe-guard children from harm, abuse, exploitation, violence and neglect. Yet for million of children particularly the vulnerable one like war orphans, the violation of their right to protection is their main causes of exclusion. In spite of all the pledges, in south Sudan we have a number of orphans children that suffered harm, abuse on the streets violence, and neglect. According to civil society Report human Right forum, most of these children do sleep under the verandas of shop. Thus when any case reported to police patrol at night about the robbing or breaking of shops, the first people to suffer the incident are the children who are orphans living on the street and other street children in a way that they could be surrounded and beaten and in most cases been taken to detention centre and leaves their without trial. Good example is Juba central prison has over 200 street children under detention without trial. Most of these children spend cool night at the veranda and are becoming victim of abuse, rape for the case of the female street children, eating from dust bin, no medication for them and many suffer torture when arrested by police men. orphans in this case would falls under Article 21 (1(a,b,c,d,e,f,g,h),2,3 and 4). ICSS

Right to privacy, marriage and family life.

In southern Sudan .the interim constitution provide for every person of marriageable age shall have the right to marriage of the opposite sex and to found a family according to their respected family law and no marriage shall be entered into without the free and full consent of the man or women intending to marry. In spite of this law, there are a number of violations of these rights particularly among the cattle owner in the south. A case noted by human right civil society in Juba was that, on the 22/ august /2010, a 19 years old girls committed a suicide in wudu county, lake state due force marriage been imposed on her by the parent to marry an old man not of her choice yet the interim constitution of southern Sudan puts clearly that marriage shall be entered into only by consent of the two. By forcing a girl to marry a man not of her choice is serious violation of women right in this part of the country. The same scenario's has been noted in Eastern equatoria state where SPLA soldier are marring under age between 12 and 17 years. These are girls who normally move to sell at the SPLA base area. In other word early and force marriage in some part of south Sudan is rampart and still continuous to deprives women right to free choice of their spouse. The CPA expressly incorporated the international convention on civil and political Right which provide that no marriage shall be entered into without the free and consent of the intending spouse. Further, the interim constitution of SS (ICSS, 2005) provided that the state shall combat harmful customs and tradition which undermine the status of women. The Goss is encourage closing the gape between constitutional law and traditional family law by passing legislation outlawing early and force marriage.

Right to Education. Since the signing of the comprehensive agreement 5year ago, the government of south Sudan in ministry of higher learning pass law for free primary education. In addition to that, the government has been awarding some scholarship to returnee's student since 2007 but one important point to note is about the education of the people with disability. Although the Sudan government has ratified U.N convention on the people with disabilities, the situation of the disadvantaged in the south has not improved so much. As such the marginalized disable are depending entirely upon their family members, relative etc and others today are hanging in the market place begging in order to earn living. The people with disability has opted for education but lack of sufficient support left them far behind not able to compete for the available job. Most of their children are unable to attended higher education due to lack of support for education. It very unfortunate that the situation of the children of people with disability have been deprived of their right to basic service like Education, health ,shelter, employment and food.

Although the interim constitution of the government of southern Sudan page 33, 11 part (1) stated that, Education is the right to all the citizen and all level of government of south Sudan shall provide access to Education without discrimination to religious, race, ethnicity, HIV/AIDS status, gender or Disability but the children of the people with special need are at disadvantages yet south Sudan child act 2008 article 27 page 24 state that every child with a disability has the right to free and especial care, medical treatment, rehabilitation, to found a family, sport and recreation, education and training to help him/her to enjoy a full and decent life in dignify and

achieved the greatest possible degree of life self-reliance and social integration. More training for special need such as the deaf and the blind.

D .Achievements, Best Practices, Challenges and Constraints

The first southern Sudan legislative assembly passes over 24 Act including the practical application formation different commissions and chambers. The Sudan general elections were conducted according to election Act 2008, the election commission formed in accordance to ICS 2005 and CPA signed I 2005. The electoral commission invited international, national and regional election observers and UN, African Union, Arab league and foreign governance to ensure the credibility and transparency of the election is credible. The election had code of conduct for both parties and observers were trained. The elections process lead to the formation of legitimate government in July though there were irregularities in voter registaters and announcement of the result delayed and some candidates petitioned the governors results for central equatorial state and on the polling day the vice president of government f southern Sudan Dr.Riek Machar Teny had to move for more that 3 hours looking for his names on voters list upper Nile states. The constraints of the democratic elections left additional death of more the 450 southern Sudanese. Since 2006 there are 17 independence commissions' forms according to CPA and their chairpersons and deputies are appointed by president of government of southern Sudan with approval f two third majorities in the Assembly. The independent SSHRC formed had trained more human rights officials, pledges to implement international treaties and instrument of human rights. The challenge is that the formation of the human rights commission was not according to the Paris principle and none of the civil societies have not taken memberships. The independent e commission like peace commission in was later on transformed into ministry of peace and CPA implementation. Since 2006 the government under president Salva kiir mayandit announced universal primary education for all and initiatives to enrolled many children to school Appeal to government of southern Sudan. There is need to build more school for the people with special need especially in south Sudan, simply because the effect of the longest African civil war has resulted into several effect that is why we have a number of the blind. And more teachers for special need should be given scholarship in order that they can be able to meet the need of the out number needs of the people with special needs mostly the deaf and dump, the blind. There are very few instructors for these categories of people. Needs to support the above categories of people by sending more instructors for studies especially the Sudanese national. We would like to appeal to the government of southern Sudan for support of to reformatories schools in all the 10 state of south Sudan. The purpose is to allow for those orphans who have lost both parents to acquired basic education. Training of child protection officer in the south will be highly required basing on the needs raised by the by the UNHCR during the resent protection assessments taken in some county in the state for instance in magwi county the location chosen was Nimule and palutaka in which the child protection officer was one and could not be two in one. The reality on the ground is that, we have a number of child protection actors but they all lack institutional capacity. For gender base violence in southern

Sudan, we would like to appeal to the government for amicable solution to various happening in the villages e.g. marriage related violent, the government should come up with a policy to protect the citizen from their right so as they are not look at as property and more awareness campaign to enlightened the people at the grass root about the meaning marriage. One major achievement we as civil society HR have acknowledges is the inclusions of 25% of women representation in the all the national duties of which during the resent election the president promise to add 5 % meaning now women of South Sudan have 30%.For gender base violence in southern Sudan, we would like to appeal to the government for amicable solution to various happening in the villages e.g. marriage related violent, the government should come up with a policy to protect the citizen from their right so as they are not look at as property and more awareness campaign to enlightened the people at the grass root about the meaning marriage.

E.KEY NATIONAL PRIORITIES, INITIATIVES AND COMMITMENTS

There is a need to ensure freedom of association, peaceful assembly and freedom of expression through out Sudan. All efforts must be exerted to redress the political and military consequences of the contested elections result as these consequences can certainly affect the referendum process. Adequate preparation for Referendum, The south should be united as parties and people, to support the conduct of the referendum and completion of the CPA interim period on time. A free, fair and transparent referendum is a sine qua non for recognition of the result. Therefore, more than anybody else, the south must be keen to ensure that the requirements of conducive environment for the conduct of free,fair,transparent and peaceful referendum provided in the southern Sudan Referendum carryout constitutional review on the interim constitution of southern Sudan 2005.(2)draft a permanent constitution for the new independent and sovereign stage of south Sudan.(3)discuss and agree on the interim broad-based national government, under the current president of the Government of southern Sudan.

F.Capacity Building and Technical Assistance

We are requesting for more capacity building to civil society working on Human right in southern Sudan is very broad and currently we have few staffs in the office of Human right commission trained by Unmis HR section but they cold not cover the whole area of southern Sudan as verse as it is. The civil society could fill up these gaps but again financial support is another problem in term of logistic, accommodation to mention but few. Therefore training in consultancy and expatriate and financial management would be added advantages to civil society

ANNEX 1.

Participants of civic societies in universal periodic review;

1. United Nations foundation/Better worldcampaign.Email;opiomoses@yahoo.com/mailings@unfoundation.org
2. Southern Sudan organization for relief and development (SSORD Juba)
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4. Women self Help development organization:Email:mamalucijuba@yahoo.com
5. Southern Sudan Deaf development Concern.Email:atimca26@yahoo.com
6. Sudan self help foundation (SSF).Email:lodovic200@yahoo.com
7. Equatoria state Association of the physically Disabled (ESAD)
Email:jamesochanamis@yahoo.com
8. South Sudan Association of the Visually Impaired (SSAVI) Email:jhenery@yahoo.com
9. (ESUUA) equatoria State Union of Visual Association.
10. Catholic Church -Women Desk .Email.womenpastoraloffice@yahoo.com
11. Kajo-Keji Human rights Community Awareness programme (KHRCAP)
Email:ezbonduku@yahoo.com
12. Lokita Charitable Society (LCS)
13. NESI Net work New Sudan Ingenious NGO
14. South Sudan Human Right Society for Advocacy (SSHURSA)
15. Community Empowerment for Progress orgainsation –CEPO
16. South Sudan Women General Association
17. Southern Sudan Law Society Email:taban-kiston@yahoo.com