

# South Sudan

## Mid-term Implementation Assessment



Promoting and strengthening  
the Universal Periodic Review  
<http://www.upr-info.org>



## Introduction

### 1. Purpose of the follow-up programme

*The second and subsequent cycles of the review should focus on, inter alia, the implementation of the accepted recommendations and the development of the human rights situation in the State under review.*

A/HRC/RES/16/21, 12 April 2011 (Annex I C § 6)

The Universal Periodic Review (UPR) process takes place every four and one half years; however, some recommendations can be implemented immediately. In order to reduce this interval, we have created a follow-up process to evaluate the human rights situation two years after the examination at the UPR.

Broadly speaking, *UPR Info* seeks to ensure the respect of commitments made in the UPR, but also, more specifically, to give stakeholders the opportunity to share their opinion on the commitments. To this end, about two years after the review, *UPR Info* invites States, NGOs, and National Institutions for Human Rights (NHRI) to share their comments on the implementation (or lack thereof) of recommendations adopted at the Human Rights Council (HRC) plenary session.

For this purpose, *UPR Info* publishes a Mid-term Implementation Assessment (MIA) including responses from each stakeholder. The MIA is meant to show how all stakeholders are disposed to follow through on and to implement their commitments. States should implement the recommendations that they have accepted and civil society should monitor that implementation.

While the follow-up's importance has been highlighted by the HRC, no precise directives regarding the follow-up procedure have been set until now. Therefore, *UPR Info* is willing to share good practices as soon as possible and to strengthen the collaboration pattern between States and stakeholders. Unless the UPR's follow-up is seriously considered, the UPR mechanism as a whole could be adversely affected.

The methodology used by *UPR Info* to collect data and to calculate the index is described at the end of this document.

Geneva, 13 August 2014



## Follow-up Outcomes

### 1. Sources and results

All data are available at the following address:

[http://followup.upr-info.org/index/country/south\\_sudan](http://followup.upr-info.org/index/country/south_sudan)

We invite the reader to consult this webpage since all recommendations, all stakeholders' reports, as well as the unedited comments can be found at the same internet address.

Please note that South Sudan became independent on 9 July 2011. South Sudan received the recommendations referenced below during the review of Sudan on 10 May 2011; as a result, recommendations made to South Sudan are included in Sudan's *Report of the Working Group A/HRC/18/16*.

25 stakeholders' reports (on Sudan and South Sudan) were submitted for the UPR. 7 NGOs working on South Sudan were contacted. 6 UN agencies were contacted. The Permanent Mission to the UN was contacted. The National Human Rights Institution (NHRI) was contacted as well.

1 NGO responded to our enquiry. 1 UN agency responded. The State under Review did not respond to our enquiry. The NHRI did not respond to our enquiry either.

The following stakeholders took part in the report:

1. **UN Agency:** United Nations Children's Fund (UNICEF)
2. **NGOs:** Anonymous

*IRI:* 9 recommendations are not implemented, 3 recommendations are partially implemented, and 0 recommendations are fully implemented. No answer was received for 17 out of 33 recommendations and voluntary pledges (full list of unanswered recommendations is available at the end of this document).



## 2. Index

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Hereby the issues that the MIA covers:

rec. n°	Rec. State	Issue	IRI	page
9	Austria	Civil society, Freedom of association and peaceful assembly, Freedom of opinion and expression, Freedom of religion and belief, Minorities, Women's rights	not impl.	page 5
16	Austria	International instruments, Women's rights	not impl.	page 7
19	Austria	Racial discrimination	not impl.	page 6
1	Djibouti	Other	-	page 8
31	Djibouti	Development	-	page 6
2	Ethiopia	Elections	not impl.	page 5
21	France	Detention conditions, Enforced disappearances, International instruments, Torture and other CID treatment	not impl.	page 7
32	France	International instruments, Rights of the Child	not impl.	page 7
15	India	NHRI	partially impl.	page 9
10	Norway	Other	-	page 8
23	Norway	Human rights education and training	not impl.	page 6
24	Norway	Detention conditions, Freedom of the press, Human rights defenders	not impl.	page 8
6	Somalia	Other	-	page 9
3	Syria	Other	partially impl.	page 8
8	United Kingdom	NHRI	partially impl.	page 9
22	United Kingdom	Freedom of association and peaceful assembly, Freedom of opinion and expression, Freedom of the press, Human rights defenders	not impl.	page 5



### 3. Feedback on recommendations

## CP Rights

Recommendation n°2: *Continue to work with regional and international partners to ensure amicable solutions to remaining post-referendum issues* (Recommended by *Ethiopia*)

IRI: *not implemented*

Anonymous response:

Civil Societies, Minorities group and women are not involved in constitution process in South Sudan, and the freedom of speech is restricted. E.g. the transitional constitution of South Sudan was adopted by SPLM the dominant in parliamentarian, but Civil Societies and minorities group were not consulted.

Recommendation n°9: *Draft their Constitutions in an inclusive process with the participation of civil society, women and minorities. Also, ensure that the new Constitutions include a catalogue of human rights, in particular the freedom of speech and assembly, and take the multiethnic and multireligious background of their population into account* (Recommended by *Austria*)

IRI: *not implemented*

United Nations Children's Fund (UNICEF) response:

Commission to review the Constitution was established in 2012 and the review process begun.

Although the Constitutional Review process was initiated in 2012, there has been no tangible progress to date. Since the conflict broke out in December 2013, the Commission has not been active; yet its term will run out in December 2014.

Recommendation n°22: *Respect the rights to freedom of expression, association and assembly by allowing human rights defenders, political dissidents and journalists to express their views freely in line with international human rights law* (Recommended by *United Kingdom*)

IRI: *not implemented*

Anonymous response:

South Sudan has a big problem with freedom of expression whether civil society or minority groups. On 6 of January 2013, Rabha Elis Bandas, the



human rights defender, was arrested by CID for 6 days in Western Bahr El ghazal - Wau, just because she has interviewed as a CSOs coordinator, by miraia UN radio on the incident occurred in 9 December 2012, where 9 people were killed in Wau in peaceful demonstration over transfer of Wau county to Bagari payam. More than 25 people are in the prison and 11 among them are sentenced to death, the court was not fair, the judges were intimidated, up to date no investigation or action taken by the government against the force who shot the people dead and about 27 are wounded in peaceful demonstration in Wau. Amnesty International has published comprehensive report about the incident in Wau [...].

## ESC Rights

Recommendation n°19: *Ensure that after independence, no one will be discriminated against because of their origin from the other State, respectively* (Recommended by Austria)

IRI: *not implemented*

### Anonymous response:

Discrimination, nepotism, and tribalism and negligence are still continuing in South Sudan; e.g. the country is leading by one ethnic group.

Recommendation n°23: *Strengthen awareness of and respect for human rights within the armed forces, police and judiciary* (Recommended by Norway)

IRI: *not implemented*

### Anonymous response:

There has been continuing violation of Human Rights by organizing forces e.g. Police, CID and soldiers. Beating and looting of the properties from the civilians. Women and girls experience rape by SPLA and police, more than the period before CPA and referendum. No accountability, survivors [do not have] access to justice. Judiciary are not independent. [Those who are] non affiliated to the system are intimidated.

Recommendation n°31: *In light of exceptional circumstances, appeal to the international community for its consent to cancelling Sudan's debt, which would constitute remarkable progress towards achievement of the Millennium Development Goals, ensure conditions of an equitable economic development and have a positive impact on the enjoyment of human rights for millions of Sudanese* (Recommended by Djibouti)

IRI: -





Anonymous response:

Misusing of the resources of the country; e.g. public fund is used for individual purpose; corruption is very high, no socio-economic accountability.

## International Instruments

Recommendation n<sup>o</sup>16: *Ratify, without limiting reservations, the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol* (Recommended by *Austria*)

IRI: *not implemented*

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Recommendation n<sup>o</sup>21: *Adhere to the Convention against Torture and its Optional Protocol and to the International Convention for the Protection of All Persons from Enforced Disappearance* (Recommended by *France*)

IRI: *not implemented*

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Recommendation n<sup>o</sup>32: *Adhere to the Convention on the Rights of the Child and its two Optional Protocols and endorse the Paris Commitments to protect children from unlawful recruitment or use by armed forces or armed groups* (Recommended by *France*)

IRI: *not implemented*

UNICEF response:

In April 2013 the Council of Ministers passed a resolution to accede/ratify 9 Human Rights Treaties including the CRC and the

1. South Sudan passed the bill to ratify the Convention on the Rights of the Children on 20 Nov 2013.
2. Bill to ratify the Convention on the Elimination of all Forms of Discrimination against Women.
3. The Government is considering the ratification of ICCPR.
4. South Sudan has ratified the Ottawa Treaty – the Convention to Ban Mines

Advocacy continues to get the President to sign off on the bill on the ratification of the CRC so that the ratification process can be completed.

Advocacy to get the Parliament to pass the bill on the ratification of CEDAW continues.



## Justice

Recommendation n<sup>o</sup>10: *Bring all constitutional provisions and relevant laws into line with the CPA and international obligations* (Recommended by Norway)

IRI: -

UNICEF response:

The CPA ceased the moment that South Sudan became independent.

Recommendation n<sup>o</sup>24: *Take concrete steps to ensure freedom of the media and investigate any intimidation and arbitrary detention of journalists and human rights defenders with a view to bringing such practices to an end* (Recommended by Norway)

IRI: *not implemented*

Anonymous response:

Arbitrary detention, impunity, arrest without warrant are still under practice in South Sudan, e.g. during Wau incident in 2012, CID arrested and detained numbers of people in the community of Wau county, because they express their view with disagreement with governmental decision to transfer Wau to Bagari by force, which is a violation to constitution of South Sudan. Nine of them were killed, and some flee to neighboring state to secure their life and others are still in the prison. Some politician from Wau County were also arrested and detained because they respect the right of the community not transferred Wau County Head Quarter to Baggari.

## Other

Recommendation n<sup>o</sup>1: *Make every effort to preserve the climate of peace achieved by the Comprehensive Peace Agreement during the six years of transition* (Recommended by Djibouti)

IRI: -

UNICEF response:

The CPA ceased the moment that South Sudan became independent.

Recommendation n<sup>o</sup>3: *Remain committed to negotiations to resolve pending areas of disagreement* (Recommended by Syria)

IRI: *partially implemented*





Anonymous response:

The pending issues, commitment for negotiation and willingness to accept the views of others and resolved disagreement/dispute is still challenges. E.g. recent crises between SPLM leaders President of South Sudan and Former Vice President, in principle they agreed on inclusive peace process which is good, unfortunately there is no political will by the government for reform the 4 thematic areas of peace process, 1 transitional government, 2 Constitutional development, since the current constitution give more power to president, 3 permanent security 4 Justice reconciliation and healing, the president Salva Kiir insisted that there is no transitional government without him [...]

Recommendation n°6: *Continue negotiations with a view to peacefully settling the remaining stipulations of the CPA, particularly with regard to issues like border demarcation, foreign debts, oil and water sharing and citizenship, with the understanding that nobody will be stateless* (Recommended by Somalia)

IRI: -

UNICEF response:

The CPA ceased the moment that South Sudan became independent.

Recommendation n°8: *Guarantee the human rights of citizens under the new Constitutions and establish effective mechanisms to ensure these are respected, including through the establishment of a national human rights institution in line with the Paris Principles* (Recommended by United Kingdom)

IRI: *partially implemented*

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Recommendation n°15: *Consider establishing national human rights institutions in compliance with the Paris Principles* (Recommended by India)

IRI: *partially implemented*

UNICEF response:

By the time of the consideration of the Sudan report by the UPR Working Group the South Sudan Human Rights Commission had been established but it needed to be strengthened.

The Independent Child Commission is yet to be established.

The South Sudan Human Rights Commission is functional although sometimes it comes up with controversial statements and sometimes its independence is marred.

Advocacy for the establishment of the Independent Child Commission continues and there was a real chance with the current Minister of Gender,



Child and Social Welfare as before the December conflict, she had put children as her number one priority.



## Methodology

### A. First contact

Although the methodology has to consider the specificities of each country, we apply the same procedure for data collection about all States:

1. We contact the Permanent Mission to the UN either in Geneva or New York;
2. We contact all NGOs that took part in the process. Whenever NGOs were part of coalitions, each NGO is contacted individually;
3. The National Institution for Human Rights is contacted, whenever one exists.
4. UN Agencies, which sent information for the UPR, are also contacted.

We post our requests to the States and send e-mails to NHRIs, NGOs and UN Agencies.

The purpose of the UPR is to discuss issues and share concrete suggestions to improve human rights on the ground. Therefore, stakeholders whose objective is not to improve the human rights situation are not contacted and those stakeholders' submissions are not taken into account.

However, since the UPR is meant to be a process that aims to share best practices among States and stakeholders, we take into account positive feedbacks from the latter.

### B. Processing recommendations and voluntary pledges

The stakeholders that we contact are encouraged to use an Excel sheet, which we provide, that includes all recommendations received and voluntary pledges taken by the State reviewed.

Each submission is processed, whether the stakeholder has or has not used the Excel sheet. In the latter case, the submission is split among recommendations to which we think it belongs. Since such a task is more prone to misinterpretation, we strongly encourage stakeholders to use the Excel sheet.

If the stakeholder does not clearly mention whether the recommendation was “fully implemented” or “not implemented”, *UPR Info* usually considers the recommendation as “partially implemented”, unless the implementation level is obvious.

*UPR Info* retains the right to edit comments that are considered to not directly address the recommendation in question, when comments are too lengthy or when comments are defamatory or inappropriate. While we do not mention the



recommendations which were not addressed, they can be accessed unedited on the follow-up webpage.

### C. Implementation Recommendation Index (IRI)

*UPR Info* developed an index showing the implementation level achieved by the State for both recommendations received and voluntary pledges taken at the UPR.

The **Implementation Recommendation Index (IRI)** is an individual recommendation index. Its purpose is to show an average of stakeholders' responses.

The *IRI* is meant to take into account stakeholders disputing the implementation of a recommendation. Whenever a stakeholder claims nothing has been implemented at all, the index score is 0. At the opposite, whenever a stakeholder claims a recommendation has been fully implemented, the *IRI* score is 1.

An average is calculated to fully reflect the many sources of information. If the State under Review claims that the recommendation has been fully implemented, and a stakeholder says it has been partially implemented, the score is 0.75.

Then the score is transformed into an implementation level, according to the table below:

Percentage:	Implementation level:
0 – 0.32	Not implemented
0.33 – 0.65	Partially implemented
0.66 – 1	Fully implemented

Example: On one side, a stakeholder comments on a recommendation requesting the establishment of a National Human Rights Institute (NHRI). On the other side, the State under review claims having partially set up the NHRI. As a result of this, the recommendation is given an *IRI* score of 0.25, and thus the recommendation is considered as “not implemented”.

### **Disclaimer**

*The comments made by the authors (stakeholders) are theirs alone, and do not necessarily reflect the views and opinions at UPR Info. Every attempt has been made to ensure that information provided on this page is accurate and not abusive. UPR Info cannot be held responsible for information provided in this document.*

## Uncommented recommendations

Hereby the recommendations which the MIA does not address:

rec. n°	Recommendation	SMR	Response	A	Issue
4	Continue negotiations with a view to a peaceful resolution of pending questions	Djibouti	Noted	2	Other
5	Continue negotiations to reach agreement on pending issues such as border and natural resources	Lebanon	Noted	2	Other
7	Maintain the peaceful atmosphere that was created by the Comprehensive Peace Agreement throughout the six years of the transitional period, by taking measures to reduce tension and all parties should refrain from taking any unilateral steps that would undermine the purpose of the Agreement	Somalia	Noted	4	Other
11	Strengthen cooperation with all the mechanisms of this Council	Austria	Noted	4	Special procedures
12	Cooperate in the follow-up to this review	Austria	Noted	4	UPR process
13	Continue to fully cooperate with the Independent Expert on the situation of human rights in Sudan	France	Noted	2	Special procedures
14	Strengthen the capacity to adequately protect and promote human rights in cooperation with OHCHR	Norway	Noted	4	General
17	Ratify the Protocol to the African Charter on Human and Peoples Rights on the Rights of Women in Africa	Austria	Noted	5	Women's rights
18	Repeal all laws that discriminate against women	Austria	Noted	5	Women's rights
20	Establish a moratorium on executions with a view to the definitive abolition of the death penalty	France	Noted	5	Death penalty
25	Complete its transition from a militarized society to a democratic system based on the rule of law under civilian rule	Norway	Accepted	4	Justice
26	Increase the efforts in the field of civil protection in the transition period	Norway	Accepted	4	International humanitarian law
27	Adopt legislation and measures to allow the free practice of religions in Sudan and in South Sudan	Lebanon	Noted	5	Freedom of religion and belief
28	Foresee measures that would guarantee the right to their religions to groups that will become minorities in both countries after the birth of the new State, namely Muslims in South Sudan and non-Muslims in (north) Sudan	Somalia	Noted	3	Freedom of religion and belief, Minorities
29	Appeal to the international community to take individual and collective initiatives to exempt the debts of Sudan	Somalia	Noted	1	Other



rec. n°	Recommendation	SMR	Response	A	Issue
30	Consider measures aimed at ensuring freedom of religion for groups which will become minorities in the two countries after the emergence of the new State	Djibouti	Noted	3	Freedom of religion and belief, Minorities
33	To South Sudan to establish a moratorium on executions with a view to abolishing the death penalty	Italy	Accepted	5	Death penalty

A= Action Category (see on [our website](#))

SMR = State making recommendation



## Contact

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### UPR Info

Rue de Varembé 3  
CH - 1202 Geneva  
Switzerland

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Website:

<http://www.upr-info.org>



Phone:

+ 41 (0) 22 321 77 70

*General enquiries*

[info@upr-info.org](mailto:info@upr-info.org)



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