

Civil Society Organizations at Bentiu Protection of Civilians Camp (CSOBentiuPoC) –
Joint UPR Submission- South Sudan- September 2016

This Joint Civil Society Organizations submission has been prepared by Greater Upper Nile Organization; Women Vision; CAPRAS-Community Outreach Protection on Reproductive Health Awareness and Sanitation; Peace and Justice Commission; Women Empowerment Development Organization; Hope and Restoration Committee; Children Charity Organization and KALP-Koch Adult Literacy Program.

Greater Upper Nile Organization, established in 2012 to support and advocate better adult education. Additionally, and advocate greater child protection.

Women Vision, established in 2013 to advocate and provide protection to women, in particular focusing on food security, livelihood and gender based violence. And to advocate better child protection programs.

Community Outreach Protection on Reproductive Health Awareness and Sanitation, established in 2008 to advocate reproductive rights and better access to sanitation.

Peace and Justice Commission, established in 2015 focusing on peace building and trauma healing and reconciliation/conflict resolution.

Women Empowerment Development Organization, established in 2008 to protect and advocate women’s issues and develop empowerment programs.

Children Charity Organization, established in 2016 to advocate better protection for children and improved wellbeing.

KALP-Koch Adult Learning Literacy Program, established in 2008 to advocate better access to education to adults.

Hope and Restoration Committee, established in 2008 to promote good relations between communities and implement reconciliation and conflict resolution programs.

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I. Summary

1. The Civil Society Organizations at Bentiu Protection of Civilians Camp (CSOBentiuPoC) coalition brings together eight civil society organizations working at the Protection of Civilians Camp in Bentiu town. Its members represent people from around the former Unity State and work within the PoC to advocate women and children's rights and work towards building a peaceful society.
2. CSOBentiuPoC strongly believes that in order to achieve sustainable peace, and protect the rights of women and children the Government of South Sudan needs to ensure the equal distribution of financial and environmental resources between the different South Sudanese States –whether they are 10 or 28. The coalition notes that the unequal distribution of resources is at the heart of the internal conflict, and believes it needs to be addressed to ensure greater human rights protection.
3. CSOBentiuPoC makes an urgent call to the South Sudanese Government to ensure that the widespread violations of international humanitarian and human rights law committed against women in the former Unity State are properly investigated. We are asking the Government to ensure that all perpetrators are promptly judged in an impartial court, whilst members of the security forces who are reasonably suspected of having committed serious violations are immediately suspended.
4. We want to see more women actively participating in politics. To this end, we want to encourage the Government to at the very minimum ensure that the Constitutional pledge to appoint at least 25% of women in the executive branch is fulfilled.
5. We know that increasing the number of women in the police and the armed forces is a basic step that needs to be taken to end gender-based violence, both at home and that perpetuated by the security forces. For this reason, we are calling the Government of South Sudan to increase the number of women in leadership positions in both: the army and the police.
6. Children have been one of the most affected populations in the recent armed conflict; however, Government programs are failing to address their very basic needs. In particular, we encourage the Government of South Sudan to put in place a comprehensive prevention, demobilization and integration program to ensure the safe return of all child soldiers to their civilian life.

I. Promotion and protection of human rights on the ground

Unlawful killings

7. The Civil Society Organizations at Bentiu Protection of Civilians Camp Coalition (CSOBentiuPoC) is concerned with the widespread violations of international humanitarian law and human rights law, including war crimes, and the dreadful humanitarian situation that civilians continue to face in the former Unity State.
8. The total number of civilians killed in Unity State during the peak of the internal conflict between December 2013 and September 2015 remains unknown. However, its extent has been widely documented by the United Nations Human Rights Council and the United Nations Mission in the Republic of South Sudan (UNMISS).
9. Although we recognize that since January 2016 the killing of civilians has seen a dramatic reduction, people continue to face a considerable risk of being randomly killed and injured in indiscriminate attacks by all parties in the internal conflict.
10. Recommendations: The call upon the Government to:
 - Ensure prompt, independent and impartial investigation into all serious allegations of international and human rights law, including unlawful killings, and to bring those responsible to justice in fair trials without the application of the death penalty
 - Grant to all the families of the victims access to an adequate and effective remedy
 - Fulfil its 2014 pledge to establish the ‘investigation committee on human rights abuses’
 - Publicly order its security forces, and all militia and forces affiliate to it, to immediately stop unlawful killings
 - Immediately suspend from duty any member of its security forces reasonably suspected of serious violations of international and human rights law
 - Reverse the Declaration of the State of Emergency in the three States of Upper Nile (Unity, Upper Nile State, and Jonglei)

Arbitrary and prolong arrests and detentions

11. The judicial system in the former Unity State is in a dire state. There are not judicial courts because all judges and prosecutors left when the conflict erupted in 2013, whilst police forces have not been deployed. Moreover, throughout the State the military is carrying out police functions.
12. Although statistics regarding the number of arbitrary arrests and detentions do not exist, its widespread use was documented in the 2016 assessment mission by the High Commissioner for Human Rights to improve human rights, accountability, reconciliation and capacity in South Sudan.¹

¹ http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session31/Documents/A-HRC-31-CRP-6_en.doc

13. Moreover, the widespread use of arbitrary arrests and detentions is further evidenced in the direct experience of the members of the coalition, who themselves, family members, friends and neighbors were subjected to such practice.
14. Recommendations: We call upon the Government to:
- Ensure the prompt deployment of police forces within all the State, as well as the establishment of an independent judicial system
 - Immediately investigate all cases of arbitrary arrest and detention and ensure the investigation and prosecution of individuals involved in arbitrary arrests and detentions

Women and girls' rights

Rape, sexual violence and abduction by the government security forces and all militia and forces affiliated to it

15. The conflict exacerbated the vulnerability of women and girls to sexual abuse and abduction in the former Unity State. The real extent of the problem is unknown, but the widespread use of rape and sexual violence, as well as the abduction of women in particular in Rubkona, Guit and Koch counties have been documented by several reliable organizations, including Human Rights Watch, Amnesty International and UNMISS.²
16. For instance, UNMISS flash human rights report published in June 2015 documented the abduction of at least 172 women and girls and at least 79 instances of rape between December 2015 and May 2016 in the former Unity State.³ However, the number is likely to be much higher given that rape, sexual violence and abduction are frequently under-reported.
17. Although since January 2016 the incidents of rape, sexual violence and abduction appear to be much lower, the systematic use of rape, sexual abuse and abduction by the national security forces and its allies continue to pose a serious threat to women and girls' physical integrity.
18. Recommendations: The encourage the Government of South Sudan to:
- Order all armed forces, military intelligence, and all militia and forces affiliate to it to prevent, end, and punish crimes of sexual and gender-based violence.

² See for example:

http://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=4&cad=rja&uact=8&ved=0ahUKewjlwom_u8_LAhVJxRQKHf-1AQAQFggwMAM&url=http%3A%2F%2Fwww.carefrance.org%2Fressources%2Fthemas%2F1%2F3958%2CCARE_The-Girl-Has-No-Rights_GBV-in-.pdf&usg=AFQjCNGeijVZHi8GRCwi-cjBF-bxeuCX-A&sig2=CRiImbacARy-mKrMq1AXkg&bvm=bv.117218890,d.bGs, <http://www.un.org/sexualviolenceinconflict/countries/south-sudan/>, <https://www.hrw.org/africa/south-sudan>

³ http://www.ohchr.org/Documents/Countries/SS/UNMISS_HRD4December2015.pdf

- Investigate every single case of sexual and gender-based violence perpetrated by their security forces and allies
- Suspend senior military commanders' responsible for serious abuses allegedly committed by forces under their control
- Publicly order all its security forces, and all militia and forces affiliate to it, to immediately stop all sexual violence
- Ensure justice and compensation for the victims

Other forms of gender-based violence, including domestic violence, early and forced marriage

19. Other forms of gender-based violence are an endemic problem in the former Unity State. Women and girls are frequently raped and beaten by their partners and family members; meanwhile, forced and early marriage are the norm. More gravely, all forms of gender-based violence usually go unpunished.
20. To exacerbate the problem, traditional courts –which are the only functional judicial institutions in the former Unity State- and traditional law, do not protect women against such crimes. Indeed, customary law in the former Unity State allows a degree of violence in the home, as it permits a man to 'discipline' its wife. Moreover, traditional courts aim to maintain marriages, and it is very difficult for a woman to divorce because of domestic violence. Only rarely men are convicted for domestic violence, and in extremely grave cases all they have to pay is a fine, usually consisting in cows, which is received by the male relatives of the victims.
21. Given the international focus on reporting gender-based violence related to the conflict, there are not comprehensive studies on gender-based violence outside the conflict. That said, in 2014 the Director General in the Ministry of Welfare, Regina Ossa Lulo, noted that a government assessment in 2010 found that as many as 70% of women in South Sudan have been victims of some kind of gender-based violence.⁴
22. Recommendations:
- Statutory courts, customary courts and Parliament must amend all parts of customary law to ensure its compliance with CEDAW and South Sudan Transitional Constitution
 - The Government of South Sudan needs to ensure that the forthcoming permanent Constitution recognizes and protects the rights of women and girls –and prohibits any form of gender-based violence, including those that have been traditionally accepted
 - The Government of South Sudan must develop and implement capacity building programs to ensure that all members of the judiciary, in particular

⁴ <http://reliefweb.int/report/south-sudan/least-70-cent-women-south-sudan-experience-some-form-domestic-violence>

chiefs in traditional courts, develop and apply customary law compliant with CEDAW and South Sudan's Transitional Constitution

Equal opportunities between women and men

23. Despite ratifying CEDAW, the South Sudanese government has failed to put in place measures to protect women's right to work and ensure they have the same training and employment opportunities with men.
24. Women's job prospects in the former Unity State are extremely limited. Traditional practices limited women's economic opportunities, as they are expected to stay at home, cook, look after the children and collect firewood and water.
25. The situation is further compounded by the lack of employment opportunities and low levels of female literacy and numeracy. Indeed, although there are not statistics disaggregated by States the following data shows the extent of the problem:
 - According to the World Bank, in 2015 only 27% of the population aged 15 years and above was literate, with significant gender disparities, whilst men literacy rate is 40%, for women it stands at 16%.⁵
 - According to Oxfam, in 2014 only 12% of women were in formal employment and 'in all levels of income women earn less than men'.⁶
26. Women's representation at the national and local government remains extremely low. According to the Transitional Constitution at least 25% of people in the legislative and executive organs should be women, however, the government has continuously failed to fulfil its constitutional commitment. For instance, in December 2015, President Salva Kiir appointed 28 new governors, none of which were women.
27. Women are also severely underrepresented in the armed forces and the police. Moreover, women have never been appointed at high level positions in the national armed forces or the police forces.
28. Recommendations, we strongly advice the Government of South Sudan to:
 - Fulfil its commitment to appoint at least 25% of women in all executive organs, at both local and national level
 - Women should be represented in all decision/making positions, and they should also be equally represented in the national army and the Police
 - Implement training programs for women and girls to increase their participation in the formal economy

⁵ <http://www.worldbank.org/en/country/southsudan/overview>

⁶ <http://www.oxfam.ca/sites/default/files/imce/country-profile-south-sudan.pdf>

Recruitment of Children into the army forces

29. The force recruitment of children by the national armed forces and the opposition has been widely documented. Human Rights Watch noted in 2014 that “the government used child soldiers in renewed fighting in mid-August 2014 in Bentiu, the capital of Unity State, and in the neighboring town of Rubkona”.⁷ Sources close to the organization reported that they “saw dozens of children in military uniform, armed with assault rifles, deployed with government soldiers and firing on opposition positions in both Bentiu and Rubkona”.⁸ The PoC coalition notes that they are aware of the use of child soldiers in other locations within the former Unity State, including in the following counties: Leer, Koch, Guit, Mayandit, Panyar and Mayom.
30. Moreover, the SPLA has since 2003 been listed by the United Nations secretary-general on his annual “list of shame” of governments and non-state groups using children as soldiers.
31. However, the CSOBentiuPoC notes that children sometimes join the forces voluntarily, because of a lack of economic opportunities in their villages or for protection. For instance, in March 2016 a member of Hope and Restoration Committee interviewed a child soldier in Boaw village. The child reported that he decided to join the SPLA to be able to protect himself and his family from indiscriminate attacks committed by local militias. In turn, the Commander of the SPLA reported that he was aware of the child, but that because of the lack of reintegration and family reunification services he had no choice but to keep it under his protection.
32. South Sudan’s 2008 Child Act forbids the use of child soldiers. In March 2012, the government signed an action plan with the UN, making a commitment to end all recruitment and use of children under 18 as soldiers, and to demobilize all children within the military’s ranks. In August 2013, the SPLA issued a general order forbidding the recruitment or the use of children for any purpose within its operations. By the end of 2013, the UN secretary-general reported that before the current conflict, the SPLA had made tangible progress in ending its use of child soldiers. When the current armed conflict broke out, however, child recruitment increased. In June, the government made a new commitment to having a “child-free army.”
33. Recommendations: We call upon the Government to:
- End immediately the recruitment of children into the army forces
 - Criminalize Child Recruitment
 - Develop and implement a national and local comprehensive prevention, demobilization and integration program to ensure the safe return of all child soldiers to civilian life

⁷ <https://www.hrw.org/news/2014/08/20/south-sudan-child-soldiers-thrust-battle>

⁸ <https://www.hrw.org/news/2014/08/20/south-sudan-child-soldiers-thrust-battle>

- Ensure that financial and human resources are immediately available to ensure the implementation of any future prevention, demobilization and integration program

Right to Education

34. Unfortunately there are no statistics regarding children's school enrolment and completion rates in the former Unity State. However, according to UNICEF, South Sudan's school system is among the worst in the world, despite increases in school enrolment over the past few years. UNICEF notes that 7 out of 10 children between 7 and 16 years of age have never attended school, whilst the completion rate in primary school is only 10%.⁹ Meanwhile, less than 2% of pre-school aged children are attending development programs, and a mere 44,000 young people are attending secondary school.¹⁰

35. Recommendations: The government of South Sudan needs to:

- Develop and implement policies to promote children's access to education, with a particular focus on girls
- Increase access to adult education and vocational training centers

Livelihood and environment

36. Climate change and environmental degradation have had a devastating effect on water, soil, forests, biodiversity, agriculture and fisheries in the former Unity State:

- Rivers are drying up, water in boreholes has been reduced and the rainy season is becoming shorter.
- The soil is becoming less fertile, because of water, fire and wind erosion
- Deforestation is quickly accelerating due to the indiscriminate firewood collection for charcoal and fuel production, livestock and agriculture
- The wildlife is almost inexistent, because of war-related conflict
- Access to drinking water, and competition between livestock and people for this vital resource is increasing

37. Meanwhile, oil contamination is also a major source of water and soil pollution, whilst it is resulting in the loss of traditional livelihoods, in particular of the Nuer community. Most members of the Nuer community are pastoralist and therefore their livelihood depends on cattle, however, oil pollution near the oil fields in Unity is resulting in the loss of grazing land for their cattle, and it is commonly being linked to the cattle deaths.

38. Recommendations: we made an urgent call upon the Government of South Sudan to:

- Strengthen the current governance framework by enacting appropriate legislation (i.e the Environmental Bill has not yet being endorsed)
- Enact an environmental policy framework

⁹ <http://www.unicef.org/southsudan/education.html>

¹⁰ <http://www.unicef.org/southsudan/education.html>

- Increase capacity at the national and local level to monitor environmental issues
- Put mechanisms in place to monitor sections 59 to 63 of the Petroleum Act 2012, which lay down requirements for conducting environmental impact assessments
- Enact further legislation on the management and protection of the environment from damage by oil-producing related activities