

*Universal Periodic Review*

*Western Equatoria State Civil Society Coalition*

*Joint Submission*

*South Sudan*

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This Joint submission has been prepared by

Justice and Peace Commission /Catholic Diocese of Tambura Yambio  
Civil Society Human Rights Forum (CSHRF)  
Faith Based Council (FBC)  
Hummingbird Action for Peace and Development  
Young Women Christian Association (YWCA)  
Women General Union

**Catholic Diocese of Tambura Yambio (CDTY)/** The Justice and Peace Commission is part of the Catholic Diocese of Tambura Yambio. It responds to the demands of Justice, Peace, Reconciliation and Healing guided by the social teaching of the Catholic Church.

**Civil Society Human Rights Forum (CSHRF)** is a community organization that is formed to advocate on the protection of the human rights of the citizens of Western Equatoria State, South Sudan.

**Faith Based Council (FBC)** is a group of churches which coordinates for the dialogue and reconciliation in Western Equatoria State.

**Hummingbirds Action for Peace and Development (HAPD)** is a Community Based Organization that lobbies, advocates and support community efforts and strategies towards holistic poverty reduction, reduce social injustice; empower the women and youth to prevent escalation of violent conflicts among vulnerable communities.

**Young Women Christian association (YWCA)** is a Christian organization that works for the economic empowerment, trauma healing, counselling, peace reporting and advocates on women's rights.

**Women General Union** is a civil society formed in 2009 that advocates for women rights and their empowerment at all levels.

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## **I. EXECUTIVE SUMMARY**

1. This report is being a contribution for the Universal Periodic Review (UPR) process of South Sudan. Civil Society Organizations of Western Equatoria State (WES), South Sudan reports on main concerns regarding violations to human rights and international humanitarian law since the break of the conflict in WES, in May 2015. It examines violations of governmental security forces, especially the SPLA, operating, as far as it relates to excesses including Human rights concerns, such as killings, arbitrary detention, forced disappearances, arbitrary and unlawful detention, gender and sexual violence and internal/ forced displacement. It also draws light on Arrow Boys/armed youth abuses of human rights and international humanitarian law.
2. The report also provides a wide range of recommendations to address the human rights concerns illustrated in this report.

## **II. BACKGROUND**

3. Western Equatoria State is a post conflict region and had been a remote land an area of 79,319sq km in the Republic of South Sudan with high rate of illiteracy due to the Civil war which lasted for 21 years. The population is 619.029 according to the last census and the State Institutions were established in late 2005 with weak capacity to improve the delivery of basic services and seem failed to provide security in protection of lives and property in the State.
4. Indications of risk and threats against Civilians continue to be high due to the weakness identified in the State administration. Political leaders are proved to be less concerned on issues affecting the civilians and shown very few remedies on security related matters.
5. The SPLA Soldiers are mostly present in most Counties and Payams of the State and continue exercising harassments, intimidations, aggressiveness, looting and attacks against civilians rather than providing security and safety to the civilians as a National Army. This provoked the youth who have been patient for long to carry arms in defence of their people and the land. The armed youth later lost control over their armed colleagues who started looting civilians' properties.
6. The security tensions increased from April 2015 starting from Mundri West and East where the armed youth carried out several attacks against SPLA in defence and to prevent the aggressiveness of the SPLA towards the local population, the tension rapidly spread to Maridi, Ibba, Yambio, Ezo and Source Yubu in Western Equatoria State (WES).
7. The situation is yet fragile and the rights to protection of civilian stand the most challenge that requires intervention from high level.

## **III. METHODOLOGY**

8. Different Civil Society Organizations of former Western Equatoria State conducted interviews with over 200 individuals and also media Sources, eye witnesses, family members of victims, secondary sources, religious leaders and local authorities. As part of

the methodology, CSOs coalition in WES obtained consent from interviewees to use the information publicly. Challenges experienced by CSO were lack of access to some sites due to security reasons, lack of logistics including human resources and the fact that victims and witness were in fear to speak due to possible reprisal attacks.

#### IV. LEGAL FRAMEWORK

9. The Bill of Rights of the Transitional Constitution of the Republic of South Sudan recognizes and protects several fundamental human rights, such as the right to life and human dignity; the right to personal liberty and security; the right to be free from arbitrary arrest and detention; the right to be free from torture, freedom of assembly, the right to a fair trial and the right to equal protection before the law.
10. South Sudan's criminal law through its Penal code Act, 2008 also protects the rights to life and physical integrity. Ordinary criminal rules prohibit murder; bodily injury and intimidation; kidnapping, abduction and violations of personal liberty; offences related to rape and other sexual offences; and damage or destruction of property, among others.
11. Additionally, the Sudan People's Liberation Army Act, 2009, sets forth the principles of the SPLA in executing its mission and functions. It establishes limits and control to SPLA and that SPLA must be subject to democratic-civil control and perform its functions in accordance with the provisions of the Transitional Constitution of the Republic of South Sudan. The Interim Constitution of South Sudan, and international law regulating the use of force. According to *the Act*, a member of the SPLA committing an offence punishable under the 2008 Penal Code Act will be deemed to have committed an offence under the SPLA Act. The Sanctions of the **2008 Penal Code Act** correspondingly apply.
12. Peremptory (*ius cogens*) international law obliges South Sudan and armed groups to respect the prohibition of: extrajudicial killing, maiming, torture, cruel inhuman or degrading treatment or punishment, enforced disappearance, rape or other conflict related sexual violence, arbitrary detention among others.
13. International humanitarian law applies to South Sudan due to its internal armed conflict. The Government and opposition armed groups are bound by Article 3 Common to the Geneva Conventions. This article includes fundamental principles of respect for human life, with provisions that prohibits violence to life and persons. Both parties are bound by Customary International Law, which protects the right to life and dignity and provides protection to civilians. IHL, among others, prohibits indiscriminate attacks and imposes the principle of distinction between military and civilian persons and objects.

#### V. HUMAN RIGHTS CONCERNS

##### A. Killings and forced disappearances

14. Since the breakout of the conflict in former Western Equatoria State in May 2015, civil population have suffered the consequences. The SPLA soldiers targeted middle aged men of Mundri East and West, Maridi, Yambio, Ezo and Source Yubu as part of the Arrow

Boys/armed youth. Subsequently, they suffered arbitrary arrested and detained, most among them were killed and others where forcefully disappeared. In most cases youth are taken to the SPLA barracks or National Security detention centres, where they are severely beaten and tortured. Dead bodies of youth were verified dumped around the vicinity of Yambio.

15. Civilians feel defencelessness and live in great fear, as they have no authority where to claim or demand justice for the killing, arbitrary detentions or forced disappearances of their loved ones. The State and national Government have denied these violations perpetrated by their soldiers. Gubdue State Governor, who publicly stated that the SPLA are not taking part in killing of civilian adding that it is the armed youth who are killing civilians and dumping the bodies near the SPLA barracks. Similar statement was made by the County Commissioner of Yambio, The statutory courts and prosecution institutions are in a weak position to prosecute military personnel who are directly involved in human rights violations. Up to date no case has been reported at the police stations and no investigation established, this gives little hope to the victims' families who are seeking to access justice. As a consequence of this impunity, the population is afraid and most of them do not dare to speak about SPLA's or National Security's actions. The insecurity caused by the SPLA has affected the livelihood of the local population who continue suffering lack of access to their basic needs.
16. Since the eruption of conflict in Mundri, Maridi, Yambio, Tambura and Ezo Counties, between May and July 2015, up to date, Civil Society Coalition has monitored, documented, and interviewed victims and relatives of the victims in WES on killings perpetrated by SPLA soldiers.
17. On 21 May 2015 SPLA indiscriminately shot at civilians in Mundri West County and as result, an estimated numbers of 100 civilian were confirmed killed including the County Executive Director, Mr. John Cleopa. In addition to that an unknown number of civilians were reported injured. More than 10,000 civilians were displaced and houses were reported looted and burned.
18. The following cases are examples of the arbitrary or extrajudicial killings, and how, in some cases, these killings led to an escalation of violence within the community.
19. During a visit to Mundri West Civil Society documented that on 16 August 2015 two young men were killed between Yeri and Mbara by SPLA soldiers while travelling from Mvolo to Mundri West County. The SPLA soldiers were identified and arrested but later released without being held accountable.
20. On 26 August 2015, in Birisi, Yambio County, one of three SPLA soldiers driving on a motorcycle, shot dead a man apparently just because he inquired them why had the SPLA taken his wife to their barracks. Apparently in revenge, that same day the Arrow boys killed the three soldiers in Birisi-Gangura Payam.
21. In retaliation for the killings of the three SPLA soldiers, on 27 August 2015, at Yambio Airport (near SPLA barracks) in Yambio town, SPLA soldiers shot and killed two young boys who were coming from Maridi on motorcycles. Their dead bodies were left on the ground for more than 12 hours as nobody dared to collect them in fear that SPLA would

kill anyone who did so. That night SPLA soldiers started shooting randomly at Hi-Kuba and Ikpiro residential areas, and nine dead bodies were verified in the morning hours. Three civilians were verified injured and were taken to the hospital.

22. On 2 January 2016, after the SPLA attacked the Arrow boys who claimed to be SPLA/IO in Saura Boma on the road between Yambio-Nzara, Civil society visited the fighting site and verified four dead bodies of Young men who had been seen three month detained in the SPLA barracks near Yambio airstrip. In the same site, other dead bodies, in civilian clothes were verified and one among the bodies was seen burned in a Tukul.
23. Between 7– 14 February 2016 Bangolo and Lozoh communities were attacked by SPLA henceforth *nine* male civilians from Lozoh were arrested by SPLA soldiers and taken to Lui Hospital where seven of them were killed that same night. The two victims who escaped reported the case to civil society and they were interviewed.
24. Two dead bodies of youth were found on 22 January 2016 in UNMISS garbage-dumping site in Bazungua Yambio County. The bodies had signs of torture, with their arms tied at their back and with signs of bullets one on the head and the chest. A member of Civil Society went to the site on 22 January 2016 and was able to interview a witness who stated that on 21 January 2016 at 8pm an SPLA vehicle went to the site, after five minutes there was gunshot and later two dead bodies were verified.
25. After each attack between armed youth and SPLA, civilians suffered looting of their properties, burning of houses, rape and displacement. Apparently, Youth continued being targeted by the SPLA suspecting them of being cooperating with the armed youth. On 14 January 2016, SPLA attacked the South Sudan National Liberation Movement (SSNLM) in Birisi, Gangura Payam (former Arrow Boys who had signed the preliminary agreement with the state government on 17 November 2015) during the attack civilians houses were looted and burned and others displaced.
26. On 7 February 2016, in Hai Tarawa, Yambio town, near SPLA barracks, a boy aged 18 years informed Civil Society that SPLA attacked his house shot his left leg, the victim confirmed four SPLA soldiers who came to his house and added that two among them were in SPLA uniform. The perpetrators forcefully took the victim to the barracks for interrogation and later referred him to the state hospital for medication. Due to lack of sufficient medical services he was referred to Ugandan Peoples Defence Force (UPDF) hospital for treatment in Nzara County.

## **B. Arbitrary and unlawful detention**

27. Hundreds of resident's particularly young people are currently held in arbitrary arrest and unlawful detentions without charge, as well as reports of possible death related disappearances while in custody at various SPLA and other security detention facilities in WES. Civil Society Organization (CSOs) has documented some of these arbitrary arrests, detention and possible killings without charge or a judicial process. Due to the prevailing insecurity in the State, coupled with the fact that members of the CSOs are often targets of these extra judiciary activities by security forces, especially the Sudan People Liberation Army (SPLA), much could not be done during the reporting period to engaged the relevant State actors to ensure that due process rights of those detained are upheld.

28. It is worth mentioning that most of the arrests and arbitrary detention violate South Sudan's obligations under international human rights law. Freedoms from arbitrary arrest, detention and disappearances and of movement and the press and speech, as well as deprivation of liberty are protected under the International Covenant on Civil and Political Rights (ICCPR), and the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the transitional Constitution 2011
29. Examples of arbitrary arrests, detention and disappearances without charge during the period under review include:
30. On 26 January 2016, in Yambio town, a journalist was arbitrary arrested /detained and beaten by National Security Service and was later released after two days without charges. The journalist was concerned to know the reason behind his arrest and detention but due to fear he could not raise a case.
31. In January 2016, a 22 years-old male student was arbitrary detained by National Security Service. He was interrogated and coerced in confessing that he is a member of the Arrow boys. After his release, the student informed CSOs that while in detention, he observed the NSS handing over five other men to SPLA soldiers.
32. On 21 January, following SPLA attack on SSNLM, the SPLA arbitrary arrested/detained many among the youth in Yambio. That same day, Civil society documented 12 arbitrary arrests of the youth. Those arrested were verified detained in the military barracks. During evening hours SPLA soldiers started searching in markets and in the residential areas in such of the armed youth. In due process innocent civilians were targeted in which four youth were innocently arrested and detained. Three were later released on the very day without charges after they denied being Zande.
33. On 6 February 2016, in Yambio town, National Security arrested and detained two men on suspicion smuggling money or financing the rebel activities. It was reported that the men were transferred the same day to National Security in Juba. However, the wife of one of the men confirmed to CSOs that her husband was allegedly transferred to Juba but she has never heard from him since then.
34. In January 2016, two girls were arrested by SPLA on the road from Yambio to Nzara. They were kept in SPLA barracks for three weeks, where they were beaten and asked to cook food for the soldiers. The girls however did not report case of sexual harassment. One of the girls interviewed informed that she saw many young men in the SPLA barracks, some of them had been tortured. The girl explained that while giving food to the one of the detained youth, she observed he did not have fingernails; removal of such body part might be associated with a form of torture.

### **Conditions of detention**

35. In the absence of South Sudan Human Rights Commission in the state CSOs not have been given access to detention facilities of State Security apparatus including the SPLA. However, information obtained from former detainees point to the fact that detention

conditions in WES breach international law. Relying on these information CSOs concludes that that conditions of detention in WES amount to cruel, inhuman or degrading treatment.

36. According to all former detainees including released CSOs actors, detention facilities are severely overcrowded, unhygienic, dark and lack of ventilation. Food, water and sanitation are nonexistence, for which family members are forced to provide food in cases where death has not occurred.

### **C. Sexual and Gender-based violence**

37. Since the armed conflict started in Western Equatoria State in May 2015, conflict-related sexual violence against women and girls has been a trend, both by SPLA soldiers and local armed groups. Due to the type of crime, and the stigmatisation that rape and other sexual abuses have on victims, these fear to report to the police or even look for medical assistance. The lack of adequate access to justice for these kinds of cases also discourages the victims to fill in a case. From November 2015 to February 2016, Civil Society Coalition was able to document nine cases of rape by armed groups, two of them of minors.
38. Some of the SPLA conflict related sexual violence against women has taken place in the context of their attacks on the youth. During the 8-9 December SPLA attack on the armed youth, civil society coalition received information that at least six women and girls were raped. Nonetheless, rape by SPLA soldiers has also taken place against women in areas close to the barracks. On 28/11/2016, two SPLA armed soldiers forced two young girls of 16 and 12 years-old, into the bush and raped them.
39. During the month of December 2015-January 2016, armed youth (allegedly SPLA/IO), carried out many attacks on civilian population, looting houses, beating men and raping women. On 28 December 2015, this group attacked a Catholic compound and raped a 67 year-old nun, beating other staff.
40. Gender based violence is a major concern of the civil Society in Western Equatoria State. Women and girls frequently suffer physical and sexual violence, forced marriage, denial of resources, and psychological abuse. Violence against women and girls takes place in the home, by male family members, and at work. Violence is frequently multidimensional in WES. The following case shows violence against a woman on the bases of custom and racism: On 21 December 2015, in Mundri County, a 21 year-old widow's properties were taken away from her by the deceased husband's family. She was also beaten and chased out of the house since she did not belong to their tribe.

### **D. Internal / forced displacement**

41. The civil Society in Western Equatoria State is concerned with the forced displacement of thousands of civilians, especially in Mundri West, Mundri East and Ezo counties as a consequence of SPLA attacks. Forcibly displaced civilians have no accesses to basic services such as water, food, health and primary education. These are human rights and should be the primary responsibility of the Government of the Republic of South Sudan.

42. In Yambio town, people look for protection around in ADRA, around UNMISS compound due to fear for their lives when conflict arises in the town between armed groups or even they are victims of in discriminated attacks. On 7-8 December 2015 Ikpiro residential area of Yambio was attacked by the SPLA. At least 300 houses were burnt and many households were looted. This forced at least 700 people to look for shelter in ADRA around UNMISS compound.

## **VI. RECOMMENDATIONS**

### **Killings and forced disappearances**

1. Government of South Sudan should ensure the security sector is reformed and act in accordance with the Transitional Constitution 2011 of the Republic of South Sudan Part Two Bill of Rights. The SPLA should comply with Rule of Law including Sudan People's Liberation Army Act, 2009 since their primary role is to defend the country and to protect the life of citizens. Perpetrators should be held accountable before the courts of Law for Human Rights and international Humanitarian Law violations
2. The existing laws of South Sudan should be reinforced and Justice Institutions empowered to prosecute perpetrators of Human Rights violation.

### **Arbitrary and unlawful detention**

3. Government should fulfil its obligation to protect civilian through its justice system and enforce full implementation of the Legislations of the country and the international laws that grand the protection of civilians.
4. Arbitrary arrest/detentions, forced disappearance, torture, rape and inhuman or degrading treatment against civilians should be prohibited and perpetrators held accountable.
5. The Government is a party to the international convention on the Rights of Children it must effectively implement its obligation to protect children from violations and abuse
6. Bring to immediate end the unlawful acts of arbitrary arrest and detention without charges and due process; Ensure that all detainees are promptly charged in accordance with an identifiable criminal offence and trial within the legal frame time and in accordance with international human rights standards; Immediately and unconditionally release all persons/civilians in secret and unlawful detention facilities; Ensure that anyone who is detained is given prompt access to family members, including the right to receive visitors, and to a lawyer of their choice, with whom they must be able to communicate in private;
7. In the absence of the South Sudan Human Rights Commission (SSHRC) in Western Equatoria State, access should be granted to all human rights Defenders to monitor and assess the condition of the detainees and ensure that it is in accordance with the Law and human rights standards;
8. The SSHRC should be empowered to carry out its duties effectively and independently

### **Sexual and Gender-based violence**

9. To develop a bill, in consultation of human rights and women's organizations, on marriage in order to protect girls and women from early and forced marriage;
10. To develop a public policy in order to raise awareness within the communities and stakeholders on women's rights with a focus on sexual and gender based violence;
11. To hold perpetrators of sexual and gender-based violence accountable for their crimes.

