

Joint Submission for South Sudan First
Universal Periodic Review 2016

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& Civil Society Organizations, March 2016

2016

Executive Summary

This report is a joint submission by the South Sudan Human Rights Commission (SSHRC) and Civil Society Organizations (CSOs) supported by the government, United Nations Mission in South Sudan (UNMISS) Human Rights Division (HRD) and United Nations Development Program (UNDP) Rule of Law and Governance. The report is filtered from the 2011-2014 SSHRC reports and supplemented by primary source through states consultations process in the main towns of Juba, Malakal, Torit, Wau Kwajok and Yambio as sample of the states. The Stakeholders in the consultations include relevant government intuitions, UN Agencies, International Nongovernmental Organizations (INGOs) and CSOs. Rule of law and governance, the right to education, right of women and girls, child right, right to freedom of expression, health and conditions of prisons are the thematic areas in this report.

Since its independence in 2011, South Sudan has established institutions, promulgated legislations and ratified the Convention on the Right of Child (CRC), Convention on the Elimination and Discrimination against Women (CEDAW) and the African Charter on Human and Peoples Rights (ACHPR) and signed a moratorium on death penalty all as crucial steps for the realization of human rights. However, South Sudan has been experiencing gross human rights violations since its inception as a sovereign nation. It has limited respect of the rule of law resulting to corruption, impunity, extra-judicial killings arbitrary arrest, longer pre-trial detention, and most concerning a heightened level of Gender Base Violence. Since 2013 the country has been in a political crises between the Government and the Sudan people's Liberation Government/ Army- In Opposition (SPLM/A- IO) .There is slow implementation of the Agreement on the Resolution of the Conflict in South Sudan signed in August 2015 in Addis Ababa by both parties to crises.

South Sudan has not ratified the International Convention Economic and Social Rights (ICESR). Illiteracy is over 70 percent-the highest in the world. School enrollment is decreasing due limited inaccessibility, inadequate school infrastructure and poor quality of education. Lack of trained teachers, text books, poor infrastructure, insecurity and other scholastic materials are key impediments in the education system in South Sudan. Health service delivery is quite a challenge in South Sudan due to primarily, limited human and financial resources, facilities and equipment It has the highest Infant and maternal mortality rates in the world of 75/1000 and 2054/100,000. Thousands of lives have been lost

due to various political crises, economic deterioration and inter-communal violence and many others. Early and Forced marriages, marital rape discrimination of women on social and economic needs are soaring in South Sudan. Children are grossly abused through rape, child soldiering and labour, abduction and early progeny.

Freedom of expression to significant extent is continuously violated in South Sudan tortured or killed to somewhat violated in South Sudan. Journalists have been arbitrary arrested and killed and perpetrators are hardly arrested and unaccounted for. South Sudan has not ratified the international Convention on Civil and Political rights.

1. Rule of Law and Governance

1. Since its independence on 9th July, 2011, South Sudan has promulgated the Transitional Constitution (TCSS 2011) in addition to its ratification of the African Charter on Human and people's Rights (ACHPR) and production of numerous legislations as well as establishment of law institutions such as the Human Rights Commission, the Judiciary, Ministries of Justice, and Interior which could enhance rule of law and good governance. The President also issued amnesty for the insurgencies against the government after the 2010 elections. The South Sudan Human Right Commission (SSHRC) also produced credible reports on the situation of Human Rights in the Country.
2. Nevertheless, human rights reports and primary findings (SSHRC 2011-215 and widely Consultations (March 2016) asserted that inadequate attention to good governance and rule of law have tremendously impeded the enjoyment of fundamental rights and freedoms. Corruption, impunity, arbitrary arrests, land grabbing, enforced disappearance, inter-communal Violence, possession of illegal weapons among the civilians, detention without trial beyond the required period, delay of cases of appeal, lack of legal aid for those sentenced to death and hanged, weak institutional capacity in the rule of law sector, alarming increase in robbery, theft, ethnic revenge attacks, extra-judicial killings, or murder are rarely brought to book due to impunity, ethnic ties, nepotism and inadequate implementation of the legislations and Agreement on the resolution of the Conflict in South Sudan (ARCSS 2015) by both parties to the conflict are some of the effects. Majority of the perpetrators are government agents in uniform or unknown armed actors who in most cases are rarely brought to book.

3. The State consultations (March, 2016) also affirmed that certain provisions in the TCSS (2011) are hardly followed. For instance the removal of some elected Governors which requires bye - elections after 60 (sixty days) and the removal of Deputy Chief Justice and appointment of its successor was not done upon the recommendation of the Judicial Service Commission (JSC).The reports (ibid) also revealed that Commissioners and Mayors for the Local Government (LG) Councils have been appointed through decrees instead of fair and free elections (LG Act 2009).

2. The Right to Education

4. South Sudan has ratified the Convention on the Rights of the Child legislated the Child Act (2008) and has embodied the right to free and compulsory primary education in its Bill of Rights (TCSS 2011); produced the General Education Act (2012) and General Education Strategic Plan (GESP: 2012- 2017), the South Sudan development Plan (SSDP: 2011-2016) and many others to enhance education. The new nation has also attempted to improve the school enrollment rate from 300,000 to 1.4 million and established a reliable Education Management Information System, advocated the inclusion of human rights literature (HRL) into the new school curriculum and initiated the girl child education act which is now operational in some few states (SSHRC 2012).
5. On the other hand South Sudan has not ratified the International Convention on Economic, Social and Cultural Right. Accessibility, availability, quality and adaptability of education is quite deplorable. Over 70% of the population is illiterate (SSDP 2011-2016) – One of the highest in the world. School accessibility and retention, limited early childhood development, insecurity, poor roads and inadequate infrastructure are very challenging (GESP 2012-2017). 32% of primary level spaces are in open air (ibid). Traditional and cultural practices of early marriages combined with far distances to school and insufficient trained teachers are also other impediments. The ratio of pupils to qualified teachers averages is 100:1 but doubles that level in some parts of the Country, Out of the 28,029 primary school teachers only one third has been trained.
6. Lack of text books and scholastic materials, poor salaries and other motivational requirements for teachers have caused high turnover of the trained teachers. School fees are too high resulting to massive school drop outs particularly in the rural areas; nearly two thirds of primary schools do not have safe drinking water and sanitary facilities and are outside the learning environment. The most disadvantaged population are girls, the disabled, returnees and the Internal Displaced Persons (ibid). Enrollment to basic education has now been at continues decrease since 2010.

7. Although there is a high demand for secondary and post secondary levels, many students could not get access to quality education due to insufficient educational facilities, equipment and adequate qualified tutors and lecturers.

3. The Right to Life

8. Though South Sudan has ratified the African Charter on Human and people's Rights, promulgated legislations and established rule of law institutions the violations on the right to life still remain rampant, South Sudan has not ratified the International Convention on Civil and Political Rights that affirms the realization of the right to life and other fundamental human rights and freedoms. Thousands die due to acute basic health service delivery because of insufficient trained medical personnel, poor and limited health facilities, equipment, meager salaries and budget allocation to the health sector (less than 15% of the national budget), poor roads and inadequate management of the common pr economic deterioration preventable diseases are some of impediments in the reproductive health in South Sudan.

9. Inter-communal and ethnic violence, political rivaling and rebellions, famine, cattle rustling, land disputes, revenge killings armed robbery have resulted to many deaths.

10. Above all the December 15th, 2013 armed conflict between the government and South Sudan Peoples; Liberation Movement in-Opposition has also caused lost of thousands of lives and displacement. SSHRC confirmed that more than 50,000 people have died. Over 4 million are in dire need of humanitarian assistance and more than 1.6 million are made homeless. About 91,541 civilians are in Internally Displaced Persons (IDPs) in UNMISS Protection of Civilian (PoC) Sites and 496,858 took refuge in neighboring countries.

11. Ethnic fights often breakout in these PoC such as Malakal, Bor and Juba resulting to numerous losses of lives. The slow implementation of the Agreement on the Resolution of Conflict in South Sudan (ARCSS) continues to cause unnecessary deaths. Assassinations, enforced disappearance, murder, extra-judicial and revenge killings, killings by unknown gunmen in the main towns and robbery on roads linking major town are also some of the common violations by both state and non-state actors.

4. Women's and Girl's Rights

12. The TCSS (2011) has embodied inter alia, an affirmative Action of 25% of women's participation in governance, provision for maternal and health child care and South Sudan has also ratified the Convention on Elimination and Discrimination Against Women (CEDAW), Convention on the

Right of a Child (CRC), has developed a National Action Plan (NAP) on the implementation of the UN Security Council Resolution 1325 in 2013 which advocated for the protection, prevention participation and promotion of women and girls in conflict and post- conflict situations

13. However, women and girl-child in South Sudan still face gross violations of forced and early marriages and other forms of Gender Based violence (GBV) causing high dropouts of girls from schools and sometimes suicides. Women suffer the effects of financial and economic downturns more than men. The implementation of TCSS (2011) provision of the Affirmative Action of 25% of women's participation in governance still continues to be inadequate. For example among the appointments of 90 ambassadors on 7 March 2012, only 10 percent are women and mostly in junior grades.
14. Conversely, there had been 194 incidents of conflict-related sexual violence, involving at least 280 victims – majority of whom were women and girls. Gang-rape and killing, abduction and stripping, sexual assault, sexual slavery and forced abortion were the most documented heinous violations against women and girls in Unity State. The SPLA and its affiliated militias were the perpetrators of the above violations.

5. Child Rights

15. According to the Child Act (2008) child abuse is punishable by law. In spite of this, every year, alleged cases of child abuse are witnessed and reported in South Sudan. The lives of children in South Sudan in 2014 were shaped by the grave consequences of the Political conflict which broke out in Juba in December 2013 and spread to Jonglei, Upper Nile and Unity States. Nearly 750,000 children were displaced by fighting, food insecurity and a lack of basic services. Children suffering from acute malnutrition doubled from a pre-crisis estimate of 108,000 to 235,000. More than 400,000 children left school due to the conflict and 12,000 were recruited as child soldiers by both parties to the conflict.
16. Mass displacement, destruction of infrastructure and reduction in basic services exacerbated the high disease prevalence in South Sudan. Cholera outbreak further threatens the lives of children, resulting in 6,421 cases including 167 deaths. Malaria has also been in an alarming increase for the children during their displacement.
17. Conflicts in South Sudan have destroyed the social fabric of communities and many children have been left without protection, this exposes them to high levels of violence, including gender based

violence, exploitation, abuse and deprivation. Thousands of children in South Sudan lost their parents, and some of them have been targeted for recruitment by armed forces and other armed groups. In addition, there are children without appropriate family care working and living on the streets in major cities and towns. Child abduction is common among some nomadic and pastoral communities; this remains one of the major reasons for inter-communal clashes. Forced labor, early and forced marriage and kidnapping of children are the most common phenomena in most part of Upper Nile State.

6. Freedom of Expression

18. South Sudan has legislated the Media Act and to some extent there is freedom of expression. The country has also stipulated the freedom of expression in the Bill of Right in the TCSS (2011). However, in practice there are serious violations with regards to respect for freedom of expression in South Sudan. The government radios for instance only reports the positive parts of an event or scene. Unnecessary arrest, harassment and killing of journalists is one of the biggest challenges in South Sudan. Since 2014 more than 9 journalists have been killed by unknown gun men South Sudan. Perpetrators have not been caught and brought to book. In addition censorship of media houses is also another problem if they report issues criticizing the government, for instance, the recent arbitrary arrest and torture of journalist Joseph Afendi.

7. Right to Health

19. South Sudan's Transitional constitution (2011) and the States constitutions have provided the right to public health. The Country has also ratified the African Charter on Human Rights.

20. However, South Sudan has not ratified the International Covenant on Economic and Social Rights (ICESR) which contains the provisions for the realization of the right to health. South Sudan has a mortality rate of 2054/100,000 and infant mortality rate of 75/1,000 the highest in the world.

21. On the other hand, there is an alarming decline in the situation of health. Lack of trained qualified medical staff, health facilities, medicines, delays and poor salaries, inaccessibility to the health facilities due to lack of transport and poor roads, high illiteracy, especially in the rural areas are some of the major impediments for the enjoyment of the right to health in South Sudan.

8. Conditions in Prisons and Detention Centers

22. During the monitoring exercise conducted in 2013, the SSHRC established that, the prisons and police detention facilities in the ten states of the country witness many limitations in the facilities among which include the following:
23. ***Overcrowding of inmates and poor structures of the facilities:*** Many detention facilities in the country have limited space, poor shape and drainage system which is contrary to the required standard:
24. In Juba, Aweil, Wau, Rumbek, Torit, Yambio and Malakal central prisons the SSHRC observed that inmates are still kept in overcrowded and in some cases dilapidated facilities which had been built during the colonial era and designed for a district or province population that was to accommodate only limited number of inmates. According to the directors of the prison, the limited space force inmates to spend the night while standing and others sleep in shift till morning. This phenomenon was witnessed by the SSHRC team in Aweil central prison and Wau prison respectively.
25. In an interview with the director of Wau central prison, the SSHRC established that, the number of new inmates reported to the prison on daily basis is always higher than those released. Although the central prison of Kuajok has been recently built, still the issue of overcrowding remained unsolved. There was neither fence nor kitchen for the facility in Kuajok. Poor drainage system in the prison was also witnessed by the team; due to the poor designs most of the prisons facilities do not have good ventilation.
26. In Lainya County prison the SSHRC established that the prisoners sleep in grass thatch houses without fence and these endangers the lives of prisoners because there will be a lot of risks that will be associated with this kind of confinement. It has been noted that one prisoner died due to insect bite resulted from these grass thatch houses

Recommendations

- Implementation of the Agreement on the Resolutions of the Conflict in South Sudan signed in August 2015;
- Institutional and human capacity building the South Sudan Human Rights Commission
- Full independence and adequate funding for the South Sudan Human Rights Commission and Civil Society Organizations
- Stop child exploitation and prostitution;
- Carryout general institutional reforms;
- Change the composition of the Judiciary Services Commission to include Civil Society Organizations and political parties
- SSHRC and Civil societies to carry out awareness workshops
- All the collages and trainings of all the men in uniform must include HR module.
- Government should provide more schools facilities, equipment, textbooks, trained teachers, and school materials; and accommodation to teachers especially in the rural areas.
- Government should improve and unify the salary structure of the education staff from the national and state governments and a need for prompt salary payment
- Ratification of the ICCPR and optional protocols
- Disarmaments of the civil population
- Conduction of the reconciliation and peace conferences with communities in conflicts
- Increase budgets for the health sector
- Immediate implementation of the ARCSS
- Government should enforce the girl child education agenda throughout the Country;
- Perpetrators of women rights should be punish in courts of laws;
- Ensure women's equal access to economic opportunities, remove barriers to women's entry into the workforce, and support an expanded role for women in the agricultural sector.
- The state should expedite with relevance authorities to sign, ratify and domesticate convention on rights of persons with disabilities (CRPD) as it is the guiding principle of protecting and respecting the minority groups

- The state institutions in its recruitment policies should employ people with any type of disability to ensure principles of non - discrimination and equality for minority groups as well carry more awareness to it society on practical application of the concept of non - discrimination and equality
 - Government should addressed the issue of the insecurity which to him have contributed to the closer of some schools which are affected as the result repeated community conflicts
 - The recommendations direction to government of South Sudan is to expedite the implementation of the media bill by the media authority for the proper channeling of any disputes that may arise between the journalist and the media houses with the concern authorities.
 - Government of South should make a comprehensive reform in the entire security sector in the Republic of South Sudan.
 - Government should allow Judiciary to operate independently without it interference
 - Implement punitive measures for all commanders who continue to practice forced and child recruitment, regardless of whether their forces are fully integrated.
 - Allow unhindered access for humanitarian assistance and human rights monitoring and investigation.
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Appendix

CSOs involved in the UPR Report 2016

SN	Agency	email
1.	Community Empowerment in Progress Organization (CEPO)	ceposouthsudan@gmail.com
2.	South Sudan Women Empowerment Network (SSWEN)	admin@sswen-rss.org
3.	Organization for Non Violence and Development (ONAD)	
4.	Confident Children Out of Conflict (CCC)	Cathy.groenendijk@gmail.com
5.	Organization community Initiatives support program (OCISP)	jacobcholatem@yahoo.com
6.	Angear Organization (AODCC)	
7.	South Sudan Civil Society Alliance (SSCSA)	