

## EXECUTIVE SUMMARY

Global Partnership for Peace in South Sudan (GaPPSS) has drafted this submission in preparation for the Universal Periodic Review (UPR) of South Sudan that will take place in November 2016. This submission reviews the implementation of the recommendations made during the previous UPR session. GaPPSS is concerned that South Sudan noted most and accepted only a few of the recommendations.

GaPPSS is concerned about the security situation on the ground and human rights atrocities that continues to go unaccounted due to the unconstitutional immunity of members of the National Security in addition to the lack of a professional National Armed Forces. The National Security has been carrying out arbitrary arrests and are using excessive force and harassing and torturing civilians, journalists, members of the civil society, and political leaders.

Armed conflicts in the country have cost over 50,000 lives, displaced over 2.3 million, and have resulted in the deterioration of the quality of life.<sup>1</sup>

In conclusion, GaPPSS provides a number of recommendations to the government to improve the human rights situation in the country.

### Follow Up to the Previous UPR

During the previous review South Sudan received a number of recommendations including: Maintain the peaceful atmosphere that was created by the Comprehensive Peace Agreement,<sup>2</sup> guarantee human rights for citizens under the new constitution and establish effective mechanisms to ensure they are respected,<sup>3</sup> South Sudan accepted the recommendation to complete its transition from a militarized society to a democratic system based on the rule of law under civilian rule.<sup>4</sup>

It is regrettable that South Sudan failed to implement any of these recommendations. South Sudan continued to be highly militarized. Right after independence in 2011 the security situation deteriorated drastically. Armed [tribal conflicts](#) provoked in the country. Incidents over cattle raids have been reported in [Pibor](#), Jonglei State in January 2012; land grabbing violence in [Kemiru](#), Central Equatoria State in March 2012; killing of peaceful demonstrators in [Wau](#), Western Bahr el Ghazal State in December 2012; just to mention a few. Majority of the victims are women and children. Many activists and political opponents were arrested and humiliated. Journalists came frequently under harassment; they are arrested and due to lack of access to judicial service they are at risk of being tortured or even killed. Newspapers and radio stations were closed down and censored.

### National Human Rights Framework

It is plausible that in 2015 South Sudan has acceded the Convention on the Elimination of All Forms of Discrimination Against Women and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment<sup>5</sup>, however, GaPPSS requests that the government gives these conventions a full effect in the national legal framework.

Formation of the South Sudan Human Rights Commission as a mechanism to address human rights atrocities is a step towards the right direction. It is important that the commission is treated as an independent body and is given the policing power to address these issues without influence from any government body.

---

<sup>1</sup>U.N. official says at least 50,000 dead in South Sudan War. Reuters - March 2, 2016  
<http://www.reuters.com/article/us-southsudan-unrest-un-idUSKCN0W503Q>

<sup>2</sup> A/HRC/18/16 Recommendation 84.1 (Djibuti,) 84.7 (Somalia)

<sup>3</sup> A/HRC/18/16 Recommendation 84. (United Kingdom)

<sup>4</sup> A/HRC/16 Recommendation 85.1 (Norway)

<sup>5</sup> <https://treaties.un.org/Pages/TreatyParticipantSearch.aspx?tab=UN>

## **The Transitional Constitution of South Sudan**

Article 9 (2) and (3) of the Transitional Constitution of South Sudan (2011),<sup>6</sup> read as follows; the rights and freedoms of individuals and groups enshrined in this Bill shall be respected, upheld and promoted by all organs and agencies of Government and by all persons; all rights and freedoms enshrined in international human rights treaties, covenants and instruments ratified or acceded to by the Republic of South Sudan shall be an integral part of this Bill. These two articles grant equal treatment protection of all individuals, however, GaPPSS finds that these laws are contradicted by sections (b) and (d) of article (5) of the Transitional Constitution of South Sudan<sup>7</sup> which stipulate that:

The sources of legislation in South Sudan shall be:

- (b) customs and traditions of the people;
- (d) any other relevant source.

Customs and traditions are not always necessarily in line with accepted humane treatment. The wording “any other relevant sources”, does not clarify where these sources are derived from.

### **South Sudan National Security**

The mandate of the South Sudan National Security as stipulated in the National Security Bill<sup>8</sup> is solely information collection. However, the National Security has become involved in arbitrary arrests, detention and torture of civilians, journalists and political leaders.

### **South Sudan Army**

GaPPSS is alarmed that for 4 years, since Independence of the country, South Sudan does not have a national, professional army. The armed forces in South Sudan are either linked to parties, for instance the Sudan Peoples` Liberation Army (SPLA), militias loyal to generals<sup>9</sup>, or armed tribal groups formed with the aim of protecting their communities from attacks, for instance the White Army.<sup>10</sup> These armed groups have allegedly become sources of widespread insecurity throughout the country that attack, loot, burn houses, and rape. Some of these attacks are carried as retaliations in ethnic violence.

### **Human Rights Situation on the Ground**

#### **Suppression of Freedom of Expression and Association/Arbitrary Arrest and use of Excessive force**

Despite the recommendation to adhere and respect the rights to freedom of expressions, association and assembly<sup>11</sup>, the National Security continues to harass and censor media houses. The newspaper, South Sudan Monitor, was closed several times<sup>12</sup>; Catholic Radio stations, for instance, Bakhita Radio was closed as the government threatened to close other sister stations in other states<sup>13</sup>; and a number of journalists have been arrested, detained or even killed.

---

<sup>6</sup> The Transitional Constitution of the Republic of South Sudan - 2011, [http://planipolis.iiep.unesco.org/upload/South%20Sudan/South%20Sudan\\_Transitional\\_constitution\\_2011.pdf](http://planipolis.iiep.unesco.org/upload/South%20Sudan/South%20Sudan_Transitional_constitution_2011.pdf). Page 4.

<sup>7</sup> The Transitional Constitution of the Republic of South Sudan - 2011, [http://planipolis.iiep.unesco.org/upload/South%20Sudan/South%20Sudan\\_Transitional\\_constitution\\_2011.pdf](http://planipolis.iiep.unesco.org/upload/South%20Sudan/South%20Sudan_Transitional_constitution_2011.pdf). Page 3.

<sup>8</sup> National Security Bill 2014

<sup>9</sup> Report of the African Union Commission of Inquiry on South Sudan, <http://www.peaceau.org/uploads/auciss.final.report.pdf>, article 53, p. 22

<sup>10</sup> Report of the African Union Commission of Inquiry on South Sudan, <http://www.peaceau.org/uploads/auciss.final.report.pdf>, article 516, p. 152

<sup>11</sup>A/HRC/18/16: Recommendation 83.132 (Switzerland)

<sup>12</sup>Voice of America: South Sudan: Another Newspaper Forced to Close, August 5, 2015, <http://www.voanews.com/content/south-sudan-media-newspaper-forced-close/2902686.html>

<sup>13</sup> Radio Tamazuj: South Sudan government threatens to close second Catholic radio, September 30, 2014

[George Livio Bahara](#), a UNMISS radio reporter based in Wau has been under detention for since August 2014 without charges and denied family visitations. In January 2015, [5 journalists](#) were killed and their bodies burnt beyond recognition, in Raga County. In August 2015 President Kiir, in a public speech, [threatened to kill](#) any journalist for reporting “against the country”. A few days later, [Peter Julius Moi](#), a freelance journalist, was shot dead on August 19, in Juba. In the beginning of 2016 two journalist [Joseph Afandi](#) and the [Chan Joseph Awer](#) were arrested. Afandi spent a number of days in prison and later on released, but [rearrested](#) on March 7. On March 8, Afandi is found dumped in a graveyard with clear marks of torture including cigarette burns on both his thighs. Chan was kidnapped by masked men and was later found lying in a graveyard in Rock City, Juba, with clear signs of torture.

Members of the civil society have also come under constant harassment and arrests. Recently Stephen Robo, State Coordinator, to Community Empowerment for Progress Organization (CEPO) and several other members of the civil society were detained by the National Security in Wau.<sup>14</sup>

Political opposition leaders or politicians viewed as not supporting policies of the government have been arbitrarily arrested and detained without charges. In February 2016, the newly appointed Deputy Governor of Wau State, Hon. Andrea Dominic, was arrested and detained by the National Security.<sup>15</sup> Bengasi Joseph Bakasoro, the former governor of Western Equatoria State has been in detention since December 22, 2015.<sup>16</sup>

GaPPSS is concerned that detention without access to justice might expose those arrested to torture and cruel treatment.

Civilians have become soft target for the army to retaliate against rival groups. In 2012 in Wau a group of youth demonstrating against the relocation of the headquarter of their county were shot at by men in uniform, killing 9 and injuring many.<sup>17</sup> Despite calls, by GaPPSS and others, to bring the perpetrators to justice<sup>18</sup> no arrests have been made so far. Since the incident a group of militias have been deployed in Wau County and that led to rise in atrocities carried by “unknown gunmen” who attack civilians at night, loot their properties and even kill them. [Angelo Baggari](#), the paramount chief of Western Bahr el Ghazal, and his wife were killed. On 28 December 2015 [Chief John Mofum](#) of Bussere Payam was killed. In February 2016, Wau town came under attack by Dinka youth which has resulted in the killing of civilians and burning down of homes in Hai Falata.<sup>19</sup> The town of Mundri was attacked and destroyed to rubbles by the SPLA killing civilians.<sup>20</sup> In February 2016 the UNMISS compound in Malakal hosting IDPs came under attacks by forces loyal to the government completely destroying the compound, killing 25 people including 3 aid workers, and more than 120 injured<sup>21</sup>.

---

<https://radiotamazuj.org/en/article/south-sudan-government-threatens-close-second-catholic-radio>

<sup>14</sup> Radio Tamazuj: Wau authorities arrest 7 civil society activists who protested abuses by security forces, November 30, 2015.

<https://radiotamazuj.org/en/article/wau-authorities-arrest-7-civil-society-activists-who-protested-abuses-security-forces>

<sup>15</sup> Sudan Tribune: S. Sudanese soldiers “arrest” Wau’s deputy governor, February 18, 2016,

<http://www.sudantribune.com/spip.php?article58052>

<sup>16</sup> Radio Tamazuj: Ex-Western Equatoria governor Bakosor arrested, December 23, 2015,

<https://radiotamazuj.org/en/article/ex-western-equatoria-governor-bakosoro-arrested>

<sup>17</sup> Al Jazeera: Protesters shot at by South Sudanese army, December 13, 2012,

[https://www.youtube.com/watch?time\\_continue=1&v=nxHQYQn9JY8](https://www.youtube.com/watch?time_continue=1&v=nxHQYQn9JY8)

<sup>18</sup> GaPPSS: Remembering the Victims of the Wau Shooting, December 9, 2014, <http://paanluelwel.com/2014/12/09/>

<sup>19</sup> Petition to UN Secretary General, Ban Ki-moon, February 2016, <https://www.change.org/p/ban-ki-moon-please-visit-the-victims-of-violence-in-wau-western-bahr-el-ghazal-south-sudan>

<sup>20</sup> <http://www.sudantribune.com/spip.php?article56663>

<sup>21</sup> Henry, J. (March 2016), Dispatches: UN Should Investigate South Sudan Attack,

<https://www.hrw.org/news/2016/03/04/dispatches-un-should-investigate-south-sudan-attack>

## **Armed Conflict**

In December 2013 conflict between the members of the ruling party Sudan People's Liberation Movement (SPLM) deteriorated to a conflict where the Presidential Guard targeted members of the Nuer community in Juba.<sup>22</sup> This conflict quickly spread to other states and escalated into a conflict between the Sudan Peoples' Liberation Army - In Opposition (SPLA-IO) loyal to the former vice President Riek Machar and the SPLA loyal to President Salva Kiir.<sup>23</sup> The conflict left over 50,000 dead, 2.3 million displaced, looming starvation affections millions, and, for the past two years, civilians were caught under brutal treatment or forceful displacement as towns changed hands between the conflicting parties.<sup>24</sup> Despite the signing of the Compromised Peace Agreement on the Resolution of Conflicts in South Sudan (ARCISS) [aggression](#) has not stopped rendering the peace agreement fragile.

On October 2, 2015, President Salva Kiir issued a controversial decree dividing South Sudan into 28 (twenty-eight) states thus creating further tribalism and ethnicized lands disputes on top of the rumpling economic condition as well as human well-being.

Though heavy fighting has centered within Greater Upper Nile, recently the violence has intensified and spread heavily in parts of Western Equatoria, Eastern Equatoria, and Western Bahr el Ghazal.

## **Western Bahr el Ghazal**

The conflict persists between SPLA and SPLA-IO, though the government of South Sudan has previously denied the presence of SPLA-IO in the area and blamed the insecurity on armed robbers. Recently UN OCHA reported that almost 50,000 people have been displaced around Wau town due to the armed attacks, mentioned in the 'Human Rights Situation on the Ground' section above. The displaced population are in dire need of humanitarian relief, but organizations could not reach them due to road blocks and insecurity.<sup>25</sup> According to the report, tensions remain high around the town of Wau.

## **Western Equatoria**

Conflict broke up in Maridi in early June 2015 between cattle keepers, mainly from Dinka tribe, and the local population which triggered ethnic violence. The initial violence left 14 people dead, uprooted more than 35,000 people from their homes, around 200 homes were burnt, and a market entirely looted.<sup>26</sup>

In early September 2015, clashes spread throughout other counties including Mundri, Yambio, Ezo, and Tambura. The fights are between the SPLA and local armed groups, referred to as Arrow Boys, formed of young men who organized to protect their villages from the attackers. The SPLA commits similar crimes against the civilians, killing and torturing them, looting properties, and carrying arbitrary arrests and detentions.<sup>27</sup>

---

<sup>22</sup> The Enough Project (2014), Conflicts in South Sudan, <http://www.enoughproject.org/conflicts/sudans/conflicts-south-sudan>

<sup>23</sup> *ibid*

<sup>24</sup> U.N. official says at least 50,000 dead in South Sudan War. Reuters - March 2, 2016, <http://www.reuters.com/article/us-southsudan-unrest-un-idUSKCN0W503Q>

<sup>25</sup> Radio Tamazuj: UN says civilians need help after recent violence in Wau County, March 3, 2016, <https://radiotamazuj.org/en/article/un-says-civilians-need-help-after-recent-violence-wau-county>

<sup>26</sup> Daniel Angok M (2015), Western Equatoria State Receiving UNHCR Support. Gurtong, August 18, 2015, <http://www.gurtong.net/ECM/Editorial/tabid/124/ctl/ArticleView/mid/519/articleId/17194/Western-Equatoria-State-Receiving-UNHCR-Support.aspx>

<sup>27</sup> Radio Tamazuj: South Sudan conflict situation overview, December 14, 2015, <https://radiotamazuj.org/en/article/south-sudan-conflict-situation-overview-2>

Human Rights Watch has published a recent report about the atrocities in Western Equatoria revealing that South Sudan's government forces have been killing, raping, and committing grave abuse against civilians in the region including arbitrary detention and summary executions.<sup>28</sup>

### **Central and Eastern Equatoria**

Since the signing of the ARCISS, the situation in Central Equatoria has been violent. There are continuous reports of "unknown gunmen" attacking and killing people in their home.<sup>29</sup>

Wonduruba Payam in Central Equatoria has been seriously affected by heavy violence. These were also clashes between local armed groups and the SPLA.<sup>30</sup>

Similarly, in Eastern Equatoria, a new armed group emerged calling itself South Sudan Armed Forces.<sup>31</sup>

### **Recommendations**

- Repeal sections (b) and (d) in Article (5) of the Transitional Constitution of South Sudan making vague suggestions that sources of legislation shall be customs, traditions, and other sources, which is clear and also contradicts Article 9, sections (2) and (3), calling for the respect of individual rights and freedoms.
- Ratify the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and their Optional Protocols.
- Ensure immediate release of all political prisoners, journalists, and human rights defenders.
- End any further arrests, harassment and intimidation of political activists, human rights defenders, and journalist. The militaristic and coercive trend have forced many to silence.
- Ensure that people have safe environment whereby they can simply exercise their rights as free citizens of South Sudan.
- Cancel the executive order that divides the country into 28 states and return to the 10 states as stipulated in the signed ARCISS
- Immediately end all attacks directed at civilians and put mechanisms, including independent investigations and the Hybrid Court for South Sudan to bring the perpetrators to justice.
- Ensure open passages for humanitarian relief to reach the affected populations.
- Ensure that the ARCISS is implemented by the book and spirit.
- Withdraw all SPLA forces that are now raping women, killing innocent civilians, burning villages, and looting.
- Transform the army into a national and professional army that is loyal to the state rather than militia groups loyal to their generals.

---

<sup>28</sup> Human Rights Watch: South Sudan: Army Abuses Spread West: Hybrid Court, Arms Embargo Needed March 6, 2016, <https://www.hrw.org/news/2016/03/06/south-sudan-army-abuses-spread-west>

<sup>29</sup> Radio Tamazuj: South Sudan conflict situation overview, December 14, 2015, <https://radiotamazuj.org/en/article/south-sudan-conflict-situation-overview-2>

<sup>30</sup> *ibid*

<sup>31</sup> *ibid*