

Towards Strengthening Protection of Fundamental Human Rights

**Joint Submission by the Coalition of CSOs in Western Bahr  
el Ghazal State (WBGs) to South Sudan's First  
Universal Periodic Review**

**24 March 2016**

## TABLE OF CONTENTS

<b>Table of Contents</b>		Page
1	Executive Summary.....	2
2	Methodology.....	2
3	Presentation on Thematic Issues and Recommendations.....	3
3.1	<i>Protection of Civilians</i> .....	3
3.2	<i>Prohibition of Torture</i> .....	5
3.3	<i>Freedom of Expression</i> .....	6
3.4	<i>Women’s Rights</i> .....	7
3.5	<i>Child Rights</i> .....	8
4	Conclusion.....	10

## **1. Executive Summary**

This report is the first joint submission by non-governmental organizations (NGOs) in Western Bahr el Ghazal State (WBGs) with the objective to inform South Sudan's first universal periodic review scheduled for March 2016 since it gained independence in 2011. The report acknowledges the progress made by the government towards protection of fundamental human rights and highlights key human rights violations within the period under review specifically 2012 – 2016.

It is a joint effort by committed NGOs and civil society organisations (CSOs) to bring to light issues of human rights violations intended to attract appropriate response from the government and the international community. The ultimate purpose of the mechanism is to improve respect and protection of human rights in WBGs and the country as a whole. The government's obligation for the protection of human rights especially in the implementation of the Bill of Rights enshrined in the Transitional Constitution of South Sudan 2011 has not been respected to the fullest and it still faces significant challenges to ensure human rights protection. The report was developed after a two days workshop was held on 26 and 27 February 2016 where CSOs were grouped according to thematic issues including protection of civilians, torture, freedom of expression, violence against Women and Women's participation in decision making which constituted the main focus of the report.

It is acknowledged that some appreciable efforts have been made by the government of WBGs in collaboration with the national government in the formulation of policies, laws and strategies to facilitate service delivery, promote and protect human right. Despite this progress, the report notes that there are several human rights violation regarding protection of civilians, torture, freedom of expression and infringement on Women's rights to participation in decision making processes and protection against violence. Having examined the key issues of human rights violations and continued challenges in ensuring respect, protection and fulfillment of human rights, the report concludes by proposing relevant recommendations for consideration by the Government of the Republic of South Sudan and generally by the international community.

## **2. Methodology**

1. Various methodologies were employed to collect information relevant to this report. In particular, focused group discussions, inter-personal interviews, especially with eye witnesses and victims of violence, review of reports of civil society and organizing community meetings. Respondents were informed about the objectives of the consultations and the subsequent report to be developed and its importance for the protection of their human rights to live and property. Responses generated were consolidated and validated through a civil society stakeholder's consultative process. Key

issues regarding claims of killings, violence against Women, killings and looting to name but few, were reviewed and clarified leading to the final product of this report.

### **3. Presentation on Thematic Issues and Recommendations**

#### **3.1 Protection of Civilians**

2. Protection is the most vital and crucial issues when we talk of human rights. Civilians in Wau- Western Bahr el-Ghazal State, South Sudan are under constant stress, fear and trauma due to incessant conflict and insecurity. Their lives and properties are not protected and the deteriorating security situation accompanied by violence against civilians is beyond the competence of the State Government to effectively address. For instance, following a clash with rebel forces in Wau County on 18 February 2016, SPLA forces turned their anger against the civilian population. Cases of rape, threats, detention incommunicado, harassment, killing, looting and torture have been prevalent phenomena since 2012 to date. The following are noteworthy examples.
  - Killing of eight protesters in December 2012 during peaceful demonstration and many more were not accounted for by the government.
  - The killing of the chief of Jur River County in 2015 and subsequent mysterious death of Paramount Chief Angelo Bagari together with his wife allegedly by unknown gunmen.
  - Killing of five Journalists on Sopo road in January 2015.
  - killing of the Chief John Mafhum of Busere in December 2015
3. The advancement of women rights continues to be challenged by continued violent conflict. They suffer sexual violence during conflicts as reported in Hai Costi, Lokoloko, Hai Fallatta, Hai Fahal, Ngobagari, Ngobu, Ngodakala, Faragalla and other conflict affected areas in 2012 and 2015. CSOs have been reporting and raising concerns to the State government over such incidences of violence against women but the problem still continues. Ensuring protection of civilian lives and property is critical to building trust and confidence of the citizens of Western Bahr el Ghazal for their government.
4. Looting, killing, burning of houses and villages as well as detention without trial are common phenomena which could not be reported by civilians and journalists because of the fear that they could be targeted by the security forces. Many people have fled to seek refuge in other States and neighboring country. Many of national and international traders were killed in 2015 and killing still continuing in WBGs. The security situation has deteriorated considerably. There have been reported incidences of killings of motor-

bike (bodaboda) riders in August 2015, killing of a restaurant owner in Nazareth in 2015 by unknown gunmen.

5. The lives of farmers during cultivation, harvest, and post-harvest are seriously in danger due to maltreatment, looting of crops and properties and killing by cattle raiders, armed opposition group and government forces. Since the violent conflicts of 2012, many people disappeared and this trend continues up to date.
6. On 4 February, 2016, eye witnesses reported incident of killing and chopping of human bodies into different parts. From February 17 – 20, 2016, people flee from conflict affected areas reported that more than 100 people have been killed and thousands have left their homes due to burning, shooting, looting, killing and burning of dead bodies.
7. Article 11, Transitional Constitution of South Sudan (TCSS) which addresses life and human dignity states that every person has the inherent right to life, dignity and the integrity of his or her person which shall be protected by law and that no one shall be arbitrarily deprived of his or her life. Article 53-1e reflects Government commitment to ensuring the protection of human rights and interest of the people. The protection of fundamental human rights could be seriously challenged by violent conflict. In August 2015, the SPLM/SPLA in opposition and the Government of South Sudan signed the agreement on the resolution of the conflict in the RSS, thereby committing to restoring peace and ensuring security for the people. However, violent conflicts and insecurity continue to threaten the life and prosperities of people of Western Bahr el Ghazal State.
8. During peace time, the advancement of women rights continues to be challenge by discriminatory customs and practices. Women and girls continue to be subjected to force and underage marriages and other forms of gender-based violence.

### ***Recommendation***

9. Protection of civilians must be a priority of the State Government to ensure the safety of the citizen and avoid committing an act that put the lives and prosperities of civilian at risk, especially their freedom of movement for conflict affecting areas, distraction, harassment, intimidation, beating, looting and raping (Sexual assault ) during cultivation and post-harvest and also to improve security measure, free access to field, market and so forth. We therefore recommend the following:
  - a. The State Government must investigate on the above mentioned incidents which include harassment, beating, looting, killing and raping (Sexual assaults) and so forth, and to ensure that perpetrators are held accountable.
  - b. We call on the State Government to ensure that capacity building for the Sudan People Liberation Army (SPLA) is provided for as stipulated in the Transitional Constitution of South Sudan 2011 (TCSS), as well as in the SPLA Act 2008 and in humanitarian law related to the protection of civilians.

- c. We call on the government to ensure compliance with its obligation under CEDAW by eliminating all forms of discriminatory and practices relating to marriage, divorce, Female Genital Mutilation (FGM) and inheritance to name a few.

### ***3.2 Prohibition of Torture***

10. Western Bahr el Ghazal State is one of the States in South Sudan which had poor record in respect of the Convention Against Torture and the Constitution of South Sudan. Most of the South Sudan government institutions have very little respect for rule of law and human Rights in the State. Though the State constitution stipulates that no persons shall be subjected to torture, or cruel, inhuman or degrading treatment or punishment<sup>1</sup> and every suspect is innocent until proved beyond reasonable doubt yet is not the case in reality.
11. During the conflicts in Wau December 2012, 81 suspects were arbitrarily arrested, detained and tortured by the Criminal Investigation Department (CID) during the investigation process.
12. Since the war started in South Sudan December 2013, SPLA (Military Intelligent) and South Sudan National Security detained many people on the allegations of being supporters/sympathizers or members of the Sudan People Liberation Army In Opposition (SPLM/A-IO). Among those who were arrested many died due to lack food, poor nutrition, skin diseases and other sickness. The detainees were forced to bury those who died inside the cell.
13. People who were arrested and those who are still under the detention suffer inhuman degrading treatment includes beating with the end of the guns, denial of medical treatment, no access to visit by their relatives and lock in underground dark room without windows which was once used by Sudan Arm Force as a store for ammunition, just to mention a few. Those found without charges are asked to pay amount between 2,000ssp (300USD) and 10000ssp (500USD) to be released. February 2016 update SPLA in Wau has detained hundreds of civilian on the allegation of being elements of SPLM/A-IO and lock them in a container which meant for goods without window in Hai Lokoloko-Wau South West. In Hai Bagari Jedid-Wau South Payam SPLA uses that Payam as detention camp for torturing civilians and other security forces who are suspected to be IO members, supporters/sympathizers.
14. SPLA continues to torture, harass and kill civilians within State especially in area of Bagari Jedid, Hai khamisan, Hai Lokoloko, Ngobu, Hai Kosti block (A) of Wau County where SPLA conducting wrong activities which includes looting, beating, burning of houses, rapes, intimidations, threats and so forth; still going on update.

### ***Recommendation***

---

<sup>1</sup>See Article 18 of the Transitional Constitution of South Sudan, 2011.

1. We call on the Government of South Sudan to thoroughly investigate the atrocities committed by SPLA and other security organs since 2012 update and to hold those responsible accountable for crimes committed.
2. We call on the Government of South Sudan to train SPLA to be law abiders to respect the citizens and their properties as stipulated in the TCSS and international HRs Laws.
3. We call on the government to disarm civilians and stop (proliferation) of arms and any non-state actors and
4. We call on the government to stop deployment of SPLA in the residential areas.
5. We call on the Government to abolish illegal military detentions in the State.

### **3.3 *Freedom of Expression***

15. The Transitional Constitution of South Sudan, 2011 protects every citizen's right to freedom of expression. In December 2012, there was a resolution of State Council of Ministers<sup>2</sup> for the relocation of the two counties of Wau and Jur River County. The six communities of Wau met on September 2012 in PALICA Center for a consultative meeting which attracted attendance of about 190 community leaders. The participants came out with recommendations for the State authority rejecting the local order of relocating the county. The State authorities claimed that their resolution was based on a memo passed by the State Assembly and that the affected communities were aware about it though the people contested such claim. The Member of Parliament representing one of the affected counties also confirmed that he was not aware of such memo emanating from the State Assembly.
16. Young people protesting against relocation of Wau County went to the roads which lead to the Bagari, Besilia and Bussere on the 8<sup>th</sup> December 2012 but the government ordered a well armed military to forcefully quell down the protest and in the process, two male youth were killed and 11 were injured. . On the following day, 9<sup>th</sup> December 2012, the local community went on street to protest against the killing of the youth and again, the military responded and killed additional eight male youth on the spot whilst 81 persons including chiefs, journalists, Member of Parliament and protesters and sympathizers mainly from Wau County were arrested.<sup>3</sup> Others were compelled to flee the State and country to seek refuge in neighbouring states and countries.
17. On the 28 November, 2015, 14 representatives of civil society organizations were arrested and detained for ten days for having expressed their concerns over the local radio and through a joint petition which was presented to the Mayor of Wau on 23 November regarding the poor conduct of the deployed security personnel in residential areas like Bagari Jedid and Hai Kamsin evidenced in harassing, looting and restriction of movement.

---

<sup>2</sup>Relocation of Wau County, decision based on the State Council of Ministers Resolution No. 15/2011 issued on 29<sup>th</sup> December, 2011.

<sup>3</sup>Civil society activists, journalists and community members' testimony.

18. Also, journalists have been subjected to constant threats for covering sensitive events and acts of criminality perpetrated by armed elements of the military. In January 2016, a journalist of a local radio station in Wau town was compelled to go into hiding following threats of killing intended to prevent him report an incident of repeated rape of a lady on new year's eve, 31 December 2015, whilst she was going to church for service. Following this event, a reporter of Eye Radio who is based in Wau was also arrested by the SPLA military intelligence without adducing reasons for the arrest. Since his arrest on 05 March 2016 the way about of the journalists not known.

### ***Recommendation***

1. We call on the State authority to respect its commitment to protect freedom of expression according to the National and State Constitutions
2. Provide space for the free operations of civil society organizations and the ensure protection of journalist as well as radio stations within the State in expression of views relevant to addressing burning issues.
3. Provide security for protesters during peaceful protests or demonstrations by deploying police personnel.

### **3.4 Women Rights**

#### ***a. Women participation in decision making***

19. The government is not fully complying with its obligations under CEDAW which obligates to ensure appropriate measures are taken to eliminate all forms of discrimination against women. Although some attempts had been made to increase women's participation in public affairs, as evidence in 25% provision for women's participation. Women constitute 27% of the current members of the state legislative assembly even though there is a perception that they do not adequately represent women's interest.
20. However, there are still issues of discrimination against women. For instance, women are grossly underrepresented in executive positions influenced by the consideration that women lack the ability to perform certain positions an example being the positions of the County Commissioner, Town Mayor and even Governor. Women are also under represented in civil services positions like Director General of ministries, head of government departments, leadership of trade union, among others.



### ***b. Violence against women***

21. Although the CEDAW protect women against violence and the government has made a commitment to protect women's rights, yet women continue to experience violence on a daily basis particularly in domestic settings.
22. Incidents of forced and under age marriage are commonplace. Women have no right to make decision on the choice of her spouse though such rights are protected under Article 15 of TCSS 2011. Girls continue to be subjected to early and forced marriages though section 23 of the Child Act 2008 prohibits early marriage. On matters of inheritance, customary practices forbid women from inheriting the property of a deceased husband as well as those of her father. Rather, women form part of the property of the deceased husband to be inherited by the brothers. Furthermore, a woman is forbidden to initiate divorce suits even if she finds herself in a violent domestic relationship

### ***Recommendations***

1. We call on the State government should empowerment women so that they know their roles to participate in the decision making constructively at all levels.
2. We call upon the National Ministry of Gender, Child and Social Development to prioritise the development and adoption of South Sudan National Action Plan on gender base violence.
3. We call on State government to respect South Sudan obligation under CEDAW with respect to taking measure to eliminate all forms customary practices that discriminate and perpetrate violence against women.
4. We call on the government to ensure that those who practice underage marriage are investigated, prosecuted and punished pursuant to section 247(2) of the Penal Code 2008 which criminalises act of sexual intercourse with a person under the age of 18 years.

## **3.5 *Child Rights***

### ***a. Juvenile justice***

23. In 2015 South Sudan ratified the Convention on the Right of the Child committing to promote and protect the best interest of the child in South Sudan by eliminating all of forms of discrimination including customary practices which often undermine the welfare and wellbeing of the child (Anyone who is under the age of 18 according to Transitional Constitution of South Sudan and Child Right Acts 2008 of South Sudan). A child Therefore who has come in conflict with the law would refer to anyone under the age of 18 who have come in contact with the Justice system and is suspected or accused of having committed an offence.
24. The State has only one reformatory center for boys with the capacity of 45 inmates, but now is accommodating more than 78 inmates which force others to sleep in toilet<sup>4</sup>. Girls are put together with the adult women in main prison without reformatory programme for them which will enhance to adopt bad manner.
25. A 2015 assessment carried by CSOs in 2015, showed that there are currently over 900 children living in the streets of Wau Town without any form of parental care and these children frequently come in conflict with the Law. The Crimes which they commit are usually petty crimes or offences which could be speedily addressed without necessitating detention. Nonetheless this decision can only be made by professionals who have a good knowledge and understanding of Children's Rights and the best interest of the child at all times.
26. Based on the above mentioned challenges currently there are no trained professionals on the administration of Juvenile Justice within the South Sudan Police Service in the State .However It was noted that there is a Gender Unit solely at the Wau main Police Station who is incharge of addressing issues related to Gender but have also been tasked with handling cases related to Juvenile Justice even though no specialist training on this issue has been provided.
27. Recalling Art.37 (a),(b),(c),(d) of the Convention of the Child (CRC) on Torture, Cruel, Inhumane and Degrading Treatment or Punishment, a 2015 assessment on the "Treatment of Children in conflict with the Law" conducted by CSOs, noted that these children are often times are subjected to torture from the time of arrest and even whilst in custody.
28. Additionally, a good number of these children are arrested without any warrant and are detained for a long time and then later transferred to the Juvenile Home on remand. Most of them are not also informed of their crime and their Right to free, fair and speedy trial is often violated.It was also noted that most of the children self incriminate whilst in detention because in most cases they are not informed of their rights and also because they do not have access to legal representation.In most cases neither their parents nor their legal guardians are informed of their arrest /detention due to logistical and administrative challenges faced by the Police and the Ministry of Gender(Which provides Social Workers) .All of these challenges cause undue delay which further violates the child's fair trial Rights.

---

<sup>4</sup>CSOs and social workers assessment and regular visit to the reformatory center and prison

29. Since there is no juvenile judges neither juvenile police their cases are investigated by the common police and are seen by ordinary judges in common court rooms. Based on the social worker who had an experience in working closely on juvenile cases said that “many cases of the juvenile did not proceed and judges did not prevail only because police and judges are not knowledgeable about juvenile case procedure”<sup>5</sup>

### ***Recommendations***

1. We call on the Government to provide separate reformatory center for both girls and boys.
2. We call on the State Government to make provision for the institution/creation of separate courts for Juveniles and with cases adjudicated by Juvenile Judges.
3. We call on the Government to make provisions for a specialist training on administration of Juvenile Justice for the Judiciary and the Police.
4. We call on the State Government to do all in its power by availing both logistical and administrative resources to facilitate the work of those in charge of the administration of Juvenile Justice (Provision of Transportation).

### **4. Conclusion**

30. While we appreciate efforts made by the Government of the Republic of South Sudan in the promotion of human rights through legislative and policy development, we would like to express that there are huge challenges in this regard. Laws are not being implemented and people are not held accountable to violation of human rights or crimes committed against people especially women and girls. We therefore strongly call on the government to respect its international obligations for the protection of human rights and freedoms.

---

<sup>5</sup>State Ministry Gender, Child and Social Development

***Annex: List of member Organizations for the Civil Society Coalition on South Sudan First Universal Periodic Review***

<b>Organization Name</b>	<b>Contact Detail</b>
Catholic Justice and Peace Commission (J&PC)	<a href="mailto:natalina.mabo@yahoo.com">natalina.mabo@yahoo.com</a> Tel:+211(0)912382135/0956283460
Women Training and Promotion (WOTAP)	<a href="mailto:wotapwau@gmail.com">wotapwau@gmail.com</a> Tel:+211(0)955767809/0917717467
St. Mary Association	<a href="mailto:monica.ilario888@gmail.com">monica.ilario888@gmail.com</a> Tel:+211 (0) 955199289 /0927950411
Community Empowerment for Progress Organization (CEPO)	<a href="mailto:ceposouthsudan@gmail.com">ceposouthsudan@gmail.com</a> & <a href="mailto:stephenrobo6@gmail.com">stephenrobo6@gmail.com</a> Tel:+211(0)955214513 & +211(0)956302445
Women for Food Basket (WoFB)	<a href="mailto:ramadanadam5@hotmail.com">ramadanadam5@hotmail.com</a> Tel:+211(0)918212105
Unity Cultural Development Center (UCDC)	<a href="tel:+211(0)922141470">Tel:+211(0)922141470</a> or +211(0)