

NEW COUNTRY, OLD BEGINNINGS



PHOTO: JACOB ZOCHERMAN

SOUTH SUDAN – A COUNTRY REPORT

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INTRODUCTION

Not all beginnings are new beginnings. The troubled recent history of South Sudan echoes the tricky nature of starting anew. When South Sudanese voted in a referendum in January 2011, it became evident that multifaceted challenges of nation-building lay ahead for its leaders. The formal declaration of South Sudan's independence, on 9 July 2011, came with high hopes and glittering promises, yet moderate expectations. Six years later, it is no surprise that the hopes and promises are yet to be materialised. Instead, the country is falling far short of achieving even the most basic expectation of peace and stability for its citizens. Violations of the fundamental rights of citizens run unabated. The government's responsibility to respect, protect and fulfil human rights has been left to chance. In a nutshell, South Sudan's new beginning as the youngest nation in the world proved to be a not-so-new beginning in the wrong direction.

SOUTH SUDAN¹

Official Name: Republic of South Sudan

Independence Day: 9 July 2011

Capital City: Juba

Population: 12,530,717 (July 2016 est.)

Languages: English (official), Arabic, regional languages include Dinka, Nuer, Bari, Zande, Shilluk

Ethnic Groups: Dinka 35,8%, Nuer 15,6%, Shilluk, Azande, Bari, Kakwa, Kuku, Murie, Mandari, Didinga, Ndogo, Bviri, Lndi, Anuak, Bongo, Lango, Dugotona, Acholi (2011 est.)

Type of Government: Presidential republic

Current Head of Government and Chief of State: President Salva KIIR Mayardit (since 9 July 2011)

¹ "The World Factbook: South Sudan", Central Intelligence Agency, 2016 (accessed 20 March 2017). <<https://www.cia.gov/library/publications/the-world-factbook/geos/od.html>>

1. DEFERRED HOPES AND BROKEN PROMISES

9 July 2011:

“*Together, we welcome the Republic of South Sudan to the community of nations.*”²

The then UN Secretary General, Ban Ki-moon, read a joyful but sober welcoming note in Juba, South Sudan. He was greeting the only new member state that came into being during his tenure.³ He spelled out the significance of the occasion in both historical and visionary terms.

“*Today, we open a new chapter: a day when the people of South Sudan claim the freedom and dignity that are their birth right. (...) We gather in celebration, but we are mindful of the enormous challenges ahead: deep poverty, lack of basic infrastructure and institutions of government, political insecurity. (...) South Sudan’s success will be measured by how well it serves its citizens. The basic rights of a modern, democratic state must be guaranteed: free expression, full political rights for all, including women and young people, inclusive institutions of government that can provide stability and opportunity.*”⁴

The declaration of beginning “a new chapter” fitted the occasion. The birth of an independent South Sudan followed after decades of civil war, the death and displacement of millions, and complex international efforts. The protracted civil war between the Government of Sudan and the then rebels had deep security implications for the region. The birth of South Sudan was therefore considered a positive factor in the regional dynamics.

Six years later, the country is still not able to address the ideals outlined in the celebratory declaration in the capital, Juba. Instead, it is immersed in a new internal conflict since December 2013 when a new round of deadly civil strife ensued among the South Sudanese themselves. Continued armed conflict, indiscriminate attacks on civilians, mass killings, rape and torture have once again become the defining features of politics in South Sudan. Even after a peace agreement was signed in August 2015, deadly clashes between government and

armed groups have continued. The state of human rights inevitably suffers the most as the result of the ongoing civil war, weak institutions, a waning rule of law and widespread impunity.

The brunt of the human rights crisis has left its mark everywhere. The country’s fledgling civil society is burdened with receiving the heavy blows of the crisis and at the same time defending and promoting human rights in a hostile environment. Human rights defenders (HRDs) serve as beacons of hope for those whose lives and basic rights are in danger. These champions of human rights are doing their jobs, sometimes at the cost of their own lives, liberty and security. If South Sudan is to break the cycle of violence and find a new path to transition, civil society and HRDs must be among the indispensable actors.

The selection of Edmund Yakani, the Executive Director of the Community Empowerment and Participation Organisation (CEPO) in South Sudan, as the winner of the Civil Rights Defender of the Year Award 2017 offers an opportunity to highlight the plight and achievements of South Sudanese HRDs at a global level. Regional and international parties who played key roles in the conclusion of the 2015 Peace Agreement also have the responsibility to support and pressure its signatories.

EDMUND YAKANI

Edmund Yakani has been awarded the Civil Rights Defender of the Year Award 2017. Despite the risk to his own safety, he strives to ensure the respect for civil and political rights in South Sudan.

Lives in Juba, South Sudan

Executive Director for the Community Empowerment for Progress Organisation

Founder of South Sudan Human Rights Defenders’ Network

Project Coordinator with the Paguka Development Association

2 Ban Ki-moon, “Remarks at the Independence Ceremony of South Sudan [as Prepared for Delivery]”, United Nations, 9 July 2011. <<https://www.un.org/sg/en/content/sg/speeches/2011-07-09/remarks-independence-ceremony-south-sudan-prepared-delivery>>

3 “Growth in United Nations Membership, 1945-present”, United Nations, n.d. (accessed 18 March 2017). <<http://www.un.org/en/sections/member-states/growth-united-nations-membership-1945-present/index.html>>

4 Ban Ki-moon, “Remarks at the Independence Ceremony”.

2. THE BIRTH OF A NATION: AN OVERVIEW

The area that now forms the Republic of South Sudan had been part of the Sudan at least since its independence from Anglo-Egyptian rule in 1956. South Sudanese had long been protesting the policies of the new Sudan towards the South. This deeply rooted dissatisfaction erupted after only a few years. As early as 1962, the Anya Nya movement, which sought the secession of South Sudan, emerged. The government in Khartoum was forced to grant a degree of autonomy to South Sudan in 1972. However, the arrangement was never implemented. The Khartoum government cancelled it completely in 1983, which led to the re-escalation of armed resistance.

After years of arduous negotiation and mounting pressure from international actors, the Comprehensive Peace Agreement (CPA) was signed between the Government of Sudan and the Sudan People's Liberation Movement (SPLM) in January 2005. The agreement laid the foundation for an end to the civil war: it established a permanent ceasefire, formalised autonomy for the South and promised a referendum in six years' time. The CPA paved the way for the January 2011 vote that ushered in the independence of South Sudan that same year.

THE SOCIO-POLITICAL CONTEXT

South Sudan had for a long time been neglected by the central government in Khartoum and previous colonisers. The decades-long armed struggle further wrecked the already poor physical infrastructure and social capital of the country. At the time of independence in 2011, the new-born country had hardly any of the resources required for the daunting task of establishing a functioning state – except hope.

The civil war has left painful scars on social, cultural and economic life. According to one estimate, “68 percent of South Sudanese have witnessed or experienced conditions that have caused trauma, with the figure as high as 92 percent for Western Bahr El Ghazal State”.⁵ One of the far-reaching consequences has been the ethnicisation of politics and distribution of wealth, which is a key factor in the ongoing conflict in South Sudan. The UN Human Development Index ranks South Sudan as one of the most impoverished countries in the world.

South Sudan's political history cannot be understood without consideration of the roles played by regional and international actors, both before and after independence. These actors were pivotal in shaping the nature of the rebel movements that waged war against the government in Khartoum. The new government of the country is to this day heavily dependent on the financial, political and diplomatic support of external actors.

COMPLICATED REGIONAL DYNAMICS

The existence of ethnic groups across national borders has further complicated the regional dynamics of the new South Sudan. Other countries in the region – particularly Ethiopia, Uganda, DRC and Kenya – continue to play key roles in the politics of South Sudan and the peacebuilding process. For some Western countries, supporting the South Sudanese former rebels was one strategy for weakening the Sudan, with whom they never had cordial relations. After independence, Western powers mobilised a great amount of financial, political, and diplomatic support to the new country. South Sudan's economy risks crumbling without the continued support of these international actors. For example, since 2005 the United States has spent 11 billion USD supporting the government.⁶ In the absence of institutional capacity to absorb the financial support flowing into the country, it did not take long for government corruption and waste to become the norm in many areas.

Neighbouring countries, especially Ethiopia and Uganda, and the regional group Intergovernmental Authority on Development (IGAD)⁷ have been instrumental in the recent peace-deal negotiations. Alarmed by the possible spill-over effect of the civil war in South Sudan, IGAD members are trying to contain the conflict and pushing for sustainable peace in the country.

THE CHAIN OF CONFLICT

Political, economic and social life in South Sudan is chained by conflict. At independence, it was obvious that the task of (re)building the new nation of South Sudan would be a tall order, by any standards. Neither the physical nor the socio-political preconditions were

5 Fritz Nganje and Kudrat Virk, “The Peacebuilding Role of Civil Society in South Sudan”, Tshwane (Pretoria), South Africa, Centre for Conflict Resolution, 2015. <http://www.ccr.org.za/images/pdfs/vol55_peacebuilding_role_civil_society_southsudan_nov2016.pdf>

6 Jeffrey Gettleman, “War Consumes South Sudan, a Young Nation Cracking Apart”, The New York Times, 4 March 2017. <https://www.nytimes.com/2017/03/04/world/africa/war-south-sudan.html?ref=collection%2Fsectioncollection%2Fworld&action=click&contentCollection=world®ion=rank&module=package&version=highlights&contentPlacement=1&pgtype=sectionfront&_r=1>

7 Members are Djibouti, Ethiopia, Eritrea, Kenya, Somalia, the Sudan, South Sudan and Uganda.

in place to kick-start a smooth state-building process. Despite these circumstances, the South Sudanese people hoped that the spirit of a new beginning would at least put the country on the right track, towards transition. Their hopes were magnified by laudable support from the international community. But to the dismay of all, the most consequential political crisis started within the very organisation that had led the struggle for independence: the Sudan People's Liberation Movement/Army (SPLM/A).

A power struggle between President Salva Kiir and the former First Vice President Riek Machar triggered the conflict in December 2013. It was reported that "soldiers from Kiir's Dinka ethnic group disarmed and targeted troops of Machar's Nuer ethnic group",⁸ which set the new round of conflict in motion. The political conflict quickly turned into clashes between ethnic groups, "along historical cracks and rivalry between the Dinka and the Nuer nationalities".⁹ The UN panel of experts on South Sudan noted that "the war is increasingly characterised by the targeting of civilians on a tribal basis".¹⁰ According to other reports, members of smaller groups are under pressure to take sides.

More than 50,000 have been killed, around 2.3 million have been displaced, and 70% of schools have closed since the conflict started in late 2013. It has been characterised by intentional attacks on civilians, including children; widespread rape of women; burnt down villages; orchestrated attacks against UN compounds, where internally displaced people are sheltered; and, at times, ethnically motivated attacks.¹¹

THE PEACE AGREEMENT – A VIABLE OPTION?

In August 2015, a peace agreement was signed by the warring factions of SPLM/A, including the one holding government power.¹² But neither did the political crisis begin to heal, nor did the scale and spread of human rights violations abate.¹³ The negotiation process that

took place in Addis Ababa between the warring factions was dramatic and indicative of the parties' unreliable commitment to abandon violence as a means to settle disputes. The negotiators dragged out the process while thousands were dying and displaced from their homes. The implementation of the agreement has remained poor to this day. None of the ceasefires signed in the aftermath of the December 2013 conflict has been observed fully.

In November 2016, a three-member UN Commission on Human Rights in South Sudan warned that "the stage is being set for a repeat of what happened in [the] Rwanda [genocide] and the international community is under an obligation to prevent it." The African Union Commission of Inquiry also concluded that the situation could potentially lead to mass atrocities. The Commission further claimed that war crimes has already been committed during the initial phase of the conflict in Juba, in December 2013. Beyond the ongoing conflict, increased ethnicisation of politics and proliferation of armed groups are posing fundamental threats to the peace and stability of the country.¹⁴

The August 2015 Peace Agreement stipulates the formation of a power-sharing Transitional Government of National Unity (TGoNU) for 30 months. The TGoNU is responsible for overseeing political, security and economic reforms, including the approval of a permanent constitution and the election of a new government. The agreement further provides for the creation of, among several other organs, a Hybrid Court for South Sudan (HCSS); a Compensation and Reparation Authority (CRA); and a Commission for Truth, Reconciliation and Healing (CTRH). The organ established by the same agreement to monitor its implementation, the Joint Monitoring and Evaluation Commission (JMEC),¹⁵ delivered a damning report in February 2017. The chairman criticised the parties to the agreement, claiming that they "preach peace with one hand and simultaneously wage war around the country with the other".¹⁶

8 "South Sudan's Salva Kiir Replaces Riek Machar", Al Jazeera, 26 July 2016. <<http://www.aljazeera.com/news/2016/07/south-sudan-salva-kiir-replaces-riek-machar-160725200925673.html>>

9 "Special Report: South Sudan's Crisis: Its Drivers, Key Players, and Post-Conflict Prospects", Juba, South Sudan, The Sudd Institute, 2014. <https://www.suddinstitute.org/assets/Publications/572b7eb3cea73_SouthSudansCrisisItsDriversKeyPlayers_Full.pdf>

10 "Interim Report of the Panel of Experts on South Sudan Established Pursuant to Security Council Resolution 2206 (2015)", S/2016/963, United Nations, 15 November 2016. <http://www.un.org/ga/search/view_doc.asp?symbol=S/2016/963>

11 "Final Report of the African Union Commission of Inquiry on South Sudan", Addis Ababa, AU Commission of Inquiry on South Sudan, 2014. <<http://www.peaceau.org/uploads/auiciss.final.report.pdf>>

12 "South Sudan's Kiir to Sign Peace Agreement on Wednesday", Sudan Tribune, 25 August 2015. <<http://www.sudantribune.com/spip.php?article56176>>13 The signatories of the peace agreement were President Salva Kiir on behalf of the SPLM/A-in Government (SPLMA-iG), former Vice President Machar on behalf of SPLM/A-in Opposition (SPLMA-iO), Secretary General Pagan Amun on behalf of a group of former senior ministers and SPLM leaders who broke with Kiir and were arrested during the events of December 2013 (known as the Group of Ten [G10] or "former detainees"), and Lam Akol on behalf of "other political parties".

14 "Final Report of the African Union Commission".

15 See JMECSouthSudan.org. <<http://jmecsouthsudan.org/>>

16 "JMEC Press Release: JMEC Dismayed by Continued Fighting in South Sudan", United Nations Mission in South Sudan, 8 February 2017. <<https://unmiss.unmissions.org/jmec-press-release-jmec-dismayed-continued-fighting-south-sudan>>

For some, the 2015 Peace Agreement, “although it is in bad health, remains the only viable option of putting South Sudan on track of [sic] peace and stability”.¹⁷ For its critics, the agreement is no longer the only or best alternative, seeing as its signatories cannot live up to their obligations. They would rather recommended “an international transitional administration” to save the country from total collapse.¹⁸

ON THE BRINK OF COLLAPSE

The country’s economy is also in dangerous decline, aggravated by the outbreak of the conflict. The export of crude oil has been the cardinal source of income for South Sudan. The country used to export up to 300,000 barrels of crude oil per day, before a disagreement about the terms of sale with Sudan. The disagreement ultimately led to the total shutdown of the pipeline. The

International Monetary Fund (IMF) has warned that the country’s economy may face total collapse unless the conflict is resolved and necessary measures are taken in time. South Sudan’s GDP declined by 6.3% during the fiscal year of 2015/16.¹⁹ It is expected to decline further in 2017. Ironically, half of the country’s budget for 2016/17 is reportedly allocated to the security sector.²⁰

The humanitarian crisis caused by the conflict is aggravated by the economic decline and a looming famine. In January 2017, a famine was declared in parts of South Sudan. According to UN agencies, 100,000 people were “facing starvation” and more than one million were “on the brink of famine”.²¹ The UN and other humanitarian groups find it difficult to access the affected areas because of the conflict.²² “The environment for humanitarian operations grew increasingly difficult and dangerous as the geographic scope of humanitarian need expanded.”²³

3. CIVIL SOCIETY: STRUGGLING FOR SURVIVAL

A country as young, poor and conflict-ridden as South Sudan is not able to nurture a vibrant civil society. The sector is new-born, heavily dependent on external support, fragmented and struggling to survive in a hostile environment.

The incapacity and widespread corruption of government institutions have made it impossible to gain a clear picture of the civil society sector in South Sudan. One report suggests that there are more than 5,000 registered NGOs, of which a significant majority are based in the capital. According to the same source, local organisations lack specialisation as well as institutional capacity.²⁴ Grass-roots organisations have no access to national or international resources.

However, many local and international CSOs are instrumental in providing services, including healthcare and education; building the capacity of government agencies; lobbying for better laws and policies; mobilising

and advocating human rights issues; and documenting violations and abuses. Before and since the outbreak of conflict in 2013, CSOs have been at the frontlines, warning against impending danger and raising concerns about different aspects of the peace process. In 2015, civil society activists were arrested for petitioning the state government to check and control the behaviour of security personnel in Western Bahr El Ghazal State.²⁵ CSOs also contributed to the peace negotiations that led to the 2015 Addis Ababa Peace Agreement, though their role in shaping the principal content of the deal was marginal. The African Union Commission of Inquiry on South Sudan has recognised the crucial role played by civil society and concluded that they should be “a part of the process of any institutional reforms that will set the basis for healing and reconciliation.”²⁶

In South Sudan, civil society is under attack from different directions. On the one hand, the ongoing conflict hinders the operation and survival of CSOs, particularly in

17 Luka Biong Deng, Statement to the Hearing on South Sudan, United States Senate Committee on Foreign Affairs, Washington, D.C., 20 September 2016. <http://www.foreign.senate.gov/imo/media/doc/092016_Kuol_Testimony.pdf>

18 Katherine Almquist Knopf, “Ending South Sudan’s Civil War”, Council Special Report No. 77, New York, USA, Council on Foreign Relations, 2016. <<http://www.cfr.org/south-sudan/ending-south-sudans-civil-war/p38510>>

19 “South Sudan: Economic Overview”, The World Bank, 20 October 2016. <<http://www.worldbank.org/en/country/southsudan/overview>>

20 “Interim Report of the Panel of Experts on South Sudan”.

21 Ben Quinn, “Famine Declared in South Sudan”, The Guardian, 20 February 2017. <<https://www.theguardian.com/global-development/2017/feb/20/famine-declared-in-south-sudan>>

22 “UNICEF South Sudan Humanitarian Situation Report #102”, UNICEF, 31 January 2017. <<http://reliefweb.int/report/south-sudan/unicef-south-sudan-humanitarian-situation-report-102-17-31-january-2017>>

23 “Country Report on Human Rights Practices for 2016: South Sudan”, Bureau of Democracy, Human Rights and Labor, US Department of State, 2016. <<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dliid=265304>>

24 “The Peacebuilding Role of Civil Society in South Sudan”, Policy Brief No. 33, Tshwane (Pretoria), South Africa, Centre for Conflict Resolution, 2016. <http://www.ccr.org.za/images/pdfs/CCRPB33_peacebuilding_civilsociety_south_sudan_18nov2016.pdf>

25 “Civic Freedom Monitor: South Sudan”, The International Centre for Not-for-Profit Law, 25 January 2017. <<http://www.icnl.org/research/monitor/southsudan.html>>

26 “Final Report of the African Union Commission”.

conflict-ridden areas. Independent CSOs and their staff are targeted by both the government and other armed groups. Many civil society activists are forced to flee to Juba from other parts of the country, “because there is not a safe environment for activism work in their home areas”.²⁷ Civil society bears the brunt of harassment, threats and attacks across the country.

On the other hand, the policy and administrative conditions in the country are not conducive to a flourishing civil society. The South Sudanese government has introduced a law, the NGO Act of 2016, that regulates the operations of civil society actors.²⁸ Many of them are concerned about the restrictive nature of the law, though they welcome the introduction of national legislation to mainstream practice.²⁹

4. HUMAN RIGHTS AND HUMAN RIGHTS DEFENDERS

South Sudan’s report card for human rights and governance is a record of failures. The country has ratified only few of the key international human rights conventions. Among other conventions, it is yet to ratify the International Covenant on Civil and Political Rights (ICCPR).³⁰

The Fragile States Index³¹ and Corruption Perceptions Index³² put the country in second-worst place in 2016, doing better than only Somalia. In the first index, it is noted that factors contributing to state fragility have been worsening consistently in South Sudan since 2012. Alerts for demographic pressures and group grievance are higher in South Sudan than anywhere in the world. State legitimacy and the situation for human rights and the rule of law are declining further, from a starting point that is already very low.

Worldwide Governance Indicators observes an unmistakable, rapid decline in key governance indicators since the outbreak of conflict in 2013. Indicators for accountability, political stability and absence of violence, rule of law and control of corruption, among others, reached their lowest point in the aftermath of the conflict. The Freedom in the World report tells the story of a downward trend for respect for political rights and civil liberties.³³ The following sections detail the state of fundamental rights and the situation for HRDs in South Sudan.

THE SITUATION FOR HUMAN RIGHTS DEFENDERS IN THE COUNTRY

Human rights defenders, the media, independent journalists and civil society advocates have been subjected to harassment, physical threats, intimidation, arbitrary detention and even extrajudicial killings since the outbreak of conflict in December 2013.³⁴ The National Security Service (NSS) has become increasingly involved in the intimidation of HRDs, not least by making arbitrary arrests and forcefully shutting down the remaining independent media outlets in the country.³⁵ In August 2015, the NSS ordered the closing of both the Al Rai and Citizen newspapers. The NSS cited few and fabricated reasons.³⁶

CSOs are under constant attack as the space for civil society continues to shrink. In the first few months of 2016 alone, at least six journalists and HRDs were arbitrarily detained, and several of them tortured.³⁷ The majority of civil society actors and HRDs have been forced to leave the country as a result of the actions of the government and other armed groups. On several occasions, NSS agents have blacklisted anyone who speaks about the human rights situation in South Sudan. In addition, HRDs who have gone abroad to attend international conferences and events are often denied their right to travel or threatened with not being allowed to re-enter the country. The work of HRDs and CSOs is continuously

27 “Civic Freedom Monitor”.

28 Non-Governmental Organizations Act, 2016 (Juba, Republic of South Sudan) 10 February 2016. <<http://www.icnl.org/research/library/files/South%20Sudan/NGOBILL.pdf>>

29 Jason Patinkin, “Will NGO Bill Restrict Aid Efforts in South Sudan?”, IRIN News, 13 May 2015. <<http://www.irinnews.org/analysis/2015/05/13/will-ngo-bill-restrict-aid-efforts-south-sudan>>

30 See the appendix for the full list of treaties signed or not by the government of South Sudan.”

31 Fragile States Index 2016, Washington, D.C., Fund for Peace, 2017. <<http://fsi.fundforpeace.org/>>

32 Corruption Perceptions Index 2016, Transparency International, 2017. <http://www.transparency.org/news/feature/corruption_perceptions_index_2016#table>

33 “Freedom in the World 2016: South Sudan”, Freedom House, 2017. <<https://freedomhouse.org/report/freedom-world/2016/south-sudan>>

34 “Assessment Mission by the Office of the United Nations High Commissioner for Human Rights to Improve Human Rights, Accountability, Reconciliation and Capacity in South Sudan: Detailed Findings” (A/HRC/31/CRP.6), Human Rights Council, Intro: B: Art. 2, §27, 10 March 2016. <http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session31/Documents/A-HRC-31-CRP-6_en.doc>

35 “The State of Human Rights in the Protracted Conflict in South Sudan”, Human Rights Division, United Nations Mission in South Sudan, 2015, p. 2. <http://www.ohchr.org/Documents/Countries/SS/UNMISS_HRD4December2015.pdf>

36 Ibid., p. 37.

37 “South Sudan”, The East and Horn of Africa Human Rights Defenders Project (DefendDefenders), 2016. <<https://www.defenddefenders.org/south-sudan/>>

undermined by the government and security forces. The latter use phone tapping to keep track of those working for human rights in the country.³⁸

The increased hostility against and targeting of HRDs have created a dire environment for those trying to advocate human rights in the country. In August 2015, the reporter Peter Julius Moi was murdered in the capital city Juba, only days after the president threatened to target and kill journalists in particular. Earlier the same year, at least two other journalists were killed because of their work. Another journalist, George Livio, was arbitrarily detained without charge or trial for over a year. On numerous occasions, the security forces have been behind enforced disappearances, arbitrary arrests, torture and other ill-treatment.³⁹

THE RIGHT TO LIFE AND PHYSICAL INTEGRITY

Since gaining independence, South Sudan has signed several pieces of international human rights legislation and treaties, among them the Convention Against Torture (CAT) and the Convention on the Elimination of Discrimination Against Women (CEDAW). The country is also bound by customary international law and by the rights enshrined in the international conventions and treaties ratified by the state.⁴⁰ In addition, the right to life is one of the constitution's five non-derogable rights and protections that all organs of the government (including the armed forces) have agreed to respect, uphold and promote South Sudan's Transitional Constitution of 2011.⁴¹ However, since the outbreak of war in 2013, there have been observable patterns of violations and abuses against the human rights of the South Sudanese people. In many cases, the government has targeted civilians in particular and carried out unlawful killings, gender-based violence and torture.⁴² A 2016 UN report⁴³ concluded that "the scale of sexual violence is particularly shocking." In one of South Sudan's ten states, Unity State, the organisation recorded 1 300 reports of rape between April and September 2015.

South Sudan's Penal Code Act of 2008 prohibits murder; bodily injury and intimidation; kidnapping, abduction and violations of personal liberty; violations related to rape and other sexual offences; armed robbery; and damage to or destruction of property.⁴⁴ The killing of civilians is furthermore a violation of international human rights law, namely the prohibition on arbitrary deprivation of the right to life. Article 6(1) of the International Covenant on Civil and Political Rights (ICCPR) states that every human being has the inherent right to life and that no one shall be arbitrarily deprived of it. However, international organisations have reported repeated incidents in which the government has perpetrated systematic violence against civilians, many of whom were targeted because of their religion or ethnicity. Attacks on civilians are not specific to conflict zones, but have been carried out in homes and places of shelter, including hospitals, churches, mosques and government facilities.⁴⁵

In Bor in December 2013, opposition fighters allegedly chased after civilians to deliberately try to kill as many as possible and harass them to such a degree that they would have to flee their homes.⁴⁶ In Malakal in January 2014, government military forces as well as armed opposition forces raided churches and hospitals in the city, looking to kill and abduct members of a different ethnic group. In February, a hospital was burnt down and dead bodies were thrown onto the streets and into the Nile River.⁴⁷

Actions that have led to the starvation of the civilian population could also be seen as violations of the right to life under the ICCPR.⁴⁸ In addition, deliberate attacks on the civilian population, killings and rape may constitute crimes against humanity.⁴⁹

THE RIGHT TO LIBERTY AND SECURITY OF PERSON

According to the South Sudan People's Liberation Army (SPLA) Act of 2009, the government (including the armed forces) is not exempt from its rules and regulations.

38 "Increased Violence in South Sudan Is Increasing Difficulties for Human Rights Defenders", CIVICUS, 12 October 2016. <<http://www.civicus.org/index.php/media-resources/news/825-increased-violence-in-south-sudan-is-increasing-difficulties-for-human-rights-defenders>>

39 "Annual Report: South Sudan 2016/2017", Amnesty International, 22 February 2017. <<https://www.amnesty.org/en/countries/africa/south-sudan/report-south-sudan/>>

40 "Assessment Mission by the Office of the United Nations High Commissioner" (A/HRC/31/CRP.6), Part 1: II: B, §44.

41 Ibid., Part 1: II: D, Art.1. §56.

42 Ibid., Part 1: Art. 7.

43 South Sudan: UN report contains "searing" account of killings, rapes and destruction", UHCHR, 11 March 2016. <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=17207&LangID=E#sthash.qCcFJCdk.dpuf>

44 Assessment Mission by the Office of the United Nations High Commissioner" (A/HRC/31/CRP.6), Part 1: II: D, Art. 2. §60.

45 Ibid., Part 2: IV: A. §137.

47 Ibid., Part 2: IV: A. §143.

48 Ibid., Part 2: IV: A. §154-155.

49 Ibid., Part 3: VI: D. §343.

49 "South Sudan", Human Rights Watch, n.d. (accessed 19 March 2017). <<https://www.hrw.org/africa/south-sudan>>

Among other things, the SPLA Act prohibits the government and the armed forces from committing the offence of mistreating a detainee in their custody. The SPLA Act dictates that, if a crime is committed, the personnel shall be tried by a competent court-martial and subjected to imprisonment. The law further prescribes actions that should be considered a crime and lead to the imprisonment of the perpetrator, including assaulting or insulting prisoners of war; verbal or physical conduct that denigrates, humiliates or shows hostility towards others based on race, gender, social origin or religion; unlawful detention of individuals; and committing or attempting to commit any act that is cruel, indecent and unnatural.⁵⁰

However, arbitrary detention, which is widely practiced in South Sudan, does not constitute a crime under the law. Prolonged pre-trial detention, absence of judicial oversight and detention for acts that do not constitute a crime under national or international law are common. Since the country gained independence in 2011, no safeguards have been set up against arbitrary detention. The number of arbitrarily detained persons has grown in step with the conflict. Those detained are regularly delayed or refused access to legal counsel and family members, not least because detainees are normally not held in regular detention centres.⁵¹

Serious breaches of the security of detainees have been reported on several occasions. Among other things, reports have provided information about mass deaths after detainees were held in containers in Leer. Torture as well as other cruel, inhumane and degrading treatment further suggests that the conditions in prisons and detention centres fail to live up to the standards set by international law.⁵²

THE RIGHT TO A FAIR TRIAL AND AN EFFECTIVE REMEDY

The peace agreement that was signed in August 2015 provided for the establishment of three mechanisms: a Commission on Truth, Reconciliation and Healing; a Compensation and Reparations Authority; and a Hybrid Court for South Sudan. The Hybrid Court was given jurisdiction over crimes under both international law and the laws of

South Sudan.⁵³ A credible court – that meets standards of impartiality, fairness and accountability – is essential to the facilitation of an environment conducive to peace. However, the African Union Commission has not yet taken any specific steps to establish the court.⁵⁴

The Government of South Sudan has established a national human rights task force, led by the Ministry of Foreign Affairs, that includes government departments such as the Ministries of Defence and Justice. Though it has provided some documentation on human rights abuses since 2013, the task force has failed to initiate investigations of the alleged human rights violations committed by state actors. The findings have only been presented to the president and not yet made public.⁵⁵

South Sudan's Geneva Conventions Act of 2012 clarifies that anyone in the country who commits or aids and abets any breach of protocol should be found guilty of indictable offence and thereby imprisoned for unlawful behaviour.⁵⁶

There are manifold issues pertaining to the South Sudanese judicial system. These include a lack of respect for the right to a fair trial, the absence of independence for prosecutors and judges, poor access to legal counsel and legal aid, the application of the death penalty, and the uncertain jurisdiction of customary courts. Language barriers also pose major problems. The official language of the country is English; but large parts of the population speak only other languages. Legal assistance and documents are often inaccessible to the general population due to this linguistic diversity.⁵⁷ In addition, the criminal justice system lacks resources and capacity in several critical areas, such as investigations and forensics. Victims are rarely provided with support or assistance and witnesses are not offered any protection programmes, which further undermines the functions of the judicial system.⁵⁸

The prolonged pre-trial detention of detainees who wait for legal process often lasts months, and in many cases even years. One reason is that there is no administration of justice in conflict areas, after judicial personnel fled in 2013. In addition, threats against and harassment of the opposition have considerably weakened judicial independence.⁵⁹

50 "Assessment Mission by the Office of the United Nations High Commissioner" (A/HRC/31/CRP.6), Part 1: II: D, Art. 2. §62.

51 *Ibid.*, Part 2: IV: F, §178-180.

52 *Ibid.*, Part 3: VI: C, §340.

53 "Annual Report: South Sudan 2016/2017".

54 "South Sudan", The East and Horn of Africa Human Rights Defenders Project (DefendDefenders).

55 "Assessment Mission by the Office of the United Nations High Commissioner" (A/HRC/31/CRP.6), Part 1: I: C, Art. 1. §31.

56 *Ibid.*, Part 1: II: D, Art. 2. §61.

57 *Ibid.*, Part 3: VII: B, Art. 1. §375-376.

58 "Annual Report: South Sudan 2016/2017".

59 "Assessment Mission by the Office of the United Nations High Commissioner" (A/HRC/31/CRP.6), Part 2: IV: F, §181.

South Sudan's long legacy of sexual and gender-based violence, perpetrated by government forces as well as individuals and groups, is a result of the weak rule of law. Women are often denied access to justice; the rule of law fails to hold perpetrators to account. In such a structure, characterised by widespread discrimination against women and weakened rule of law, the cycle of violence against women continues with impunity and without change.⁶⁰

THE RIGHT TO FREEDOM OF EXPRESSION

Since independence, violations of the right to freedom of expression as well as arbitrary arrests, killings and enforced disappearances of journalists, media workers and members of opposition groups have been systematic and widespread in South Sudan. In particular, the National Security Service has been involved in spreading fear by suffocating public debate.⁶¹ These attacks on freedom of expression, opinion and assembly, as well as the arbitrary detention of journalists and opposition members, constitute grave violations of the state's obligations under both international human rights law and national legislation, including provisions in the Transitional Constitution.⁶² As a result, many media outlets have chosen self-censorship.⁶³

In 2013, South Sudan passed three laws to regulate the media: the Media Authority Act, the Right to Access to Information Act, and the Broadcasting Corporation Act. However, none of these laws have yet been implemented. Instead, the president continues the crackdown on freedom of expression.⁶⁴ In 2014, he stated that "the freedom of press does not mean that you work against your country. And if anybody among them does not know this country has killed people, we will demonstrate it one day on them [sic]"⁶⁵ In August, journalist Peter Julius Moi was murdered. Another journalist, Clement Lochio, was last seen in a military detention centre before being forcefully disappeared.⁶⁶

Since the outbreak of civil war, cases of attacks and harassment have been reported in high numbers. Media outlets have been closed down, newspapers and media

equipment have been confiscated, and journalists have reportedly been detained, tortured and murdered.⁶⁷ The UN reports that **at least seven journalists were killed in 2015**; none of the incidents have yet been investigated. In late December 2015, Joseph Afendi, journalist and editor of the El Tebeer newspaper, was arbitrarily detained for writing a critical article about the People's Liberation Movement. He was released two months later, without charge. In March 2016, Afendi was kidnapped and tortured by unknown men, and found four days later in a graveyard with burn and torture marks on his body.⁶⁸

The systematic harassment of journalists continued during 2016. Between January and March, at least five journalists and HRDs were arbitrarily detained. Most of them were subjected to torture and inhumane treatment during their detention. In July 2016, the journalist John Galuak was brutally murdered in a hotel in Juba because of his work and ethnicity.⁶⁹ In addition, at least five media outlets were shut down. This suggests that South Sudan is now one of the most dangerous countries for civil society and journalists in the Sub-Saharan region.⁷⁰

THE RIGHT TO FREEDOM OF ASSEMBLY AND ASSOCIATION

The right to freedom of peaceful assembly is protected under the Transitional Constitution of South Sudan. However, it is poorly implemented at both state and national levels. The National Security Service threatens and harasses civil society actors who gather to combat human rights violations in the country.⁷¹ On 28 November 2015, the NSS arrested and detained 14 civil society actors in Wau, Western Bahr el-Ghazal State. They had gathered to hold a press conference about the security situation in the country. The state governor accused the activists of supporting the opposition and threatened to take legal action against them.⁷²

In February 2015, the NSS shut down the elections for the South Sudan Bar Association in Wau and Juba. The association was accused of going ahead with the elec-

60 Ibid., Part 1: III: D, Art. 12. §136.

61 Ibid., Part 2: IV: E. §170.

62 Ibid., Part 3: VI: K. §357.

63 "Increased Violence in South Sudan".

64 "South Sudan", The East and Horn of Africa Human Rights Defenders Project (DefendDefenders).

65 "Assessment Mission by the Office of the United Nations High Commissioner" (A/HRC/31/CRP.6), Part 2: IV: E. §172-173.

66 "South Sudan", Human Rights Watch.

67 "Assessment Mission by the Office of the United Nations High Commissioner" (A/HRC/31/CRP.6), Part 2: IV: E. §171.

68 "South Sudan", The East and Horn of Africa Human Rights Defenders Project (DefendDefenders).

69 "Increased violence in South Sudan".

70 "South Sudan: DefendDefenders Condemns Recent Increase in Detention and Torture of Journalists and HRDs", The East and Horn of Africa Human Rights Defenders Project (DefendDefenders), 9 March 2016. <<https://www.defenddefenders.org/2016/03/south-sudan-defenddefenders-condemns-recent-increase-detention-torture-journalists-hrds/>>

71 "South Sudan", The East and Horn of Africa Human Rights Defenders Project (DefendDefenders).

72 "Assessment Mission by the Office of the United Nations High Commissioner" (A/HRC/31/CRP.6), Part 2: IV: E. §177.

tions without advance permission from the NSS.⁷³ At least three civil society actors were reportedly subjected to torture. In October the same year, a professor at the University of Juba, Dr Luka Biong Deng, was dismissed from his position and forced to leave the country after trying to organise an event about the government's plan to create 28 states. The president openly condemned the event.⁷⁴

The repression has continued. On 10 February 2016, the president signed into law the NGO Bill and the Bill on the Relief and Rehabilitation Commission. These could have a major impact on the ability of civil society and NGOs to conduct their work effectively and provide assistance to their clients. Among other things, the NGO Act imposes substantial fines and up to three year's imprisonment for those who, according to the government, make false statements about the law. In addition, it forces NGOs to seek written approval prior to engaging in any new activities. According to the law, NGO staff must be 80% South Sudanese. This is highly problematic, as NGOs in South Sudan generally struggle to find qualified personnel who can undertake missions dealing with the humanitarian crisis in the country.⁷⁵

THE RIGHT TO PROTECTION AGAINST DISCRIMINATION

South Sudan is a highly patriarchal and militarised society, where women's roles are largely defined by their relationships to male relatives and community members. Women and girls have no say in decisions about their

marriages; child and early marriages are still common. These have led to a high number of illiterate and a low number of educated girls and women, which further delimits the active roles they are able to play in South Sudanese society. In many cases, women are abused, harassed and intimidated by their spouses, with little to no recourse to preventative or remedial action.⁷⁶ Rape, sexual assault, abduction of women and girls, and sexual slavery have been documented in all conflict-affected regions.⁷⁷ Attacks are only rarely reported, not least because women who have suffered sexual violence often are subjected to stigma within their own communities.⁷⁸

Ethnic discrimination is widespread in South Sudan. The different ethnicities and nationalities are often targeted by government or armed opposition forces. Nuer, Dinka, Shilluk and Darfuri are targets for violence and retaliatory attacks.⁷⁹ In addition, the involvement of external ethnic military and other armed groups, who support either of the two opposing sides in the conflict, has had severe effects on the humanitarian situation in the country, not least for ethnic minorities who are prime targets.⁸⁰

LGBT persons in South Sudan face major challenges and restrictions on their rights. Legislation has been repressive since the constitution was accepted in 2011. "Homosexual activity" is currently illegal and can lead to a punishment of ten years in prison. The country has no protective legislation for LGBT rights, against for example employment and housing discrimination. Furthermore, LGBT persons are banned from donating blood, serving in the military and adopting children.⁸¹

5. CONCLUSION AND RECOMMENDATIONS

South Sudan is at a critical junction, where the peaceful survival of the nation is hanging in the balance. Because of the ongoing armed conflict, the safety and security of its citizens are deteriorating by the day. The fundamental rights of the South Sudanese people are routinely violated without any legal consequences. Delivering humanitarian aid in time, to more than a third of the country's population at risk for famine, has proven to be an insurmountable task in the middle of a security crisis. Every day that passes without a cessation of hostilities among warring parties brings more misery to the

people of South Sudan. The human cost of the prevailing conflict, if not resolved immediately, will reach a point beyond which the country can no longer sustain itself. The misery, death and displacement of people are rapidly consuming the social, political and economic capital of the new nation.

The most fundamental rights of all – the rights to life and personal integrity – are under attack from state and other actors across the country. Government officials and agencies are widely accused of inciting and engag-

73 "South Sudan", Human Rights Watch.

74 "South Sudan", The East and Horn of Africa Human Rights Defenders Project (DefendDefenders).

75 Ibid.

76 "Assessment Mission by the Office of the United Nations High Commissioner" (A/HRC/31/CRP.6), Part 1: III: D, Art. 12. §131-132.

77 Ibid., §161.

78 Ibid., Part 1: III: D, Art. 12. §164.

79 Ibid., Part 3: VI: E. §344.

80 "The State of Human Rights in the Protracted Conflict in South Sudan", p. 24.

81 "LGBT Rights in South Sudan", Equaldex, 2017. <<http://www.equaldex.com/region/south-sudan>>

ing in violence against civilians. Their armed rivals are also complicit in the retaliatory attacks and extrajudicial killings of civilians from particular ethnic groups or with certain political views.

The UN Panel of Experts on South Sudan has noted that the environment in which civil society actors operate “has narrowed considerably as a result of the policies and actions of SPLM/A in government”.⁸² Some local civil society organisations have been threatened with having their registration renewal denied. The pressure against vocal human right defenders is increasing.

Considering these complex and alarming conditions in South Sudan, Civil Rights Defenders forwards the following recommendations to the Government of South Sudan (GoSS), factions within the SPLM/A and beyond, and other regional and international stakeholders. The recommendations are first and foremost aimed at improving the human rights situation in South Sudan.

In order to stop the current downward spiral, Civil Rights Defenders calls on the Government of South Sudan to:

1. Renew its commitment to the full implementation of the 2015 Peace Agreement. The government has a duty to mobilise public support and government resources to ensure the implementation of the peace agreement. Officials and agencies should be instructed to execute their work in the spirit of the agreement;
2. Introduce political and institutional reforms as envisioned in the peace agreement as soon as possible. Any delay in making these reforms will cost the country dearly;
3. Start investigating grave human rights violations and begin the process of reconciliation as envisioned in the 2015 Peace Agreement, while involving civil society and human rights defenders in the undertaking;
4. Refrain from taking measures that contradict the peace agreement and may aggravate the country's fragile condition further, such as the restructuring of administrative regions;
5. Stop muzzling independent civil society as well as harassing and attacking human rights defenders and humanitarian workers.

The situation forced a large number of institutions to involve, monitor and issue warnings and recommendations. Stakeholders need to heed the ideas and recommendations forwarded by the UN Security Council, Human Rights Council, and the African Union. The partial list of these recommendations are summarised in the Appendix.

Civil Rights Defenders calls on all factions, including the SPLM/A-in Government (SPLMA-iG), SPLM/A-in Opposition (SPLMA-iO) and other armed groups to:

1. Immediately cease the use of violence as a means of settling political differences;
2. Immediately stop retaliatory attacks against perceived enemies, whether based on ethnic or political differences;
3. De-escalate political and ethnic animosity in all forms, and control armed and unarmed supporters under their influence;
4. Stop targeting civilians, displaced peoples, civil society, human rights defenders and journalists;
5. Work together to prioritise the survival of the people over partisan political objectives, in order to avoid the possibility of a power vacuum that South Sudan cannot afford.

Civil Rights Defenders calls on the Intergovernmental Authority on Development (IGAD) and its member countries to:

1. Keep fulfilling their commendable roles in brokering and saving the peace agreement;
2. Encourage and pressure warring parties to implement the peace agreement as well as recommendations from the AU, the UN Human Rights Council and the UN Security Council, among which the Joint Monitoring and Evaluation Commission (JMEC) is critical;
3. Control the flow of weapons to and from South Sudan through their borders and support the implementation of UN sanctions to the same effect;
4. Keep sheltering South Sudanese refugees displaced by the conflict and offering protection for human rights defenders whose security may be threatened by the warring parties.

Civil Rights Defenders calls on the African Union (AU), European Union (EU), UN agencies, and the Troika (United States, United Kingdom and Norway) to:

1. Exert the maximum pressure they can garner on major warring parties in South Sudan to prevent the looming tragedy, stop the bloodshed and save the 2015 Peace Agreement;
2. Provide support for the rebuilding and reform of key institutions that are indispensable to stopping the conflict and starting a political process as outlined in the peace agreement;
3. Mobilise resources to ease the economic and humanitarian crisis in South Sudan that could potentially foment the conflict further;
4. Offer protection and support to civil society and human rights defenders at risk whose working environment is crumbling as the conflict expands.

82 “Interim Report of the Panel of Experts on South Sudan”.

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ANNEX 1:

INTERNATIONAL AND REGIONAL HUMAN RIGHTS TREATIES RATIFIED BY SOUTH SUDAN (MARCH 2017)

No	Treaty	Date of last signature	Date of ratification
1	Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (CAT)	...	30 April 2015
2	Optional Protocol of the Convention against Torture (CAT-OP)	...	30 April 2015
3	Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)	...	30 April 2015
4	Convention on the Rights of the Child (CRC)	...	30 April 2015
5	African Charter on Human and Peoples' Rights	May 19 2016	October 21 1986
6	OAU Convention Governing the Specific Aspects of Refugee Problems in Africa	May 19 2016	January 20 1974
7	African Charter on Democracy, Elections and Governance	April 13 2015	February 15 2012

INTERNATIONAL HUMAN RIGHTS TREATIES NOT RATIFIED BY SOUTH SUDAN (MARCH 2017)

No	Treaty	Signature date	Date of ratification
1	International Covenant on Civil and Political Rights (ICCPR)	...	...
2	International Covenant on Economic, Social, and Cultural Rights (ICESCR)	...	...
3	International Convention on the Elimination of All Forms of Racial Discrimination	...	...
4	International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families	...	...
5	International Convention on the Rights of Persons with Disabilities	...	...
6	International Convention on Freedom of Association and Protection of the Right to Organise	...	...
7	International Convention for the Protection of all Persons from Enforced Disappearance	...	...

ANNEX 2:

RELEVANT UNIVERSAL PERIODIC REVIEW (UPR) RECOMMENDATIONS SUPPORTED BY SOUTH SUDAN

No	Recommendations	Recommending States
From the first UPR in 2016		
1	Make every effort to preserve the climate of peace achieved by the Comprehensive Peace Agreement during the six years of transition	Djibouti
2	Continue to work with regional and international partners to ensure amicable solutions to remaining post-referendum issues	Ethiopia
3	Remain committed to negotiations to resolve pending areas of disagreement	Syria
4	Continue negotiations to reach agreement on pending issues such as border and natural resources	Lebanon
5	Continue negotiations with a view to peacefully settling the remaining stipulations of the CPA, particularly with regard to issues like border demarcation, foreign debts, oil and water sharing and citizenship, with the understanding that nobody will be stateless	Somalia
6	Maintain the peaceful atmosphere that was created by the Comprehensive Peace Agreement throughout the six years of the transitional period, by taking measures to reduce tension and all parties should refrain from taking any unilateral steps that would undermine the purpose of the Agreement	Somalia
7	Guarantee the human rights of citizens under the new Constitutions and establish effective mechanisms to ensure these are respected, including through the establishment of a national human rights institution in line with the Paris Principles	United Kingdom
8	Draft their Constitutions in an inclusive process with the participation of civil society, women and minorities. Also, ensure that the new Constitutions include a catalogue of human rights, in particular the freedom of speech and assembly, and take the multiethnic and multireligious background of their population into account	Austria
9	Strengthen cooperation with all the mechanisms of this Council	Austria
10	Cooperate in the follow-up to this review	Austria
11	Bring all constitutional provisions and relevant laws into line with the CPA and international obligations	Norway
12	Continue to fully cooperate with the Independent Expert on the situation of human rights in Sudan	France
13	Strengthen the capacity to adequately protect and promote human rights in cooperation with OHCHR	Norway
14	Consider establishing national human rights institutions in compliance with the Paris Principles	India
15	Ratify, without limiting reservations, the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol	Austria
16	Ratify the Protocol to the African Charter on Human and Peoples Rights on the Rights of Women in Africa	Austria

No	Recommendations	Recommending States
From the first UPR in 2016		
17	Repeal all laws that discriminate against women	Austria
18	Ensure that after independence, no one will be discriminated against because of their origin from the other State, respectively	Austria
19	Establish a moratorium on executions with a view to the definitive abolition of the death penalty	France
20	Adhere to the Convention against Torture and its Optional Protocol and to the International Convention for the Protection of All Persons from Enforced Disappearance	France
21	Respect the rights to freedom of expression, association and assembly by allowing human rights defenders, political dissidents and journalists to express their views freely in line with international human rights law	United Kingdom
22	Strengthen awareness of and respect for human rights within the armed forces, police and judiciary	Norway
23	Take concrete steps to ensure freedom of the media and investigate any intimidation and arbitrary detention of journalists and human rights defenders with a view to bringing such practices to an end	Norway
24	Complete its transition from a militarized society to a democratic system based on the rule of law under civilian rule	Norway
25	Increase the efforts in the field of civil protection in the transition period	Norway
26	Adopt legislation and measures to allow the free practice of religions in Sudan and in South Sudan	Lebanon
27	Foresee measures that would guarantee the right to their religions to groups that will become minorities in both countries after the birth of the new State, namely Muslims in South Sudan and non-Muslims in (north) Sudan	Somalia
28	Appeal to the international community to take individual and collective initiatives to exempt the debts of Sudan	Somalia
29	Consider measures aimed at ensuring freedom of religion for groups which will become minorities in the two countries after the emergence of the new State	Djibouti
30	In light of exceptional circumstances, appeal to the international community for its consent to cancelling Sudan's debt, which would constitute remarkable progress towards achievement of the Millennium Development Goals, ensure conditions of an equitable economic development and have a positive impact on the enjoyment of human rights for millions of Sudanese	Djibouti
31	Adhere to the Convention on the Rights of the Child and its two Optional Protocols and endorse the Paris Commitments to protect children from unlawful recruitment or use by armed forces or armed groups	France
31	To South Sudan to establish a moratorium on executions with a view to abolishing the death penalty	Italy

ANNEX 3:

SECURITY COUNCIL RESOLUTIONS ON SOUTH SUDAN

Date		
16-dec-16	Resolution 2327: This extended the mandate of UNMISS for one year and reauthorised the Regional Protection Force.	S/RES/2327 (2016)
15-dec-16	Resolution 2326: This was a one-day technical rollover of the UNMISS mandate.	S/RES/2326 (2016)
12-aug-16	Resolution 2304 : This resolution authorised the Regional Protection Force.	S/RES/2304 (2016)
29-juli-16	Resolution 2302: This was a technical rollover, renewing the UNMISS mandate until 12 August 2016.	S/RES/2302 (2016)
31-maj-16	Resolution 2290: This was on the human rights situation in South Sudan from 15 August to 15 December 2014.	S/RES/2290 (2016)
31-maj-16	Resolution 2280: This resolution renewed the targeted sanctions until 31 May 2017.	S/RES/2290 (2016)
07-apr-16	Resolution 2280: This was a technical rollover resolution renewing the mandate of the South Sudan sanctions regime until 1 June.	S/RES/2280 (2016)
15-dec-15	Resolution 2252: This resolution increased the force structure of UNMISS to a ceiling of 13,000 troops and 2,001 police, while adding additional tasks to the mandate.	S/RES/2252 (2015)
09-okt-15	Resolution 2241: This was a resolution adjusting the mandate of UNMISS to support implementation of the “Agreement on the Resolution of the Conflict in the Republic of South Sudan”. The vote was 13 in favour with two abstentions from Russia and Venezuela.	S/RES/2241 (2015)
28-maj-15	Resolution 2223: This was a resolution renewing the mandate of UNMISS for six months.	S/RES/2223 (2015)
03-mars-15	Resolution 2206: This was a resolution creating a sanctions regime for South Sudan.	S/RES/2206 (2015)
25-nov-14	Resolution 2187: This was a resolution renewing the mandate of UNMISS for an additional six months.	S/RES/2187 (2014)
27-maj-14	Resolution 2155: This resolution revised the mandate of UNMISS to focus on protection of civilians, facilitation of humanitarian access and human rights verification and monitoring.	S/RES/2155 (2014)
24-dec-13	Resolution 2132: This was the resolution that increased the military and police capacity of UNMISS.	S/RES/2132 (2013)
11-juli-13	Resolution 2109: This resolution extended the mandate of UNMISS until 15 July 2014.	S/RES/2109 (2013)
05-juli-12	Resolution 2057: Renewed UNMISS through 15 July 2013.	S/RES/2057 (2012)
13-juli-11	Resolution 1999: This resolution recommended that South Sudan be admitted as a member of the UN.	S/RES/1999 (2011)
08-juli-11	Resolution 1996: This resolution established the UN Mission in South Sudan (UNMISS).	S/RES/1996 (2011)

ANNEX 4:

AFRICAN UNION COMMISSION OF INQUIRY ON SOUTH SUDAN (AUCISS)

	Findings	Recommendations
National and State Executive	The Transitional Constitution establishes a powerful Presidency and while the text of the constitution affirms the doctrine of separation of powers, several factors (including weak legislature, lack of commitment to separation of powers and independence of the judiciary and structural links between the legislature and the executive) result in an overly powerful executive.	The Commission recommends that the future Constitution should establish a well- balanced system of separation of powers with adequate checks and balances. This should be achieved through: empowering and strengthening the capacity of the legislatures at both levels of government; subjecting major executive appointments to legislative approval; strengthening the judiciary (ensuring structural and financial independence from the political branches) and adherence to separation of powers, cultivating a culture of respect for judicial independence and rule of law.
National and State Executive	The Commission found that the fact that the President has the power to remove some state officials, often without proper controls, is one cause of instability.	The Commission recommends that the process of removal of the Vice President should follow the process of appointment of the Vice President and should be subject to the same conditions.
Civil Society and the Media	The role of civil society as part of the process of engineering a new South Sudan as the country moves forward is key. It was established that during the conflict of the past two decades, civil society, comprised variously of non- governmental organisations, religious groups and charitable organisations, occupying the space between the state and the individual, have worked to fill the lacunae of government in providing both essential and pastoral services to most communities in the area that is now South Sudan. Their role has remained crucial in the newly independent country, particularly in galvanizing citizen' participation in various peace processes. It is therefore inevitable that they are a part of the process of any institutional reforms that will set the basis for healing and reconciliation.	While the government has a right to regulate the space within which civil society operates, it should eliminate rules and practices that impede free operations of civil society organisations and to refrain from alleged harassment of civil society leaders.
Civil Society and the Media	The Commission also finds that the media plays a critical role in holding government to account, facilitating political participation in multiparty democracies through the provision of information, educating the public particularly in a context of high levels of illiteracy and where the majority of the lives in hard to access rural areas. However, the media operates in an increasingly challenging environment where debate has been stifled, particularly as it relates to matters considered contentious by the government.	The Commission recommends that the government respects freedom of expression and of the media enshrined in the Transitional Constitution and to remove any restrictive rules, procedures and practices that impede the enjoyment of these rights.
Violations of Human Rights and Other Abuses	The Commission found cases of sexual and gender based violence committed by both parties against women. It also documented extreme cruelty exercised through mutilation of bodies, burning of bodies, draining human blood from people who had just been killed and forcing others from one ethnic community to drink the blood or eat burnt human flesh. Such claims were registered during interviews of witnesses of crimes committed in Juba. Elsewhere, witnesses of crimes committed in Bor Town, also provided evidence of brutal killings and cruel mutilations of dead bodies. In Malakal town, reports of abduction and disappearance of women from churches and the hospital where communities had sought refuge during the hostilities that began in December 2013 were rife. In Unity State, Bentiu, the capital has been the focus of much of the fighting, having changed hands several times between government and opposition soldiers during the course of the conflict. Bentiu town is largely destroyed. In Leer county, the Commission heard testimony of civilians, including children and teenagers killed, houses, farms and cattle burned, and of sexual violence.	Based on the central role played by customary justice in facilitating access to justice in South Sudan, and the views expressed by South Sudanese that this institution must play a role in reconciliation at community level, the Commission recommends that an appropriate role should be fashioned for traditional justice and conflict resolution mechanisms, to be established in relationship with formal accountability processes as well as the peace and the national healing, peace and reconciliation. The Rwandan experience with Gacaca could be instructive. The Commission therefore recommends the creation of a national reparations fund and programme linked appropriately to these traditional justice mechanisms, to benefit victims of gross human rights violations. Eligibility for reparative measures undertaken (including rehabilitation and psychosocial assistance should not be limited to the period to which the Commission's mandate relates (from December 15, 2013) but can include victims of past human rights violations. While certain elements, particularly psychosocial assistance and other appropriate forms of interim reparations should be implemented immediately the broader reparations programme can be linked to the work of a future Truth Commission.



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