



## THE SITUATION OF HUMAN RIGHTS DEFENDERS

# SOUTH SUDAN

UPR Briefing Paper - March 2016

In its last Universal Periodic Review in May 2011, South Sudan (then referred to as 'Southern Sudan', a region in Sudan)<sup>1</sup> received two recommendations specific to human rights defenders (HRDs) and a number of recommendations seeking that the Government guarantee the rights to freedom of association, freedom of the press, opinion and expression. Out of 33 recommendations, Southern Sudan accepted four - including a recommendation to transition from a militarised to a democratic society and increase efforts to protect civilians in the transition period. However, five years on South Sudan has failed to transition into a democratic State. Military rule undermines human rights and ultimately poses a great threat to HRDs and their activities. In response to the deteriorating human rights situation in the country, in 2013 the African Commission for Human and Peoples' rights established the Commission of Inquiry on South Sudan.<sup>2</sup> A report by the Commission of Inquiry expresses grave concern about human rights violations, repression of media and civil society organisations, and calls for respect for the independence of the judiciary.<sup>3</sup> Moreover, the recent report by the UN Office of the High Commissioner for Human Rights illustrates the serious deterioration of human rights in the country which puts HRDs in greater risk.<sup>4</sup>

### RISKS FACING HUMAN RIGHT DEFENDERS

- Defenders face torture and inhumane, degrading treatment. In September 2012 security forces beat peace activist and entertainer Emmanuel Jal unconscious after he stopped his car to ask for directions.<sup>5</sup>
- Journalists are harassed and detained. According to Human Rights Watch, there were numerous reports in 2014 of the South Sudanese Government clamping down and unlawfully restricting the right to freedom of expression of journalists and HRDs by detaining and harassing them through the National Security Service.<sup>6</sup>
- The 2014 ACHPR Commission of Inquiry report noted that the media operates in a difficult environment. Debate is stifled, especially on matters considered contentious by the Government.<sup>7</sup>
- Journalists continue to face harassment and even death. In 2015, at least seven journalists died in South Sudan. One of these was New Nations' journalist Peter Julius Moi, who was shot twice in the back on 19 August 2015. Media and Cooperation in Transition allege that his death was a targeted and intentional attack given that the gunmen did not take his phone or wallet.<sup>8</sup> Radio Tamazuj reported that the President of South Sudan has made public

oral threats directed towards journalists, stating that: 'Freedom of the press does not mean you work against the country. And if anybody among them does not know that this country has killed people, we will demonstrate it one day on them'.<sup>9</sup> Peter Moi was the first journalist to be killed after the President's press conference in Ethiopia at which this statement was made.<sup>10</sup>

- According to the United Nations Mission in South Sudan (UNMISS), in 2015 civilians and HRDs residing in Unity State and Upper Nile State continue to experience widespread killings, forced disappearances and forced displacement.<sup>11</sup>

### OFFICIAL RESTRICTIONS ON THE SPACE OF HUMAN RIGHTS DEFENDERS

- Two restrictive laws were recently passed in South Sudan, namely the Non-Governmental Organisations Bill (NGO Bill) and the Relief and Rehabilitation Commission Bill, which both passed through Parliament in February 2016.<sup>12</sup>
- Reports from the Sudan Tribune highlight comments made by countries of the European Union that the NGO Bill will result in unwarranted Government supervision and excessive force being used on protesters, thus hindering the activities of HRDs.<sup>13</sup>

- The International Center for Not-for-Profit Law alleges that the Relief and Rehabilitation Commission Bill will undermine the effectiveness of humanitarian agencies and international NGOs seeking to protect and promote human rights in South Sudan through new regulatory measures. These are reported to include: imposing local managerial staffing requirements; removing appeal rights for NGOs who have been deregistered; significantly increasing fines for contraventions of the law; and a requirement that NGOs seek written approval to carry out work not specifically within the scope of work for which they are registered.<sup>14</sup>
- The International Center for Not-for-Profit Law has also raised concerns about three media bills: the Broadcasting Corporation Act 2013, the Media Authority Act 2013 and the Right of Access to Information Act 2013.<sup>15</sup> These were approved in September 2013, yet only signed in 2014. The time lag has raised questions as to whether changes have been made to the laws in the period when the documents were not public. Further, the ambiguity of the status of these laws during this period saw journalists and HRDs being subjected to human rights violation by the Security Services.<sup>16</sup>

### INTIMIDATION AND REPRISALS AGAINST DEFENDERS ACCESSING INTERNATIONAL HUMAN RIGHTS MECHANISMS

- Mr Edmund Yakani, is a nationally and internationally visible activist working South Sudan, and the coordinator of Community Empowerment for Progress Organisation (CEPO). Mr Yakani was invited to attend the 27<sup>th</sup> session of the UN Human Rights Council in Geneva in September 2014. However, Mr Yakani was informed by State agents that he was banned from flying to Ethiopia, where he was required to travel to process his visa. Mr Yakani also received threatening phone calls and text messages from individuals presenting themselves as National Security Service agents. In some cases, representatives from the East and Horn of Africa Human Rights Defender Project were present to witness the threats Mr Yakani received. In one phone call, he was told, 'if you go to the airport, you will be arrested'.
- Determined to attend the Council session, Mr Yakani attempted to check in at Juba Airport, where his passport was confiscated and he was detained and interrogated before being released. He was

eventually allowed to board his flight to Geneva and managed to attend the 27<sup>th</sup> Human Rights Council session.

- He spoke to the Council during the scheduled Panel Discussion on South Sudan, where he briefed diplomats on the human rights situation in South Sudan, and participated as a panellist in a major joint side event organised by a coalition of NGOs working in Geneva.<sup>17</sup>

### HUMAN RIGHTS DEFENDERS FACING PARTICULAR RISKS

- Journalists are particularly vulnerable to threats, harassment and death.<sup>18</sup>
- The East and Horn of Africa Human Rights Defenders Project has reported that HRDs and journalists frequently undergo harassment, intimidation, arbitrary arrests and assassinations for attempting to bring light to abuses perpetrated by the National Security Services.<sup>19</sup>
- 14 civil society members and HRDs were arrested on 28 December 2015 in Wau, South Sudan, by the National Security Services for holding a press conference on the security environment in South Sudan. While there were no official charges against those arrested, they were accused of bringing public dishonour to the State Government.<sup>20</sup> Of those arrested, three defenders were subjected to torture and ill treatment.<sup>21</sup>

### THE RESPONSE OF THE STATE REGARDING THE PROTECTION OF HUMAN RIGHTS DEFENDERS

- South Sudan continues to suffer from weak and fragile State institutions. The fact that they are under equipped results in prolonged detentions without trial and effective due legal process.<sup>22</sup>
- According to UNMISS, it is challenging to administer justice in South Sudan as there is no capacity to impartially and independently investigate human rights violations. As a consequence there is an absence of free trial and defenders are constantly ill-treated.<sup>23</sup>
- The UNMISS reported that the South Sudan Government continues to fail to adhere to international human rights standards particularly with regards to arrest, detention and trial of citizens especially human rights defenders.<sup>24</sup>

### RECOMMENDATIONS TO THE GOVERNMENT OF SOUTH SUDAN

- Combat impunity by ensuring the prompt, thorough and impartial investigation of all violations against HRDs, the prosecution of perpetrators (including members of the National Security Services), and access to effective remedies for victims.
- Develop and enact specific laws and policies to recognise and protect the work of HRDs and which give full force and effect to the international Declaration on Human Rights Defenders at the national level.
- Cease impeding the right to freedom of expression, including the harassment and censorship of the media and civil society, detention of journalists, and the issuing of orders to suspend publications or seize newspapers.
- Review and implement the Broadcasting Corporation Act 2013, the Media Authority Act 2013 and the Right of Access to Information Act 2013 in accordance with international human rights law, and protect independent media as guaranteed under the Transitional Constitution and international human rights law; in doing so take into account the United Nations Plan of Action on the Safety of Journalists and the Issue of Impunity.

- Ensure the Non-governmental Organisations Bill is reviewed and amended, including through a process of public consultation that ensures that such legislation complies with international human rights law in respect of the independence, resourcing and regulation of NGO activities.<sup>25</sup>
- Adhere to the commitment to protecting and promoting HRDs in South Sudan demonstrated by the vote in favour of General Assembly Resolution on HRDs, 'Recognising the role of human rights defenders and the need for their protection' in December 2015.
- Guarantee the right of safe and unhindered access to international human rights mechanisms and condemn and punish acts of intimidation and reprisals against HRDs who engage with the UN and regional human rights bodies.
- South Sudan must end the overt and systemic State sanctioned crackdown on HRDs, journalists, civil society, and immediately implement the latest OHCHR recommendation to respect and promote the role of civil society, including by ensuring that freedoms of opinion and expression and of peaceful assembly are guaranteed and ensure the protection of HRDs and journalists.

1. South Sudan formally became independent from Sudan on 9 July 2011 following a referendum that passed with 98% of the vote. <http://www.un.org/en/peacekeeping/missions/past/unmis/referendum.shtml>

2. <http://www.peaceau.org/uploads/auciss.final.report.pdf>

3. Ibid.

4. [http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session31/Documents/A-HRC-31-CRP-6\\_en.doc#sthash.yr1ErRT.dpuf](http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session31/Documents/A-HRC-31-CRP-6_en.doc#sthash.yr1ErRT.dpuf)

5. <http://blogs.voanews.com/music-time-in-africa/2012/09/18/emmanuel-jal-upbeat-about-peace-despite-police-beating/>

6. <https://www.hrw.org/news/2014/07/31/south-sudan-end-media-restrictions>

7. <http://www.peaceau.org/uploads/auciss.final.report.pdf>

8. <http://genprogress.org/voices/2015/08/28/39325/south-sudanese-president-threatens-lives-of-journalists-criticizing-government/>; <http://www.mict-international.org/projects/mourning-peter-julius-moi/>

9. <https://radiotamazuj.org/en/article/kiir-threatens-kill-journalists-working-against-country>

10. Supra, No. 9

11. [http://www.ohchr.org/Documents/Countries/SS/UNMISS\\_HRD4December2015.pdf](http://www.ohchr.org/Documents/Countries/SS/UNMISS_HRD4December2015.pdf)

12. <https://radiotamazuj.org/en/article/eu-peace-deal-requires-review-ngo-bill> accessed: 21 March 2016 citing the joint statement of the Heads of Mission of the European Union Delegation in South Sudan

13. <http://www.sudantribune.com/spip.php?article57923>

14. <http://www.icnl.org/research/monitor/southsudan.html>

15. Ibid

16. Ibid

17. <https://www.defenddefenders.org/wp-content/uploads/2014/12/South-Sudan-2014-Report.pdf>

18. A/HRC/31/CRP.6, 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 Para. 27, p. 10. <http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session31/Pages/ListReports.aspx>

19. <https://www.defenddefenders.org/2016/03/south-sudan-defenddefenders-condemns-recent-increase-detention-torture-journalists-hrds/>

20. A/HRC/31/CRP.6, 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 Para. 177, p. 41. <http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session31/Pages/ListReports.aspx>

21. Ibid

22. A/HRC/31/CRP.6, 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 See 'Capacity and competence of the judicial system' pp 80-3, para. 376. <http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session31/Pages/ListReports.aspx>

23. [http://www.ohchr.org/Documents/Countries/SS/UNMISS\\_HRD4December2015.pdf](http://www.ohchr.org/Documents/Countries/SS/UNMISS_HRD4December2015.pdf)

24. Ibid, p28

25. <http://www.sudantribune.com/spip.php?article57923>

### ABOUT THIS BRIEFING PAPER

ISHR encourage States to consult UPR submissions by local activists as well as to make a recommendation to South Sudan regarding the protection of HRDs. ISHR suggest readers consult the sources cited for further information. For further information on South Sudan's UPR, contact Clement Voulé at [c.voule@ishr.ch](mailto:c.voule@ishr.ch).

For more information about our work or any of the issues covered in this publication, please visit our website:

[www.ishr.ch](http://www.ishr.ch)

or contact us:

[information@ishr.ch](mailto:information@ishr.ch)



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#### **GENEVA OFFICE**

Rue de Varembeé 1, 5th floor  
PO Box 16  
CH-1211 Geneva 20, CH  
Switzerland

#### **NEW YORK OFFICE**

777 UN Plaza, 8th floor  
New York, NY 10017  
USA