

Universal Periodic Review of the Republic of South Sudan
Stakeholders' Submission to the Human Rights Council

Second cycle 23rd February 2016 24th Session (October-November 2016)

State under Review: Republic of South Sudan

Report submitted by:

The Child Rights Civil Society Coalition – Republic of South Sudan



Members of the Child Rights Civil Society Coalition – South Sudan

ACDF - Agency for Children's Development Foundation

ADCORD - Advocate Coalition for Rights and Development

CADA - Community Agribusiness Development Agency

CAN - Community Advocacy Network

CRCSC - Child Rights Civil Society Coalition

DARD - Disabled Association for Rehabilitation

FYI - Foundation for Youth Initiative

HC – Hold the Child

HRSS - Hope Restoration South Sudan

IDO - Indigent Development Organization

PWAD - Pita Women Association for Development

SCYMI – Sudanese Christian Youth Ministry International

TOCH - The Organization for Children Harmony

The submission was prepared with the support of Save the Children.

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Introduction to the Report and Methodology

1. This report has been prepared by Child Rights Civil Society Coalition (CRCSC), Agency for Children’s Development Foundation (ACDF), Advocate Coalition for Rights and Development (ADCORD), Community Agribusiness Development Agency (CADA) Community Advocacy Network (CAN), Disabled Association for Rehabilitation (DARD), Foundation for Youth Initiative (FYI), Hold the Child (HC), Hope Restoration South Sudan (HRSS), Indigent Development Organization (IDO), Pita Women Association for Development (PWAD), Sudanese Christian Youth Ministry International (SCYMI), and TOCH - The Organization for Community Harmony with the support of Save the Children. 14 organizations that are involved in the promotion and protection of child rights in South Sudan participated in the consultation process, sharing experiences from their own work with children and communities as well as research and advocacy activities at the national and international levels. The methodology for the drafting of this report has been participatory and involved consultations with other stakeholders in the country as well as a two-day workshop with 12 members of the Child Rights Civil Society Coalition. Voices of children have been sourced from previous reports where participatory methods have been used, such as “Hear it From The Children”¹.
2. This submission focuses on four key child rights issues:
 - I. Legal and Policy Framework
 - II. Access to quality social services: health, education and social services
 - III. Access to Juvenile Justice and Child Protection
 - IV. Children Affected by armed conflict

Key Child Rights Concerns

I. Legal and policy framework

3. South Sudan has ratified a number of international and regional human rights instruments including the United Nations Convention on the Rights of the Child (UNCRC), but it has not ratified the three Optional Protocols to the UNCRC. The South Sudan Legislative Assembly has passed the African Charter on the Rights and Welfare of the Child (ACRWC), yet certain formalities are still outstanding for full

¹ Hear it from the Children: South Sudan – We want to learn - even during war, Save the Children 2015

- ratification. UNCRC provisions were incorporated into national law through the South Sudan Child Act, 2008 and Transitional Constitution of the Republic of South Sudan, 2011. The Ministry of Gender, Child and Social Welfare has developed a National Plan of Action for Children that has not been adopted yet as further discussion is required with other arms of the government in order to adopt the plan. The Child Act, 2008, provides a comprehensive legal framework for realizing child rights in line with international law, and sets out the rights and duties of all parties responsible for the care of children. In addition, the Government has developed a new Labor and Employment Bill, which sets out the minimum age for employment, the worst forms of child labor and the terms and conditions under which children over the age of 14 years are exposed to. It has also developed the Policy for Children Without Caregivers. Despite this progress towards building a robust legislative and policy framework for addressing child protection concerns, violence, abuse, exploitation and neglect continue to be a daily reality in the lives of most South Sudanese children.
4. The South Sudan Child Act, 2008, includes a provision on the establishment of an Independent Children's Commission with the ability to investigate complaints made by any person on child rights violations and to monitor compliance of the UNCRC. The Independent Children's Commission has not been established yet.
 5. There is currently no birth registration policy or system in place in South Sudan, the Government issues age assessment certificates instead. This has many implications on the enjoyment of children's rights, including in the establishment of a minimum age for marriage, minimum age for criminal responsibility and access to essential services, including health, education and protection.

Recommendations

- a) The government of South Sudan should Implement the Child Act, 2008, and other laws protecting the rights of the child, including the Labour Law, Penal Code Act, Rights to Access information Act and the Constitution, including through the adoption of the National Plan of Action and the allocation of sufficient budgetary resources for its implementation by 2017.
- b) The government of South Sudan should ratify the three Optional Protocols to the UNCRC and the African Charter on the Right and Welfare of the Child by 2017.
- c) The government of South Sudan should establish and resource an Independent Children's Commission in line with provisions of the Child Act, 2008, and the Paris Principles by 2018.

- d) The government of South Sudan should adopt a comprehensive national birth registration policy and establish a national birth registration system by 2017.

II. Access to quality essential services including education, health and social protection services

6. 60% of the population of the Republic of South Sudan has no access to basic primary health care services². Three million children in South Sudan have no access to health services of any kind, and children are highly exposed to a range of preventable diseases and malnutrition³. It is estimated that the maternal mortality rate (a key indicator of children's potential for survival and healthy growth) is the highest in the world⁴. The government continues to spend far less than 15% of the budget on health, despite the commitment made under the Abuja Declaration on Health. Instead, Government spending on health has gradually been declining. In 2015-2016, the Government allocated only 7% of its total budget to the health sector⁵. Currently about 70% of health services are provided by NGOs⁶. There is a critical shortage of trained health workers at all levels in the health service system. A recent study conducted by WHO found that the overwhelming majority of the South Sudanese children have been exposed to risk of high infant mortality, malnutrition and HIV & Aids⁷.
7. The Republic of South Sudan's Transitional Constitution, 2011 and the Child Act, 2008, provide for the right to education for all children in the country. In addition, the government passed the Education Act in 2012, which contains an ambitious legal framework for implementing the right to education, including provisions for: early childhood development services; primary, secondary and tertiary education services; an "alternative learning system" (for older children); technical and vocational training and special needs education. The Education Act (2012) specifically identifies how all children have the right to access education regardless of gender, age, religion, clan or disability. The Education Act calls for education to be free and compulsory for all children.
8. It is concerning that enrolment rates for (vulnerable groups) of children remains low. There is a considerable gender disparity in enrolment rates with an estimated 81.4%

² UNICEF's Health Household Survey Report 2010

³ UNICEF's Health Household Survey Report 2010

⁴ *ibid*

⁵ South Sudan Budget Year Book 2015/2016

⁶ Child Rights Situation Analysis 2015 – by Save the Children

⁷ WHO, July 2014 South Sudan health situation report

of boys enrolling in primary school, compared to only 54.5% of girls⁸. Furthermore, dropout rates remain very high, so that only an estimated 10.3% of children complete primary school, and only 6.2% of girls⁹.

9. Lack of school structures and no access to school in some parts of the country continue to present major barriers in access to education for the majority of South Sudanese children. In addition, parents keep their children at home to take care of the cattle and perform domestic chores. Girls are kept at home to protect their value as economic assets. The quality of education in South Sudan is poor: the majority of primary school teachers in South Sudan have received no relevant training of any sort, and many are illiterate. Moreover, children have reported widespread abuse and mistreatment by their teachers, including a high prevalence of sexual harassment.

Voices of Children: Hear It From The Children

“Government should give full support to girls and boys to complete their education – this is important to me”, 17 year old girl

“I sometimes feel safer at school than when I’m not”, 16 year old boy

“I am not going to school because my mother told me I had to build a tent for the younger children ... there are no good things about not going to school”, 11 year old girl

Recommendation from children

My recommendation is that the government should let children go to school. The government will help our country, South Sudan, by helping the people who are suffering in the market and everywhere. The government should help our parents to pay school fees. The government should provide lots of things for the children in South Sudan e.g. schools, houses, and places where children can play safely.

I request the government to make sure that all children go to school. The government must build lots of schools in South Sudan because we believe that all children have big plans for their future. The government must ensure that we are the future of tomorrow. I want parents or the government to avoid early marriage for children, because when all children get married, who are those who are going to be the future leaders of tomorrow?

Also my recommendation to the government is, send girls to school because the number of girls in every school is low.

⁸*Ibid* Child Rights Situation Analysis

⁹ AU Commission of Inquiry on South Sudan

Recommendations

- a) The government of South Sudan should increase allocation and spending to 10% of the budget on basic health services (immunization and primary health care) by the year 2018 with the ambition to reach the commitment in the Abuja Declaration to spend 15% of annual budget on health by 2020.
- b) The national and local governments should guarantee free and compulsory inclusive quality education for all children without discrimination and increase allocation and spending on education budget to 10% of the annual budget by 2018

III. Children in conflict with the law

10. The Child Act, 2008, contains the legal framework for the establishment of a specialized juvenile justice system, with provisions for diversionary measures, alternatives to detention and the fostering of linkages with social welfare systems. In reality, however, no such system is in place in South Sudan. There is only one specialized court constructed by Save the Children in Rumbek, Lakes state, where a juvenile judge has been appointed to man it. Children of all ages are often arrested and placed in custody on weak, unsubstantiated or illegal grounds and held in detention, together with adults, for long periods of time. In Lakes state for example an estimated 163 boys and 5 girls were imprisoned in the year between 2014 and 2015.¹⁰

Recommendation

- a) The government of South Sudan should replicate the child friendly justice system piloted in Rumbek, Lakes states, to other states and ensure all children's cases are tried in accordance with the Child Act, 2008, the Beijing Rules on Administration of Justice and other best practices pertaining to justice for children.

IV. Violence against children, including child marriage and harmful traditional practices:

11. Child marriage is a major threat to realizing children's rights especially girls. Only 35.4% of girls are enrolled at primary school level and a shocking 1.9% at secondary level¹¹. It is estimated that 27% of all girls drop out of primary school every year¹².

¹⁰ Save the Children Justice for Children Report, 2015

¹¹ South Sudan Country Strategic Plan 2016 – 2018/Child Rights Situation Analysis 2015

¹² Education Information Management System 2015

- Out of 2,424 children reported to have dropped out of school in 2014, 79% were girls¹³. This was largely due to child marriage and armed conflict.
12. It is estimated that 52% of girls are married between the age of 15 to 18¹⁴. Of all the children that marry early, approximately 30% of them bear children before the age of 18. Sexual violence against women and girls is widespread and underreported. Practices such as corporal punishment, child marriage and girl compensation are socially and culturally accepted in South Sudan.¹⁵
 13. There are no laws and policies that define marriageable age. The bridal wealth system in South Sudan imposes strong economic incentives, particularly on poorer households, to arrange marriages of girls at a young age. Parents and caretakers often believe that they are acting in their daughter's best interests by marrying their daughter off early. Child marriage is also complicated by customary laws which have taken precedence over statutory laws in some parts of South Sudan.
 14. Customary marriage rites are linked to the wider problem of sexual abuse in South Sudan. The prevalence of child marriage amongst young girls presents a high risk (both cultural and economic). Such marriages are not reported including incidents of sexual violence and rape which are culturally discussed and sorted out sometimes resulting in perpetrators marrying their victims. Many agencies and stakeholders estimate these rates to be significantly higher.
 15. In the Republic of South Sudan a number of harmful traditional practices still persists in contradiction of the country's legal framework. For example, in some communities, girls are given as compensation for anyone killed. This is not only inhumane but unlawful practice under the Transitional Constitution of the Republic of South Sudan, 2011. Abduction of children is practiced amongst some ethnic groups. Removal of teeth, scarification and corporal punishment as way of discipline are part of the norms of some South Sudanese cultures. A total of 275 children were victims of intertribal abductions in South Sudan and 222 reported to be missing without clear cause of their missing in 2014/2015.¹⁶

Voices of Children: Hear It From The Children

I hope South Sudan will support our rights in order to prepare us so that we can take up the future leadership. I want to become a leader who will protect children in the country and this will happen only when my rights to education and protection are fulfilled by the government

¹³*ibid*

¹⁴UNICEF *State of the World's Children, 2013*

¹⁵ SC-SS Country Strategic Plan (2016-2018)/Child Rights Situation Analysis 2015

¹⁶ http://cpwg.net/starter_pack/south-sudan-desk-review-march-2014-eng/

Recommendations

- a) The government of South Sudan should take immediate steps to end violence against children, including harmful traditional practices, abduction of children, customary marriage rites in situations of sexual abuse and child marriage, by taking all appropriate policy, legislative and budgetary measures in compliance with the UN CRC by 2017.

IV. Children affected by armed conflict

16. The political landscape in the Republic of South Sudan changed dramatically in the wake of heavy fighting that broke out in Juba on 15 December 2013. Although the onset of the conflict was sparked by political issues, an ethnic dimension quickly evolved and had devastating effects for children. There was a large increase in the number of violations in 2014, with a total of 514 verified incidents affecting 16,307 children¹⁷. Reports of child recruitment by both Government and opposition forces have continued despite repeated commitments by both parties to end the practice¹⁸. According to the Report of the Secretary-General on Children and Armed Conflict in South Sudan (2014), there has been a marked increase in reports of child recruitment during the period of the conflict compared to the post-independence and pre-conflict periods. The report indicates that several thousand children have been associated with State and non-State armed actors¹⁹.
17. According to UNICEF's report on Children Associated with Armed Forces and Groups (CAAFG), 2015, an estimated 15,000 children, mainly boys, have been reported to be in use, or associated, with armed forces and groups in South Sudan. The report further stipulates that the conflict has further heightened the risk of sexual violence. This has resulted in thousands of children being separated from their families and an estimated 600,000 girls and boys reportedly in need of psychosocial support.
18. According to an UNMISS report, the global 'Children, Not Soldiers' campaign against child recruitment was launched on 29 October 2014, by Government in partnership with the United Nations. Government signed a commitment agreement toward child-soldier-free security forces and took several steps in this regard, including the issuance of punitive orders for child recruitment. Between January and April 2015, Government worked closely with the United Nations in clearing 26

¹⁷<https://childrenandarmedconflict.un.org/countries/south-sudan/>

¹⁸*Report of the Secretary-General on children and armed conflict in South Sudan*, 11 December 2014, S/2014/884 (2014), at paras 22-24.

¹⁹*Ibid*, at para. 22.

schools of occupying troops. In 2014, SPLM/A-IO forces also signed with the United Nations a commitment not to recruit child soldiers²⁰.

19. In 2015 Sudan endorsed the Safe Schools Declaration which provides states the opportunity to express broad political support for the protection and continuation of education in armed conflict, and is the instrument for states to endorse and commit to implement the *Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict*. However, as of December 2015, 29 schools continued to be used by parties to the conflict for military purposes²¹ and UNICEF reports that 400 000 children have dropped out of school due to the conflict and 800 schools have been demolished during attacks²².

Voices of Children: Hear It From The Children

“We want to learn – even during the war”, 10 year old boy

“When you have no purpose, you have no hope, your only hope is the military – education prevents us from joining the military”, 15 year old boy

Recommendations

- a) The Government should immediately cease the recruitment and use of children in armed conflict in compliance with their obligations under international humanitarian law and international human rights law, immediately and unconditionally release all children associated with armed forces and groups and ensure their safe return to their families and ensure access to education and psychosocial wellbeing for these children.
- b) The Government should take all appropriate measures to ensure that children have access to safe and quality education during armed conflict, including through implementing the Safe Schools Declaration and *Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict*
- c) The Government should take immediate measures to clear schools and other routes used by children from unexploded ordinances and other remnants of war.

²⁰ The State of Human Rights in the Protracted Conflict in South Sudan, UNMISS, December 2015

²¹ The State of Human Rights in the Protracted Conflict in South Sudan, UNMISS, December 2015

²² <http://www.childrenofsouthsudan.info/south-sudan-highest-proportion-of-out-of-school-children-in-global-conflict-zones/>