

**PERMANENT MISSION OF THE REPUBLIC OF SOUTH SUDAN TO THE UNITED NATIONS OFFICE AND OTHER INTERNATIONAL ORGANIZATIONS IN GENEVA**

**The 26th Session of the Universal Periodic Review**

**7th November, 2016**

**Statement delivered by**

**Paulino Wanawilla Unango**

**Minister of Justice and Constitutional Affairs**

**Republic of South Sudan**

**Mr. President,**

**Distinguished members of the Council,**

**Excellencies,**

**Ladies and Gentlemen,**

On behalf of the Government of the Republic of South Sudan I would like to express our congratulations for your election as the president of Human Rights Council. We want to assure you of our full support to your presidency and the successful outcomes of the deliberations of the Working Group on the Universal Periodic Review (UPR).

**Mr. President,**

Before the secession of the Republic of South Sudan from Sudan which was part of Sudan it was reviewed within the context of one Sudan. Under that review specific recommendations were made to be implemented by the Government of then Southern Sudan. Among the recommendations was the promulgation of a constitution. The Government promulgated the Transitional Constitution, 2011, as it was recommended by the first cycle of UPR.

The Transitional Constitution provides for three levels of government: national, state and local. It also establishes the national legislature, the executive and independent judiciary.

The Constitution also contains provisions on Bill of Rights which includes the following rights:

* Sanctity of rights and freedoms.
* Right to life and human dignity.
* Freedom from slavery, servitude and forced labour.
* Equality before the law.
* Rights of women.
* Rights of child.
* Freedom from torture.
* Restriction on death penalty.
* Freedom of expression and media.
* Freedom of assembly and association.
* Right of participation and voting.
* Right to education.
* Right of persons with special needs and elderly.
* Right to own property.
* Right of access to information, among others.

**Mr. President,**

We would like to recognize advance questions presented to us by Belgium, Germany, Mexico, the Netherlands, Spain, Slovenia, Sweden, Switzerland, United Kingdom of Great Britain and Northern Ireland and the United States of America. We will be responding to those questions in the course of this presentation. Where the questions are identical or similar, one response will suffice without mentioning the country that raised the question.

**Mr. President,**

Since the independence of the Republic of South Sudan, the government has enacted one hundred and thirty three (133) pieces of legislation and domesticated eleven (11) regional and international instruments. As a result of these instruments, the government has acceded to various regional and international conventions with the aim of promoting and protecting human rights in the country. The Conventions acceded to include:

1. The Geneva Conventions, 1949 and Additional Protocols;
2. Convention Governing the Specific Aspects of Refugees Problems in Africa;
3. the Convention on Elimination of All Forms of Discrimination against Women(CEDAW);
4. Convention on the Rights of the Child and its Optional Protocols;
5. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
6. The African Charter on Human and Peoples’ Rights;
7. Convention Concerning Protection of the World Cultural and Natural Heritage;
8. Convention for the Safeguarding of the Intangible Cultural Heritage and
9. Convention on the Protection and Promotion of the Diversity of Cultural Expression.

Further, there are about twenty six (26) Bills and conventions before the Transitional National Legislative Assembly (TNLA) for enactment. Among the conventions before the TNLA is the International Covenant on Civil and Political Rights (ICCPR) and its 1st Optional Protocol and International Covenant on Economic, Social and Cultural Rights (IESCR).

**Mr. President,**

The constitution guarantees, among others, the inherent right to life, dignity and the integrity of the person and that no one is to be arbitrarily deprived of his or her life, liberty and security or be subjected to arrest, detention, deprivation or restriction of liberty, torture or cruel, inhuman or degrading treatment or punishment, except inaccordance with procedures prescribed by law. Contraventions of the provisions of the Constitution above are offences in all our penal laws.

Currently there is an amendment Bill to the Penal Code before the (TNLA) containing crimes of genocide, war crimes and crimes against humanity.

Although our penal laws provide for capital punishment, this can be executed only when the next of kin of the deceased refuse the blood money which the court is obliged to inform them as an alternative to the capital punishment. Even if the next of kin insist on enforcement of the death penalty, the accused still has the right to appeal the court decision to the court of appeal and thereafter to the Supreme Court. Moreover, no capital punishment can be executed without its confirmation by the Head of State.

**Mr. President,**

The right to a fair trial is guaranteed under the constitution which include the principles that any accused is presumed innocent until proved guilty in accordance with the law, that a person arrested of any offence is required to be informed at the time of such arrest of the reasons for his or her arrest and cannot be held in detention for a period exceeding 24 hours before being produced in court, that where the accused cannot afford legal cost in a trial for commission of serious offences, the government is required by law to provide legal aid. To uphold this last principle, the government usually allocates funds in its annual budget for legal aid.

However, being a nation emerging from decades of conflicts, the government is faced with more challenges concerning effective protection of human rights and freedoms. In a continuous endeavour to overcome the challenges, the government is putting in place regulatory frameworks to improve performance of the administration of justice sector personnel, including training of prosecutors and judges, court clerks, police and prisons officers.

However, the administration of justice sector personnel and infrastructure in the conflict affected cities such as Malakal, Yambio, Bentiu and Bor are in dire need for rebuilding of the destroyed infrastructure for administration of justice. Therefore, the government is soliciting financial support from the relevant international partners for rebuilding of the destroyed infrastructure and training of justice sector personnel.

**Mr. President,**

Both the Constitution and SPLA Act prohibit recruitment of children below the age of eighteen years in the national army and other organized forces. Also, in November 2012, the government with the United Nations signed a Revised Action Plan with the aim of preventing recruitment in the army of any person under the age of eighteen years. As the result of signature of the Action Plan, in 2013 alone, 821 boys and girls were released from the national army and 540 from militia groups operating within the country. The government established within the army Child Protection Unit which facilitates access by the United Nations, UNICEF and South Sudan Disarmament, Demobilization and Rehabilitation Commission personnel to monitor, report, verify and register any recruitment of children by the army.

Lately in April, 2015, the government, United Nations Mission in South Sudan (UNMISS) and UNICEF demobilized and released 36 children associated with the national army in Malakal and identified, screened, demobilized and released other 37 children in Warrap state. In May, 2016, the government, UNMISS and UNICEF, identified, screened, demobilized and released 20 children associated with the armed groups in cities of Mayom and Mankein in Unity state. Recently the government together with relevant international partners identified, screened, demobilized and released 145 children associated with armed group in Pibor town.

Under arrangement with the national army, the UNMISS seconded an International Child Protection Specialist to the army Child Protection Unit, with the aim of providing an ongoing technical support and trained 1,043 army Child Protection Unit officers.

To continue combating impunity within the national army, the Military Justice just between January to August, 2016 arrested, investigated, tried and convicted SPLA personnel who committed offences against civilians and property while on duty. Such proceedings before the Military Justice court martial resulted into conviction and execution of three (3) soldiers by firing squad, 79 sentenced to imprisonment with various sentences. Those not found guilty were released and returned to active service.

In this regard, the committee formed to investigate the events at Terrain Hotel in July, 2016 in Juba submitted its report on 31st October, 2016 and some suspects are currently under arrest.

On the other hand the Joint Court established to try offences jointly committed by personnel from the SPLA, National Security and Police while on duty arrested, investigated, tried, convicted and sentenced to various terms of imprisonment 35 personnel of organized forces.

**Mr. President,**

The National Police Service is regulated by the Constitution and the Police Service Act. In 2011- 2015, the government with the support from United Nations Police (UNPOL) developed the Strategic Training Plan, which provided foundation for long- term institutional development to improve performance of the Police Service . Under the Strategic Training Plan, 300 UNPOL officers were co- located with the South Sudan National Police with the aim of transferring knowledge and skills. Also UNPOL provided human rights training modules for police cadets at the National Police Academy. Further, similar human rights trainings were provided by UNPOL, including training on monitoring of police detention centers, respect for human rights, especially with regard to resolving cases of arbitrary arrest or detention, prevention of violence against women and children and training of 5,100 police officers in English language literacy. As the result of the training, by UNMISS and other international partners, the government established Special Units chaired by female police officer to deal with issues related to women and children, especially on gender based violence (GBV).

**Mr. President,**

The National Prisons Service is regulated by the Constitution and Prisons Service Act with the mandate to manage, maintain, operate and treat prisoners humanely. Although the government has undertaken measures of training Prisons Service personnel and improving detention conditions of the prisoners by reducing overcrowdings in the prisons facilities and establishment of separate prison cells for men and women and juvenile offenders and also has taken steps by separating holding of pre-trial detainees from convicted prisoners, yet the available prison facilities in the country totaling 11 central prisons and 79 county prisons are still overcrowded.

Among the prisons mentioned, the government with support from international partners constructed two prisons and renovated 7 prisons, all of which have main prison facilities such as health center, a doctor or medical assistant.

Despite the above stated improvements, overcrowding of prisons and management of juvenile, women and mentally ill inmates, lack of means of transportation, training of prisons personnel, development of new infrastructures and access to medical care by the inmates are still other challenges facing the Prisons Service.

**Mr. President,**

The Constitution provides that “every citizen has the right of access to decent housing” and that the “state is to formulate policies and take reasonable legislative measures within its available resources. Also the Constitution divides the land into government, community and private. The Land Act establishes a legal framework, governing issues of land tenure, regulates ownership, and recognizes customary law and practices related to land.

On issue of internally displaced persons (IDPs) and before the conflict of 15th December 2013, population of IDPs settled in urban areas or on land provided by host communities was estimated at 390,000 IDPs. The IDPs who returned to their places of origin, after signing of the CPA found that their house or plots were occupied by others. On the other hand on 6th May 2016, the Transitional Government of National Unity (TGoNU) directed the ministries responsible for security sector to ensure that illegal occupants of houses or plots of others in the wake of 15th December, 2013 conflict to be evicted from those houses and plots and the Ministry of Justice and Constitutional Affairs to initiate legal proceedings against potential culprits who refuse to leave those houses or plots. Those IDPs who are willing to be relocated to places of their choice are to be facilitated by the government.

There are many challenges facing the government, including issues of training of government officials to halt land grabbing by people in authority, corrupt practices within land departments and abuse of powers by some government officials and traditional leaders. To improve land tenure in the country, the government is soliciting from the international partners technical and financial assistance to build the necessary capacities to receive the IDPs from the UNMISS - POCs in cities of Malakal, Bor, Bentiu, Juba and Wau. The IDPs are in need of essential services such as health, water, educational facilities, trained teachers and food, when relocated to their places of origin.

**Mr. President,**

To promote and protect women and children, the government has established the Ministry of Gender, Child and Social Welfare with the mission of promoting and protecting human right s of women and children and persons with special needs. The Ministry of Gender in collaboration with the state Ministries of Social Development and civil society, work together to ensure appropriate measures for elimination or mitigation of injustices and equitable distribution of resources.

Further, the Ministry prepared a Gender Policy Framework that lays out programmes for the whole country. Under the policy, the principle of gender mainstreaming is given prominent focus in which government and private sector institutions are to work towards elimination of all forms of discrimination against women and children.

The government has enacted laws and acceded to a number of conventions, including Convention on Elimination of All Forms of Discrimination against Women; African Charter on the Rights and Welfare of the Child and Southern Sudan Child Act, 2008. In addition, the government adopted National Gender Policy, 2013; Public Service Gender Mainstreaming and Sensitization Manual, 2013; National Standard Operating Procedures (SOP) for Prevention, protection and Response to Gender Based Violence, 2014; Policy on Children without Parental Care and National Action Plan for implementation of the United Nations Security Council Resolution No. 1325 which reaffirm the role of women in peace and security. In compliance with the Resolution gender awareness and peace forums were held nationwide and the SPLA with support from UNMISS, undertook a gender- mainstreaming training.

The enactment of the laws, accession to the conventions and adoption of the above are proof of the government continuous efforts to eradicate harmful customs and traditions which place women at a lower scale level of the society.

**Mr. President,**

After South Sudan independence in 2011, significant equal treatment, promotion, protection and respect for women human rights have emerged in the country. Women are playing an active role in the society though illiteracy still remains a major challenge affecting their equal participation in the public life. In August, 2012, the Sudan Peoples’ Liberation Army (SPLA) with the support from UNMISS undertook a gender – mainstreaming training.

Perpetuation of gender inequalities, biases and discrimination which translate into systematic violations of the rights of women, including incidences of gender based violence (GBV) such as sexual exploitation and abuse, early and forced marriage of girl- child and domestic violence continue to be a challenge to the government efforts to protect and promote women and child rights. Although the Southern Sudan Child Act, 2008 provides for marriageable not less than 18 years, yet many girls are married off before that age of 18, especially in rural areas where presence of government institutions are limited.

**Mr. President,**

Regarding gender and sexual based violence, the government has so far established fourteen (14) Special Protection Units (SPU) at various police stations in Juba and other major cities in the country to enable women, girls and children, report cases of gender and sexual based violence. In addition, the government with international partners, established women Friendly Spaces in the country so that women and girls are encouraged to discuss issues related to their welfare and training on necessary social skills.

As the result of the measures taken by the government to protect women from gender and sexual based violence, there are a number of cases before the courts and others are under investigations. On the issue of children without parental care it is currently being handled by national faith organizations and the government assist from time to time.

However, lack of funding, long civil war and the entrenched inequalities impacted negatively on the lives of people, particularly women, children and persons of special needs. To continue working toward eradication of imbalances in the society, especially against women and children, the government is in need of technical and financial assistance from the relevant international partners to implement its plans, policies and laws.

**Mr. President,**

The government has made formal education free and compulsory throughout the country and established an Alternative Educational System which is provided in five main areas: basic adult, accelerated learning programmes, community girl schools programme, pastoralist education programme and intensive English courses to teachers of Arabic background training and the children demobilized from the army and other militia groups.

**Mr. President,**

The Constitution provides for protection and promotion of freedom of expression and access to information as well as freedom of press, including the right to form or join political party, association and trade or professional unions. To uphold this constitutional mandate, the government has enacted the Broadcasting Corporation Act, 2013, Access to Information Act, 2013 and Media Authority Act, 2013. The government also has formed an independent media board and information commission in accordance with afore-stated media laws.

Currently, there are 23 private radio stations, 12 newspapers and magazines and 3 TV stations, registered and operational in the country. It is worth mentioning that the government allows foreign newspapers and magazines into the country. There are 30 political parties and more than 200 civil society organizations in the country which meet regularly and freely without prior permission from or interference by the government.

To promote transparency and the right of access to information, the government, with support from international partners, has established independent institutions such as the Elections Commission, the Political Parties Council, the Anti- Corruption Commission, the Public Grievances Chamber and the Peace and Reconciliation Commission.

The freedom of expression is not limited to particular group in South Sudan. It is exercised by other political parties other than the ruling party, civil society Organizations, media houses in accordance with relevant laws.

In cases of those who unfortunately lost their lives, including the journalists, as a consequence of criminal acts perpetrated by unknown individuals, such cases are under investigations. It may be useful to note that homicide is not a compound offence or offence limited by time.

**Mr. President**

The Transitional Government of National Unity (TGoNU) is quite aware that without the commitment to implement of the Agreement for the Resolution of the Conflict in the Republic of South Sudan (ARCSS) concluded in August, 2015 it will be impossible to achieve sustainable peace and nation building. That is why though the National Constitutional Amendment Committee (NCAC), has not presented the bill incorporating the Agreement into the Constitution, the parties to ARCSS have decided to consider the Agreement as part and parcel of the Constitution and therefore went ahead with the establishment of the TGoNU, reconstitution of TNLA after appointment of 68 members, appointment of the First Vice President, the Vice President and operationalization of different institutions - all inaccordance with the Agreement. The parties are also knowledgeable of the fact that in case of any contradiction the provisions of the Agreement supersede the provisions of the Constitution.

After the unfortunate crisis of July, 2016 the parties to the Agreement recommitted themselves to continue with its implementation. As the result of this recommitment cantonments have been agreed upon for the SPLA-IO forces, observation of the cease fire between the SPLA and SPLA-IO is being maintained in most of the areas in South Sudan, though the cease fire has been interrupted from time to time by new armed groups appearing in areas where there was no presence of SPLA-IO before signing of the (ARCSS).

**Mr. President,**

In conclusion, the process of establishing the commission for truth, reconciliation and healing in accordance with ARCSS is going on and would be launched within this month.

As for the establishment of the Hybrid Court for South Sudan (HCSS), it is the mandate of the African Union Commission to initiate its establishment in accordance with ARCSS. It is only after this initiation by the AU Commission that the TGoNU is expected to domesticate it by enacting a national law for the operationalization of the HCSS.

**Thank you, Mr. President**

­­­­­­­­­­­­­­­­­­­\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_