



# Convention on the Rights of the Child

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Committee on the Rights of the Child

## Initial report submitted by South Sudan under article 44 of the Convention, due in 2017\*

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\* The present document is being issued without formal editing.

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## Abbreviations and acronyms

AES	Alternative Education System
AU	African Union
BPHNS	Basic Package of Health and Nutrition Services
CAAFG	Children Associated with Armed Forces or Groups
CMI	Child Mobilization Initiative
CPA	Comprehensive Peace Agreement
CRVS	Civil Registration and Vital Statistics
CSO	Civil Society Organisation
DDRC	Disarmament, Demobilisation and Reintegration Commission
ECD	Early Childhood Development
EMIS	Education Management Information System
GBV	Gender Based Violence
GDP	Gross Domestic Product
GESS	Girls' Education South Sudan
GRSS	Government of the Republic of South Sudan
HIV	Human Immunodeficiency Virus
HMIS	Health Management Information System
HP	Harmful Practice
ICRC	International Committee of the Red Cross
IDP	Internally Displaced Person
IGAD	Intergovernmental Authority on Development
ILO	International Labour Organization
IOM	International Organization for Migration
MGCSW	Ministry of Gender, Child and Social Welfare
MIS	Malaria Indicator Survey
NDDRC	National Disarmament, Demobilisation and Reintegration Commission
NGO	Non-Governmental Organisation
NMAA	National Mine Action Authority
NSP	National Strategic Plan
NSPP	National Social Protection Policy
OAU	Organisation of African Unity
POCs	Protection of Civilian Sites
PRRC	Physical Rehabilitation Reference Centre
PWD	Person with Disability
RRC	Relief and Rehabilitation Commission
SDG	Sustainable Development Goal
SGBV	Sexual and gender-based violence
SPLA	Sudan People's Liberation Army

SSPDF	South Sudan Peoples' Defence Forces
SPLA-IO	Sudan People's Liberation Army in Opposition
SPU	Special Protection Unit
SSDP	South Sudan Development Plan
SSP	South Sudan Pound
TVET	Technical and Vocational Education and Training
UNDP	United Nations Development Programme
UNHCR	Office of the United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
UNFPA	United Nations Population Fund
UNMAS	United Nations Mine Action Service
UNMISS	United Nations Mission in South Sudan
UNOCHA	UN Office for the Coordination of Humanitarian Affairs
UNSCR	United Nations Security Council Resolution
WFP	World Food Programme
WHO	World Health Organisation

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National Social Protection Policy, 2014

Child Responsive Budgeting in South Sudan: A guide for policy makers and child focused organizations, 2014

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National Action Plan on the United Nations Security Council Resolution 1325 on Women, Peace and Security and Related Resolutions, 2015–2020

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## Introduction

1. The Government of the Republic of South Sudan (hereinafter referred to as “GRSS” or the Government) acceded to the United Nations Convention on the Rights of the Child (hereinafter “the Convention”) on 23rd January 2015. The Convention entered into force in South Sudan on 22nd February 2015 and the Initial Report was due within two years of this date in accordance with article 44, paragraph 1 of the Convention. Although South Sudan is one of the newest countries to ratify the Convention, the autonomous government of Southern Sudan did also participate actively in preparation of the third and fourth periodic report of Sudan in 2010, prior to its independence from Sudan.

2. Children represent over half of the country’s population and the realisation of their rights is a central focus and priority for the Government. South Sudan’s existing laws and policy frameworks regarding the rights of children have been shaped largely by its long experience of armed conflict and there is much that remains to be done to develop new and robust laws, policy frameworks, procedures and institutions to properly reflect international commitments under the Convention. As an important first step, the Child Act, No. 10 of 2008 (hereinafter referred to as the “Child Act, 2008”) is a major achievement in protecting and promoting child rights. It is a comprehensive piece of legislation that domesticates the Convention into national law and consolidates laws relating to the rights and welfare of children. However, putting the Child Act into full implementation remains a challenge that will take time to overcome. Another important step made by South Sudan is the promulgation of the Transitional Constitution (as amended) of the Republic of South Sudan in 2011, Article 1(4) of which provides that South Sudan shall be governed on the basis of a decentralized democratic system and that it is founded on justice, equality, respect for human dignity and the advancement of human rights and fundamental freedoms.

3. Every effort has been made to ensure that this Initial Report provides the Committee with a balanced account of the realities of the lives of children in South Sudan and the myriad challenges faced by the Government and civil society in implementing the Convention. It is essential that the progress made in implementation of the Convention outlined in this report is considered in the context of the humanitarian, political and socio-economic landscape that has prevailed since South Sudan’s accession to the Convention in 2015. The Government is currently grappling with daunting challenges that compromise its ability to meet its obligations under the Convention to respect, protect and fulfil the rights of all children in its jurisdiction. It is recognised that it is a matter of priority for South Sudan urgently to address the situation of children caught up in on-going conflict. At the same time, the institutional infrastructure is not yet fully in place to make the protection and promotion of the rights of children a reality in the country.

4. The Government Inter-Ministerial Human Rights Committee led jointly by the Ministry of Justice and Constitutional Affairs and the Ministry of Gender, Child and Social Welfare with inputs from relevant child-focused institutions compiled this report. The Committee conducted a desk review of current laws, policies, administrative procedures, judicial decisions and national strategies. A consultative workshop was held in Juba with relevant governmental bodies, national and international civil society organisations, the Human Rights Commission and UN agencies, to validate this report. Research teams from the Government, comprised of representatives from the Ministry of Gender, Child and Social Welfare, the Ministry of Justice and Constitutional Affairs, the Ministry of General Education and Instruction, Police Service, Prisons Service, Military Justice and Child Protection Unit of the South Sudan People’s Defence Forces (SSPDF), led consultations in three regions: Greater Equatoria (Torit), Greater Upper Nile (Malakal) and Greater Bahr-el-Ghazal(Wau).These consultations involved key government institutions, civil society organisations and community leaders.

5. On 21 to 22 August 2019, a validation workshop was held in Juba by the Drafting Committee led by relevant government institutions and attended by representatives from South Sudan Human Rights Commission, UN Agencies, including the UNMISS – Human Rights Davison, UN-Women. UNICEF and local and international NGOs.

6. The content of this report, therefore, reflects the contribution of key stakeholders with regards to how the country has performed in undertaking its obligations under the Convention. The reporting process was based on principles of transparency, participation, accountability, non-discrimination and respect for views of others. It is worth mentioning that it has been a challenge for the Inter-Ministerial Human Rights Drafting Committee to gather relevant information and indicators for preparation of this Initial Report as in many instances the information is not available as it is not systematically gathered.

7. The report is framed by the general guidelines regarding the form and content of initial reports adopted by the Committee at its First Session (CRC/C/5) as well as the more updated general guidelines, adopted during its Sixty-Fifth Session (CRC/C/58/REV.3). The report comprises of the UN Common Core Document, the initial treaty-specific report and an annex of relevant publications.

## **I. General measures of implementation (arts. 4, 42 and 44 (para. 6))**

### **Reservations and ratifications**

8. South Sudan acceded to the United Nations Convention on the Rights of the Child without placing any reservations or declarations.

9. In 2016, South Sudan acceded to the United Nations Convention on the Rights of the Child and two Optional Protocols relating to the involvement of children in armed conflict and the Optional Protocol on the sale of children, child prostitution and child pornography. Recently, the Transitional National Legislative Assembly (TNLA) has voted for South Sudan to accede to the African Charter on the Rights and Welfare of the Child although the Instrument of Accession is yet to be forwarded to the African Union.

### **Measures taken to review and bring domestic legislation and practice into full conformity with the Convention and the Optional Protocols**

10. The South Sudan Law Review Commission was established in 2012 to promote the uniformity and harmonisation of laws with international obligations as well as to identify and address problems of access to justice and the conduct of the judiciary and lawyers. The Law Review Commission has not yet conducted a comprehensive review of domestic legislation in terms of its conformity with the Convention. Nonetheless, following the Comprehensive Peace Agreement in 2005 and the declaration of independence in 2011, a significant amount of new legislation has been enacted in country that institutionalises commitments to human rights and gradually harmonises domestic legislation and practice with provisions of the Convention.

11. Article 9(3) of the Transitional Constitution (as amended) provides that: “all rights and freedoms enshrined in international human rights treaties, covenants and instruments ratified or acceded to by the Republic of South Sudan shall be an integral part of this Bill.” The Bill of Rights is “upheld, protected and applied by the Supreme Court and other competent courts” and “no derogation from the rights and freedoms enshrined in [the] Bill shall be made.”

12. Children’s rights under the Convention are further reflected in Chapter 17 of the Constitution that, *inter alia*, provides for the rights of children to life, survival and development and to be free from any form of discrimination. Chapter 17 also provides all actions concerning children undertaken by public, private or welfare institutions, courts of law, administrative authorities or legislative bodies, the paramount consideration shall be the best interest of the child. Other provisions in the Constitution that refer to the rights of children include:

(a) Article 16(4)(c): requires the government to provide maternity, child and medical care for pregnant and lactating women;



(b) Article 29: requires all levels of government to ensure free and compulsory education at the primary level and a free illiteracy eradication programme;

(c) Article 33: provides that ethnic and cultural communities have a right to raise their children within the context of their respective cultures and customs in accordance with the Constitution and law;

(d) Article 38(2)(b): requires the national government to avail the necessary financial resources to make secondary and higher education affordable in order to bridge the educational gap caused by the collapse of educational services during the years of conflict;

(e) Article 39(3): provides that it is the right and duty of parents to care for and bring up their children;

(f) Article 39(4): provides that children shall not be separated from their parents or persons legally entitled to care for them against the will of those parents or such persons, except in accordance with the law;

(g) Article 40: provides that all levels of government shall adopt policies, provide facilities for the welfare of children and youth, and ensure their moral and physical development and protection from moral and physical abuse and abandonment;

(h) Schedule B (19): places pre-school, primary and secondary education within the exclusive legislative and executive powers of the State.

13. The primary legislation incorporating the Convention into domestic law is the Child Act, 2008 which has an umbrella purpose to “extend, promote and protect the rights of children in South Sudan...as defined in the 1989 United Nations Convention on the Rights of the Child and other international instruments, protocols, standards and rules on the protection and welfare of children to which Sudan is signatory”. It is acknowledged that challenges remain with implementation of the Child Act, which is yet to be widely disseminated across all 32 States and sectors.

14. In addition to the Transitional Constitution and the Child Act, the following legislation further domesticates the principles and standards set down in the Convention into national law:

- (a) Civil Procedure Act, 2007;
- (b) Code of Criminal Procedure Act, 2008;
- (c) Penal Code Act, 2008;
- (d) Local Government Act, 2009;
- (e) Sudan People’s Liberation Army Act, 2009;
- (f) Police Service Act, 2009;
- (g) South Sudan Human Rights Commission Act, 2009;
- (h) Southern Sudan Anti-Corruption Commission Act, 2009;
- (i) Prison Service Act, 2011;
- (j) Nationality Act, 2011;
- (k) Demobilisation, Disarmament and Re-Integration Commission Act, 2011;
- (l) Southern Sudan War Disabled, Widows and Orphans Commission Act, 2011;
- (m) Public Grievances Chamber Act, 2011;
- (n) Passports and Immigration Act, 2012;
- (o) Geneva Convention Act, 2012;
- (p) Refugee Act, 2012;
- (q) General Education Act, 2012;

- (r) Peace and Reconciliation Commission Act, 2012;
- (s) Access to Information Act, 2013;
- (t) HIV/AIDS Commission Act, 2013;
- (u) Petroleum Revenue Management Act, 2013;
- (v) Relief and Rehabilitation Commission Act, 2016;
- (w) Labour Act, 2017;
- (x) Civil Registry Act, 2018.

15. The system of government in South Sudan is structured to promote democratic principles and political pluralism by the decentralization and devolution of powers to the people through the appropriate levels of government where they can best manage and direct their affairs. This is particularly important in a country such as South Sudan, which is multi-ethnic in character. Section 122 of the Local Government Act provides for a decentralized system of governance where institutions are established at three levels: National Government, State and the Local Government Councils. The lowest administrative level is a Boma, followed by Payams and Counties and States. At the State level, State governments have executive and legislative powers to enact and implement by-laws including those, which are relevant for children's rights. There are currently 32 States in South Sudan. At the local level, there are Urban Councils comprised of city, municipal and town councils and Rural Councils comprised of County, Payam and Boma councils.

16. It is also important to note that South Sudan uses a plural legal system in which both customary and statutory laws coexist. According to Article 5(c) of the Transitional Constitution (as amended), the "customs and traditions of the people" are recognized as one of the sources of law in the country and the application of customary law in courts is recognised, subject to the Constitution and the law. The Child Act, 2008 reinforces that customary and traditional laws should be applied when they are protective of the rights of the child but not when they are contrary to the best interests of the child (Article 4 (4)). The Local Government Act, 2009 also explicitly states, "in all actions concerning a child ... the primary consideration shall be the best interest of the child" (Section 111(3)).

17. Criminal cases fall under the provisions of statutory law, whilst civil cases are dealt with using customary law except for "those criminal cases with a customary interface referred to it by a competent Statutory Court" (Local Government Act, 2009, Section 98(2)). Statutory courts have appellate jurisdiction over customary courts. Customary courts, presided over by chiefs or panels of chiefs, are established at the County, Payam and Boma levels of local government. In adjudicating cases, customary courts are expected to "make judgments in accordance with the customs, traditions, norms and ethics of the communities" (Local Government Act, 2009: Section 98(1)). Hearings are typically held under trees and are open to the public.

18. Customary courts can enable people to access justice effectively since they are able to process cases relatively quickly and at low cost. They are often geographically accessible to rural populations. However, there are some disadvantage to women and girls, such disadvantages are like the forcing of daughters to marry men selected by their families. Furthermore, the discriminatory application of customary law can discourage women and girls from reporting incidents of sexual and gender-based violence (SGBV).

19. To address some of these challenges, the Ministry of Justice and Constitutional Affairs in conjunction with the judiciary and UN agencies, constructed a customary law centre in Rumbek in 2010 and developed a training manual on principles of law and court procedures. More recently, efforts to improve understanding of the state regulatory framework and rule of law pertaining to children have included providing trainings to traditional leaders – with the support of the UN Mission in South Sudan (UNMISS) Human Rights Division – with the aim of improving standards in customary courts relating to women and children's rights.

## **Adoption of a comprehensive national strategy and corresponding plan or plans of action for children**

20. The Government has yet to adopt a single, dedicated national plan of action for children that addresses all the rights of the child enshrined in the Convention. There are, however, wide ranges of complementary national plans of action that address the rights of the child. Foremost amongst these is the South Sudan Development Plan (SSDP), which was issued in 2011. The SSDP identified key development objectives for the new country (South Sudan) and outlined priority programmes for achieving these objectives. Although it was planned to last from 2011 to 2013, the SSDP is being updated and its usage also being extended. The National Strategic Plan aligned with the Sustainable Development Goals (SDGs) is being prepared for the period from 2018 to 2020.

- (a) Governance (including creating an accountable and inclusive governance mechanisms);
- (b) Economic development (including development of large-scale and community-based infrastructure);
- (c) Social and human development (including improving and expanding education and health services); and
- (d) Conflict prevention and security (including special provision for reintegration of child soldiers and strengthened access to justice);
- (e) Seven crosscutting issues that are highly relevant for children's rights are also identified in the SSDP: capacity building, corruption, environment, gender equality, HIV and AIDS, human rights and youth employment.

21. The Government has also developed a Strategic Plan (2013–18) which includes a strategy to support vulnerable children through the provision of social protection and a plan for a child support grant to every family with children under the age of five to facilitate families' care of their children. These Plans also proposed a school-feeding programme in primary schools, blanket supplementary feeding of pregnant and lactating mothers and targeted supplementary feeding to malnourished children less than five years old. The Government's foster family grant extends financial support to every family that takes care of orphaned children. The Directorate of Child Welfare in the Ministry of Gender, Child and Social Welfare has also developed a strategic plan to complement Government strategic plan on child welfare as a central component of this.

22. In addition to the SSDP and to the Ministry of Gender, Child and Social Welfare's Strategic Plan (2013–18), South Sudan has developed specific sectoral strategies and plans with an explicit focus on children's rights including:

- (a) Education Sector Plan (2012–17);
- (b) National Gender Policy (2012);
- (c) Strategic Framework on Justice for Children: How Children Can Be Better Served and Protected by the Justice for Children System (2012);
- (d) SPLA Action Plan to end the recruitment and use of children as soldiers (2009 – recommitments to this plan were made in 2012 and 2014);
- (e) National Disability and Inclusion Policy (2013);
- (f) National HIV and AIDS Strategic Plan (2013–2017);
- (g) Alternative Education Systems Policy (2013–17);
- (h) Standard operating procedures for gender-based violence prevention, protection and response in South Sudan (2014);
- (i) Girls Education Strategy for South Sudan (2015–17);
- (j) Community Health Systems Strategy Document: Boma health initiative (2015);

- (k) National Social Protection Policy Framework (2015);
- (l) National Policy on the Protection and Care of Children without Appropriate Parental Care (awaiting Council of Ministers approval);
- (m) National Action Plan on UN Security Council Resolution 1325 (2015–2020);
- (n) National Health Policy (2016–2026), implemented through two five-year strategic plans: 2017–2021 and 2021–2026.

### **Coordination body for implementation of the Convention**

23. The Ministry of Gender, Child and Social Welfare was established following independence with a mandate to promote gender equality and social justice and to safeguard the rights and welfare of women, children, persons with disability and other vulnerable groups. It performs the following core functions:

- (a) Develops policies and programmes for the promotion of gender equality, women’s empowerment, child protection as well as social protection and social welfare of other vulnerable groups;
- (b) Mainstreams gender equality and disability into national development process;
- (c) Ensures the welfare, promotion and respect of the rights of persons with disabilities, children, women and other vulnerable groups;
- (d) Manages programmes and institutions for children and social welfare;
- (e) Improves the working environment by strengthening the structures, systems and procedures, human and administrative capacity for efficient service delivery;
- (f) Strengthens monitoring and evaluation, research, documentation, planning and budgeting.

24. It is divided into different Directorates: Gender, Social Welfare, Child Welfare, Administration and Finance and Planning, Training, Research and Documentation.

25. The Directorate of Child Welfare within the Ministry of Gender, Child and Social Welfare has the explicit lead on implementation of the Convention. It takes responsibility for formulation of policies and development of programmes that promote children’s rights and ensures the protection of children from violence, exploitation, neglect and abuse. Its strategic objectives include:

- (a) Support the development and implementation of standards, policies, guidelines and legislations for child welfare and protection;
- (b) Ensure children’s rights are promoted and protected;
- (c) Develop a system for child protection, and justice for children;
- (d) Ensure the protection of children affected by violence, exploitation, neglect and abuse;
- (e) Develop capacity of social workers and counsellors.

26. The Government Ministry of Gender, Child and Social Welfare in collaboration with other relevant government bodies including at State-level, is mandated to coordinate implementation of the Convention. This formal and informal coordination is done at national level through policy formulation, implementation, monitoring and evaluation as well as coordinating gender mainstreaming and disability in and across government. At State-level, the Ministries of Gender and Social Development ensure implementation of policies, guidelines, programmes and projects. There are challenges facing the Government in ensuring effective coordination and this need to be further systematised, especially between national and State levels.

## Budget allocations for implementation of the Convention

27. Allocation of resources is a crucial component for advancing the survival, protection and development of children. This is particularly the case in the country context where many families are often large and extended, lack the capacity to finance and provide basic needs for their children.

28. Budget allocations for implementation of the children rights in the Convention are not explicitly identifiable in current budget documentation. Budget allocations are made to different government sectors with responsibility for child-focused issues including education, health, social and humanitarian issues, peace, social and economic. It should be noted that the social and humanitarian sector comprises key government agencies with mandates on children and women, including the ministries of: Gender, Child and Social Welfare; Culture, Youth and Sports; Humanitarian Affairs and Disaster Management; the South Sudan Relief and Rehabilitation Commission; the Peace Commission and the Commission on the War Disabled, Widows and Orphans. Furthermore, the Peace sector covers humanitarian activities, the repair of infrastructure and support for the transport, feeding and return of the displaced populations. The economic sector includes key ministries with mandates on children, including the Ministry of Energy and Dams, South Sudan Urban Water Corporation, and Ministry of Water Resources and Irrigation.

29. On 28 August 2017, the national parliament passed its budget for the fiscal year 2017–2018. The new budget includes allocations for health, education, economic, peace and social and humanitarian sectors as well as for transfers to the States. In addition, the budget includes funds for reforms on fiscal sustainability and improvement of the public financial management system.

30. The overall total budget for Financial Year 2017/18 is SSP 39.8 billion (South Sudanese Pound) 39,752,679,995), spread across five budget lines – wages and salaries, goods and services, capital, transfers, and others. Fifty-four per cent SSP 21,629 (South Sudanese million) of the budget is earmarked for salaries, including the army and other organised forces. The remaining part of the budget, which is 26 per cent, is used for goods and services, capital and international, State and County transfers. The State and County transfers cover operation costs and County development initiatives, salaries of teachers and health workers, alongside expenses of organised forces at the State level. The budget also includes an allocation of SSP three billion for implementation of the peace agreement.

31. In recent years, the Government budget allocations for child-focused institutions and programmes have not been sufficient to respond to national and local priorities for the protection and promotion of children’s rights. Table 1 below demonstrates that allocations to the health, education and social and humanitarian sectors. Due to the current armed conflict in the country, budget allocations have fallen between 2015 and 2017/18. As such, availability of adequate financial resources available for the realisation of children’s rights remains a huge challenge to the Government as a result of limited resources and many competing needs on the public purse. The other reasons is that economy of South Sudan suffered from multiple challenges including a fall in oil production, maturing of the oil fields, continuing sharp decline in oil prices and marked disruption of trade owing to insecurity. Inflation has risen sharply owing to borrowing from national banks, but progress has been made and annual inflation has fallen from a peak of 549 per cent in September 2016 to 102 per cent as of September 2017, in accordance with the Consumer Price Index for South Sudan published by the National Bureau of Statistics in November 2017.

Table 1  
Sectoral allocations in budget 2017/18 by percentage

Sectors	Fiscal Years		
	2015/6	2016/7	2017/8
Accountability	2.6	4.0	0.7
Cross Sectoral	1.0	17.9	0.0

Sectors	Fiscal Years		
	2015/6	2016/7	2017/8
Economic	2.3	1.5	0.6
Education	6.6	4.2	2.1
Health	3.1	2.0	2.6
Infrastructure	1.8	1.9	0.8
Natural Resources	3.5	2.2	2.0
Public Administration	8.6	15.9	33.4
Rule of Law	15.3	11.3	9.9
Security	44.5	32.8	31.8
Social & Humanitarian	0.9	0.5	0.4
Block Grants	9.8	5.8	6.5
Peace	0	0	7.5
Areas, contingencies	0	0	1.8

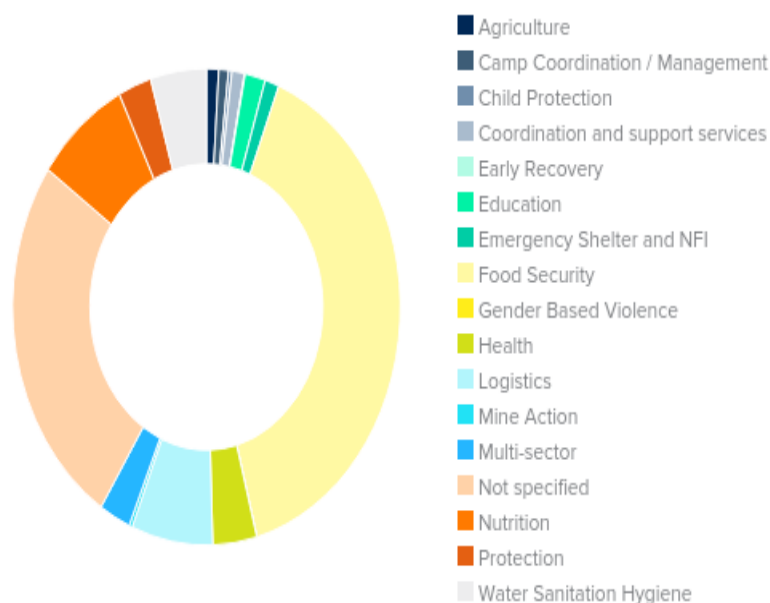
*Source:* Approved Budget Tables, Ministry of Finance and Planning, Budget 2017/18 and from previous two years.

32. The Government has taken steps to make the budget more child responsive and in 2013, the Ministry of Gender, Child and Social Welfare along with the Ministry of Humanitarian Affairs and Disaster Management in collaboration with Save the Children International developed a handbook on child responsive budgeting and conducted related training with civil society and government stakeholders.

### **International assistance and development aid**

33. At independence, the Government established an Aid Coordination and Management Unit within the Ministry of Finance and Economic Planning to appraise monitor and approve all donor-funded projects in the country. It has proved challenging to assess the child rights component of each programme funded by donors. The Government and the UN Office for the Coordination of Humanitarian Affairs (OCHA) gathered total reported funding from donors and found that in total US\$1.48 billion was provided during 2017 and allocated to the sectors set out in the following Table.

Table 2  
Donor funding by Sector



Source: UN OCHA Financial Tracking Service, South Sudan, 2017.

### Establishment of a National Human Rights Institution

34. The Government is providing the necessary funding to the South Sudan Human Rights Commission in accordance with Chapter IV of the Transitional Constitution, 2011 (as amended). It has the responsibilities to:

- (a) Investigate complaints of violations of human rights;
- (b) Visit police jails, prisons and related facilities with a view to assessing and inspecting conditions of the inmates and make recommendations;
- (c) Conduct research, education and information;
- (d) Make recommendations to the National Legislative Assembly;
- (e) Raise awareness of human rights; and
- (f) Monitor compliance of all levels of Government with ratified regional and international human rights treaties.

35. Although it does not have a specific focus on the rights of children, yet the Commission has written general reports on the human rights situation in the country that have included different aspects of children's rights particularly in relation to monitoring of detention centres. In addition, a Children's Desk should be established within the Commission.

36. The Chairperson, Deputy Chairperson and Members of the Commission are appointed by the President after approval by the National Legislative Assembly. The Members are to be persons of proven integrity, competence, non-partisan and impartial. The Commission with support from UNMISS and other partners, has made efforts to ensure that the Commission complies with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). In October 2018, the African Union Human Rights Commission in the Gambia accredited the Commission.

37. There is provision in the Child Act, 2008 for establishing an Independent Child Commissioner. Whilst this is an important measure for the promotion and protection of the child rights, in the current climate of restricted technical and financial resources, the agreed course of action is to strengthen the role of the Human Rights Commission in respect of its engagement with children's issues.

### **Data collection**

38. Accurate and comprehensive data collection regarding the status of implementation of the United Nations Convention on the Rights of the Child through monitoring of violation of child rights remains a challenge in the country. Two vital sources of information are the census of Population and Housing, which was conducted in 2008 and the South Sudan Household Survey, which was produced by the Ministry of Health and the National Bureau of Statistics in 2010. Due to the security situation, plans for a new nationwide Household Survey have been put on hold. However, some progress has been made in data collection in specific sectors with the development of the Education Management Information System and Health Management Information System.

39. The Ministry of Gender, Child and Social Welfare has a Directorate for Planning, Research and Documentation with specific responsibility for initiating and carrying out studies and research for the promotion of social development, situation analysis on children, women and Persons with Disabilities (PWDs) and to establish baseline data on women, children, and PWDs. Recent surveys and studies conducted by the Ministry of Gender, Child and Social Welfare that collected relevant data on children include:

- (a) Baseline survey on the prevalence of gender-based violence (2010);
- (b) Study on Knowledge, Attitudes and Practices on Child Marriage in Southern Sudan (2010);
- (c) Comprehensive Country Gender Assessment (2012);
- (d) National Disability Assessment (2012);
- (e) Mapping and assessment of child protection systems in different States including Lakes, Jonglei, Warrap and Northern Bar el Ghazal (2013);
- (f) An assessment of children living and working on the streets in six states (2013/14);
- (g) Baseline Study on United Nations Security Council Resolution (UNSCR) 1325 in South Sudan (2013);
- (h) Roadmap for the creation of a child helpline in the Republic of South Sudan (2015).

These above studies have provided the MGCSW with useful information and data in the development of strategies, policies and work plans.

### **Measures taken to make the Convention widely known**

40. Some progress has been made in making the Convention and child's rights widely known through public education. For example, the Government in collaboration with international development partners printed a child-friendly version of the Child Act, 2008. Information about child's rights, child marriage and violence against children has also been disseminated through different media outlets such as television, radio, public speakers and print media. Every year, children celebrates the Day of the African Child with events such as dramas and radio talk shows. This provides an opportunity to reflect on the situation of children and the progress made in their development, protection and participation. However, there remains a challenge of unavailability of statistical data on training of key professionals on the Convention but efforts by the Government has been made to train professionals on an ad hoc basis. There is a need to also disseminate the Convention widely, especially to communities in remote locations.



41. It has been a challenge to the Government because acceptance of the provisions of the Convention has been slow in the country due to that fact that majority in the public, lacks the necessary knowledge on the rights and protection needs of the children. It has been the intention of the Ministry of Gender, Child and Social Welfare to translate the Convention into local context. There is a need for continuous awareness raising and advocacy to ensure wider understanding and awareness of the Convention provisions through printing and sharing of copies of the Convention.

### **Cooperation with civil society organisations**

42. The Government encourages participation of civil society in the implementation of the Convention as results of such participation; several organisations were consulted in the preparation of this report. There are more than 200 civil society organisations in the country, which meet regularly and freely. Many national and international civil society organisations work closely with the Government to provide invaluable support in the implementation of the Convention, including Save the Children and Plan International. Some examples of successful partnership with civil society include implementing a school feeding programme, supported by the World Food Programme (WFP) and working on justice for children and child-responsive budgeting for children with Save the Children International.

### **Impact of business activities on children's rights**

43. Oil production plays an important role in economy of the country, contributing slightly more than half of Gross Domestic Product (GDP), 95 per cent of exports, 90 per cent of Government revenue and a significant share of private sector employment. The activities and operations of the oil sector impact on the rights of the children, is yet to be determine or evaluated. Notwithstanding, the provisions of the Transitional Constitution, 2011 (as amended) which sets out guiding principles for management of gas and petroleum in the interests of future generations and ensuring accountability for violations of human rights and degradation to the environment caused by petroleum and gas-related operations. It is still a challenge to the Government to fully implement the envisage trust funds for future generations in accordance with provisions of the Petroleum Revenue Management Act (2013).

44. The non-oil private sector, which mainly comprises agriculture, livestock raising, forestry and services, is estimated to account for a small portion of GDP – approximately 15 per cent. The vast majority of businesses, most of which are small and medium-sized enterprises, operate in the informal sector. In order to protect children's rights in the context of these business activities and operations, the Government has taken steps to ensure that children are not engaged in work when they are under the minimum age of 14 years and are not exposed to the worst forms of child labour. In fulfilment of this, in 2012, The Government signed into the International Labour Organization (ILO) Convention on Minimum Age (C138) and ILO Convention on Worst Forms of Child Labour (C182). The Government has also established a Child Labour Unit with the Ministry of Labour, Public Service and Human Resource Development to investigate cases of child labour. Further, the Government has established the South Sudan Anti-Corruption Commission and in January 2015, signed into the UN Convention against Corruption.

## **II. Definition of the child (art. 1)**

45. In 2008 and that is prior to its independence, South Sudan conducted a Housing and Population Census. A further census was planned for 2013, but unfortunately, due to insecurity, the census had to be postponed. All population data since 2008 has been based on projections calculated by the National Bureau of Statistics, which projected the population in 2017 to be 11,868,209. More than half (51 per cent) of the population is below the age of eighteen; 72 per cent of the population is below the age of thirty; 83 per cent of the population is rural; 48.7 per cent of the population is female and 51.3 per cent are male.

46. Article 17(4) of the Transitional Constitution, 2011 (as amended) states that a child is any person under the age of eighteen years. This is also the definition provided in Article 5 of the Child Act, 2008 and Section 111(1) of the Local Government Act, 2009. However, in some communities in the country, the end of childhood is often culturally determined by the attainment of puberty as governed by such community customs and traditions. This can have serious implications for the protection of children's rights, particularly in relation to child marriage and this remains a major challenge to the Government.

47. Article 23(1) of the Child Act, 2008 states that "every child has the right to be protected from child marriage". Under the South Sudan Penal Code, 2008 Section 247(2), the minimum age for sexual consent for men and women is 18 years. Further the South Sudan Household Survey produced by the Ministry of Health and the National Bureau of Statistics in 2010, provides that 7.3 per cent of girls are married before 15 years of age, and 45.2 per cent before 18. For women aged 15–49 years married before age 15, differentials are noted across states with the highest proportion in Western Equatoria (13 per cent) and Western Bahr Ghazal (12 per cent), while the lowest are in Lakes (4 per cent), Upper Nile (5 per cent) and Northern Bahr Ghazal (5 per cent). No significant variations were observed across residence, age groups, educational levels and wealth index quintiles. With respect to women aged 20–49 years married before age 18, differentials are observed across states with the highest proportion in Unity (67 per cent) and the lowest in Warrap, Northern Bahr Ghazal, Lakes and Central Equatoria.

48. Laws in South Sudan contain a range of other provisions pertaining to the definition of the child, depending on the rights to be protected under specific laws:

(a) A child under the age of 12 cannot be held criminally responsible (Penal Code, Section 30). A child aged 12 to 14 is presumed to be able to be held criminally liable unless it can be proved beyond reasonable doubt that he or she lacked the capacity to form the intention necessary to commit the offence or, where negligence is an element of the offence, he or she lacked the capacity to behave in the way that a reasonable adult would have behaved in the circumstances (Penal Code, Article 31);

(b) A child under 16 years cannot be imprisoned (Article 182, Child Act). The death penalty cannot be imposed on a child (Article 21(2), Transitional Constitution) and this is reiterated in the Child Act, which provides that "no child shall be sentenced to capital punishment or life imprisonment" (Article 21(a));

(c) Under the Child Act, a child may only bring a case before a court via a parent, relative, or guardian. According to the Civil and Criminal Procedure Acts, the child's guardian must bring legal cases. However, every child has the right to be heard in any proceeding in which a matter concerning the child is discussed (Child Act, Article 7);

(d) The age for voting is 18 (Article 33, National Elections Act 2012);

(e) The Transitional Constitution, 2011 (as amended) specifies that every child has the right "not ... to be required to serve in the army" (Article 17). Article 31(1) of the Child Act (2008) states that the "minimum age for conscription or voluntary recruitment into armed forces or groups shall be eighteen years." This law also explicitly lays out penalties for recruitment or use of a child in an armed force of "imprisonment for a term not exceeding ten years or with fine or with both." (Article 32). This minimum age is reinforced in the Sudan People's Liberation Army Act, 2009 (Article 22); and

(f) The minimum age for light work for children is 12 years, paid employment is 14 years (Article 25(3) Child Act) and for hazardous work it is 18 years (Articles 5, 22 (3) and 25 (1) Child Act);

(g) Section 24(iii) of the General Education Act (2012) provides for free and compulsory primary education to all citizens in the country; primary education starts at six years and is completed at 13 years.

### III. General Principles (arts. 2, 3, 6 and 12)

#### Non-Discrimination

49. The Constitutional guarantee of non-discrimination is enshrined in Article 14 of the Transitional Constitution, 2011 (as amended), which provides that: “all persons are equal before the law and are entitled to the equal protection of the law without discrimination as to race, ethnic origin, colour, sex, language, religious creed, political opinion, birth, locality or social status.” Article 17(1)(e) of the Transitional Constitution, 2011 (as amended), provides further that “every child has the right to life, survival and development; to a name and nationality; to know and be cared for by his or her parents or legal guardian; not to be subjected to exploitative practice or abuse nor to be required to serve in the army nor permitted to perform work which may be hazardous or harmful to his or her education, health or wellbeing; to be free from any form of discrimination; to be free from corporal punishment, cruel or inhuman treatment, including under the hands of their parents; school administration or other institutions; not to be subjected to negative and harmful cultural practice which affects his or her health, welfare or dignity; to be protected from abduction and trafficking.”

50. Article 29(1) of the Constitution provides that “education is a right to every citizen and all levels of government shall provide access to education without discrimination as to religion, race, and ethnicity, health status, including HIV/AIDS, gender or disability.”

51. Many other laws, policies and strategic plans of the Government endeavour to address marginalisation and to achieve equality of opportunities for all children in the country. Sub-section (1) of Article 9 of the Child Act, 2008 provides that a “child shall not be discriminated on the basis of his or her parent’s or guardian’s, gender, race, age, religion, language, opinion, health status, birth status, custom, ethnic origin, rural or urban background, socio-economic or political status, refugee status, criminal record or any other status.” Also, Article (2)(a) of the Act states that “any person who discriminates against a child or his or her parents or guardians in contravention of this Article commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding one year or with fine or with both.” Further, Article 36(2) (a) of the Child Act provides that “it is the responsibility of the government to protect a child from any form of discrimination and to take positive action to promote their rights”. Article 39 of the Child Act, 2008 provides that “parents have duties and responsibilities whether imposed by law or customs to each of their children without discrimination which includes the responsibility to register their children at birth; protection of their children from neglect, discrimination, violence, abuse, exploitation, exposure to physical and moral hazard and oppression; provision of good guidance, care, assistance and maintenance to ensure survival and development; to ensure that their children receive full time education suitable to their ages, ability and aptitude; provision of any special education needs they may have by regular attendance at school; ensuring that during any absence, alternative care is to be provided by a competent person.”

52. The right to non-discrimination is reinforced in the context of health in Article 15(3) of the Child Act which states that “every child has the right to free basic health care; provision of which shall be the responsibility of parents and the government” and that every child has the right to free immunization. Also, the Article provides that “no child seeking medical treatment or care shall be subjected to discrimination. Further, sub-Article (4) of Article 15 of the Child Act states “no child shall be deprived by any person of medical treatment by reasons of religious or other beliefs”.

53. The rights of refugee and internally displaced children are given special attention in Article 29 which states that a refugee and a displaced child is entitled to the protection of his or her rights and the Government shall ensure that he or she has access to assistance in the provision of basic services and in tracing his or her parents in a manner consistent with his or her dignity and without discrimination. Where no parents, legal guardian or close relatives can be found, every refugee and displaced child shall be accorded the same care and protection as any other child permanently or temporarily deprived of his or her family environment for any reason.

54. The right of girl not to be discriminated against is addressed by Article 26(2) of the Child Act which provides that every female child has:

(a) The right of equal participation on a non-discriminatory basis as partners with a male child in social, economic and political activities; (b) equal rights to succession and inheritance to property and reasonable provision out of the estate of a deceased parent without discrimination; and

(b) The right to develop their full potential and skills through equal access to education and training. These provisions enlighten that female child has right to be protected from sexual abuse and exploitation and gender-based violence, including rape, incest, early and forced marriage, female circumcision and female genital mutilation. No female child shall be expelled from school due to pregnancy.

55. In spite of the legal provisions, the Government is faced with various challenges especially discrimination against that is owing to pervasive and deep-rooted patriarchal attitudes. Some of the manifestations of gender-based discrimination include: widespread practice of child marriage; high rates of maternal mortality; low literacy rates for girls and women; lower rates of enrolment in primary and secondary school for girls than boys; lack of participation of girls in decision-making in the family and community and widespread prevalence of domestic violence, child abduction during cattle raids, rape, sexual assault and the practice of giving a girl to a family in compensation for a crime committed by her family, in some communities.

56. Discrimination against girls has been identified and addressed by the Government through implementation of many different strategies and policies. In 2012, the Ministry of Gender, Child and Social Welfare produced a National Gender Policy and a strategy for its implementation. The policy provides for an extensive institutional framework and guidelines for gender mainstreaming in all policies and programmes of the public and private sectors in the country, through close collaboration with UN agencies, international NGOs, civil society organizations, the African Union (AU). In 2014, the Government developed standard operating procedures for gender-based violence prevention; protection and response. The strategies introduced by the Government to address discrimination against girls, has underscored minimum desired outcome but still requires extra attention and monitoring.

57. With respect to discrimination on the basis of gender in the context of education, in 2013, the Government in collaboration with UK Government has put in place a number of affirmative actions to promote girls' access to education including running the Girls' Education South Sudan (GESS) programme. The GESS Programme is aims to have helped 200,000 girls stay in school by the time the programme ends in 2018 by improving teaching and learning in schools, provision of cash transfers, capitation grants to schools and behaviour change communication. Education Management Information System (EMIS) figures from 2012 to 2016 reveal a slow but steady increase in the proportion of children studying at both primary and secondary education levels. However, it should be noted that the figures for 2015 and 2016 did not captured information from the whole country.

58. It is still a major challenge to the Government that children with disabilities lack access to basic services and negative attitudes towards them hinders their participation in social, political and economic life. In response to these challenges, the Ministry of Gender, Child and Social Welfare produced a National Disability and Inclusion Policy in 2013. Its overall goal is to address and respond to multiple vulnerabilities faced by adults and children with disabilities and to promote and protect their rights and dignity in an inclusive manner. Specifically, it seeks to:

- (a) Ensure access to services for all persons with disabilities (PWDs);
- (b) Strengthen PWDs presence and capacities in decision making for their meaningful participation in political and development processes;
- (c) Promote respect and protection of human rights of PWDs in South Sudan;
- (d) Strengthen the capacity of service providers, PWDs and care givers for effective prevention and management of disabilities; and

(e) Create an enabling environment for PWDs' economic and social empowerment and improved livelihood.

59. Another group of children who experience discrimination are boys and girls associated with HIV/AIDs. A stigma index survey conducted in 2016 showed that 30 per cent of people living with HIV reported to have ever been insulted or physically assaulted; 23 per cent reported to have ever been excluded from family activities and 20 per cent reported they were excluded from social gatherings. A National Strategic Plan (2012–2017) has been put in place with explicit objectives to build on the findings of this survey and to eliminate discrimination through advocacy and communication strategies including with policy makers.

### **Best interests of the child**

60. The Transitional Constitution, 2011 (as amended) and Child Act, 2008 provide the legal basis for determination of the best interests' principle of the child. Article 17(2) and (3) of the Constitution makes it clear that in all actions concerning children undertaken by public or private welfare institutions, courts of law, administrative authorities or legislative bodies, the paramount consideration shall be the best interests of the child. The principle and application of the best interests of the child is elaborated further in the Child Act, 2008 in different contexts. Also, Article 6 of the Child Act affirms that whenever the Government either at national or state level, a Court, a local authority, legal entity or any person determines any question with respect to the upbringing, care or welfare of a child or the administration of a child's property or any income arising from it, the best interests of the child shall be the paramount consideration.

61. The principle of the best interests of the child is a guiding principle for decision-making regarding parental responsibility, guardianship, foster care and adoption as well as for custody and contact disputes (see *inter alia* Articles 42, 64 and 77, Child Act). In addition, a child should live with their parents unless it is not in their best interests to do so and any child who is separated from one or both parents shall have the right to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interest.

62. The principle of the best interests of the child also informs all aspects of application of the law regarding children in conflict with the law. Customary law will not apply, wherever its application would be contrary to the best interests of the child (Child Act, Article 4 (4)).

63. In practice, those engaged in determining the best interests of the child in legislative, administrative and judicial proceedings would benefit from clearer guidance regarding how to conduct this determination. The Government has conceded that more needs to be done to integrate the principle of the best interests of the child into practice by judges, social workers and other institutions of government. There is need to engage traditional leaders to ensure that the best interests of the child are taken into consideration as well at community level and in the administration of customary law.

### **Right to life, survival and development**

64. Article 17 of the Transitional Constitution, 2011 (as amended) gives all children the right to life, survival and development and this is reiterated in Article 12 of the Child Act, 2008, which provides that it is the responsibility of the family and the Government to promote and care for the survival and development of the child.

65. Article 21(2) of the Constitution further states that no death penalty shall be imposed on a person under the age of 18 and Article (21(a) of the Child Act also provides that "no child shall be sentenced to capital punishment or life imprisonment."

66. Some of the most serious health related risks for children, in terms of their survival and development, are pneumonia, diarrhoea, malaria, neonatal problems and malnutrition. Often it is a combination of these conditions that are among the leading causes of child

mortality. The 2010 Household Survey shows that more than one child in 10 dies before his or her fifth birthday. Among under five child deaths, the majority over 60 per cent are of infants aged under one year with most dying from common but preventable childhood illness and conditions such as malaria, pneumonia and diarrhoea. Meanwhile, prevalent undernutrition contributes to 45 per cent of these child deaths. Malaria is endemic in all parts of the country, with the entire population at risk of infection. Most malaria deaths in the country are of young children, while pregnant women have heightened susceptibility to malaria.

67. The consequences of displacement for affected populations – poor sanitation, shortages of safe, potable water and crowded living conditions – have led to an increase in communicable diseases and malnutrition. Common health conditions among internally displaced persons (IDPs) include cholera, kala-azar, acute respiratory infections, acute watery diarrhoea, malaria, malnutrition and measles.

68. Recognizing its duty of fulfilling the conditions for the survival and development of children, the Government has taken various measures to combat child health problems including implementation of the Boma Health Initiative, which aims to establish a health system at the community level. Following a successful Guinea Worm Eradication Programme, South Sudan has entered the pre-certification stage with the WHO as being free of Guinea worm disease. As of the end of February 2018, the Government had recorded zero cases of Guinea worm disease for 15 consecutive months. The country has been free of transmission of wild poliomyelitis since 2009. In accordance with the Ministry of Health's Health Management Information System, in 2016, 52 per cent of children received measles vaccines and 45 per cent received the third doses of both Polio and Pentavalent vaccines before the age of one year.

69. Another significant risk to survival and development of children in the country arises from contamination of large tracts of land by landmines and other unexploded ordnances. In accordance with the Government supported by the UN Mine Action Service (UNMAS), at the end of 2016, declared 142 areas suspected to contain cluster munition remnants as a result of decades of conflict.

70. South Sudan succeeded to the Mine Ban Treaty in 2011 and has a national strategic plan for mine action for 2012–2016. The main objectives of that plan are to ensure that:

- (a) South Sudan is in a position to comply with all international instruments related to mines and can conduct and manage the national mine action program;
- (b) The scope and location of the mine contamination are fully recorded, and all high-impact contaminated areas are identified, prioritized, cleared, and released; and
- (c) The national mine action program contributes to reducing poverty and increasing socio-economic development by being mainstreamed into development programmes.

71. The National Mine Action Authority (NMAA) is responsible for coordination, planning and monitoring of mine action in the country. Whilst UNMAS takes responsibility for accrediting organizations, drafting national mine action standards, establishing a quality management system, managing the national database and tasking operators, the NMAA takes lead on victim assistance and risk education. Eventually, the NMAA will assume full responsibility for all mine action activities. During 2016, just under 3.5km<sup>2</sup> of cluster munition-contaminated area were cleared, with the destruction of more than 3,000 sub-munitions. This is a significant increase from 2015, when almost 1.4km<sup>2</sup> was cleared with 1,200 sub-munitions destroyed. Furthermore, the Government in collaboration with UNMAS is also conducting awareness raising for children in schools including encouraging children to develop a mine risk education song.

## **Respect for the views of the child**

72. In South Sudan children have the right to be heard, to express an opinion and to have that opinion taken into account in any matter or procedure affecting them with the

qualification that the opinion of every child shall be given due weight in accordance with their age and maturity. For example, administrative and judicial processes involving cases of children are required to consider the opinion of the child in question. Specifically, in relation to adoption, a child over ten will have to give their consent to adoption and if younger than ten then his or her opinion shall be taken into consideration. Proceedings involving children in conflict with the law and law enforcement agencies is conducted in an atmosphere of understanding, which allow the child defendant or suspect to participate and express himself or herself freely.

73. Articles 7 and 8 of the Child Act define the issues to be considered whilst determining questions relating to a child whether by a court or other person:

- (a) The ascertainable wishes and feelings of the child concerned are considered in the light of his or her age and understanding;
- (b) The child's physical, emotional and educational needs;
- (c) The likely effects on the child of any changes in the child's circumstances;
- (d) The child's age, sex, background and any other circumstances relevant in the matter;
- (e) Any harm that the child has suffered or is at risk of suffering; and
- (f) Where relevant the capacity of the child's parents, guardians or any other person involved in the care of the child in meeting his or her needs.

74. There are entrenched cultural barriers that prevent children's voices from being heard in families, communities, within the broader society and in courts and during administrative proceedings. These obstacles need to be combated although some efforts have been made to create opportunities for children to express their views and to be heard. At the State and County levels of government, some children are involved in after school clubs focussing on peace, human rights, drama and sports. At national level, the National Youth Union and the South Sudan Students' Councils are the most widely recognized youth organizations and are supported by the Ministry of Culture, Youth and Sports. Children played an important part in pushing for ratification of the Convention by advocating with parliamentary groups in 2015. The Day of the African Child and International Day of the Girl Child are marked with events every year.

75. There is increasing attention to the positive, transformative role that children and young people can play in peace building and decision-making processes. The Peace Agreement signed in August 2015 has stressed roles for youth in overseeing efforts for peace building and in developing national legislation. There are different initiatives around this primarily led by civil society. In 2016, the NGO Confident Children out of Conflict took a group of children to Kenya to meet with members of the African Union to discuss peace-building issues. The Government and some UN agencies organises after-school clubs in certain areas focused on human rights that include components of peace building.

#### **IV. Civil rights and freedoms (arts. 7, 8 and 13–17)**

##### **Name and nationality**

76. Every child has the right to a name and nationality in accordance with the Transitional Constitution, 2011 (as amended); Article 17(1) and citizenship rights are set out in the Nationality Act (2011). Citizenship is derived in the following ways: through birth if a person has a South Sudanese parent, grandparent, or great-grandparent on either the mother's or the father's side; if a person is a member of one of the country's indigenous ethnic communities and if a person or their parents or grandparents had been habitual residents of South Sudan since 1956. The Nationality Act allows for dual nationality and provides equal rights for women and men to pass on their nationality to their children or spouses.

77. Lack of civil documentation, such as birth certificates or identity papers, especially in the rural areas remains a major challenge to the Government as it is making it difficult to anyone citizen to provide proof that a parent, grandparent or great-grandparent was born in South Sudan. However, there are provisions in the Nationality Act Regulations, which allows for a witness statement from a broad range of people on behalf of an applicant where documentary evidence is not available.

### **Birth registration**

78. The right to free birth registration is provided for in the Child Act, 2008, section 11. There is also a commitment in the Child Act to put in place a birth registration law throughout South Sudan. A Civil Registration Act, 2018 was passed by the Transitional National Legislative Assembly to provide for compulsory national registration of births, marriages, divorce and deaths across the country.

79. The South Sudan Household Health Survey conducted in 2010 revealed that 35 per cent of children under five had their births registered and approximately 29 per cent had a birth certificate. In the absence of a fully established civil registration system since 2011, free birth notification services have been provided for children under five years of age in selected health facilities and locations. Parents are given a Notification of Birth Form, which can be exchanged for a birth certificate when becomes available. Birth Notification, although not as comprehensive as registration, does enable children to access vital enabling identity documents such as passports. Between 2014 and the first half of 2017, 422,860 children were reached with birth notification services.

80. The Government is making efforts to implement 16.9 of the Sustainable Development Goals by providing legal identity for all, including birth registration and is committed to increase rates of birth notification and registration through implementation of the National Health Policy (2016–2026), the National Health Strategic Plan (2017–22) and the Boma Health Initiative which seeks to strengthen and develop community-based health information systems.

81. Other measures that have been introduced by the Government to increase the rate of birth notification include communication activities using social mobilisation, interpersonal communication and radio programmes. In 2016 introduced a pilot project known as “mother cards” in three health facilities in Northern Bahr-el-Ghazal. Plastic cards were issued to pregnant mothers containing a unique barcode through which details about the pregnancy are stored electronically and which, is later on used to facilitate birth notification. This Government’s initiative is to address obstacle of illiteracy amongst the population and traditional birth attendants, as it avoids the need for writing or filling of forms.

82. The Government also with support from the Canadian Government and UNICEF established a Birth Registration for Maternal and New-born Child Health (BR4MNCH) project. A number of states were selected to record all birth notifications and to gather data for Civil Registration and Vital Statistics System (CRVS) in the country.

83. The Government with support from international development partners have made improvements where children under the age of five-year-olds have their births notified and by access to birth notification services in by addressing bottlenecks in the supply and demand for birth notification services. Challenges remain, including high levels of illiteracy especially amongst women, that most births take place outside of health facilities and a lack of awareness of the importance of birth notification and registration.

### **Freedom of expression**

84. The Transitional Constitution, 2011(as amended) guarantees the right to freedom of expression under Article 24, with permissible exceptions for public order, safety or morality reasons. This is affirmed in Article 17 of the Child Act, which covers the right for children to have an opinion and includes provision for children to seek, receive and impart information and ideas of all kinds with exceptions for infringing upon the rights of others.



Section 17(2) of the Child Act, 2008 provides that “every child has the right to express his or her opinion freely and to have that opinion taken into account in any matter or procedure affecting him or her and...the opinion of every child shall be given due weight in accordance with the age and his or her maturity.” Also, section 7 of the Child Act states that a child has a right to be heard whenever any matters concerning him or her are discussed. The Media Authority Act enshrines the principle that the “right to freedom of expression, including the public right to a pluralistic media, is a fundamental human right, protected under Article 24 of the Constitution.” Noting the role for a free media as a “public watchdog,” the Act states “mass media” shall be protected from censorship by any official or non-official authority.” The Media Authority Act, 2014 provides for the establishment of an autonomous oversight body, the Media Authority, to regulate, develop and promote an independent and pluralistic media industry in the country.

85. Government is faced with various challenges in ensuring children’s right to freedom of expression and information in the country, primarily because communities have traditional perceptions of children and their opinions are not always given sufficient consideration in settings such as the family, school and media and in wider society.

### **Freedom of thought, conscience and religion**

86. Freedom of religion is guaranteed under the Transitional Constitution (as amended) which stipulates the separation of religion and state. It prohibits religious discrimination and states, “all religions shall be treated equally” and “religion or religious beliefs shall not be used for divisive purposes.” This right is reinforced in the Child Act which states that “every child whose origin is from an ethnic, religious and cultural minority has the right to freely enjoy and develop his or her culture, belief, use his or her language and observe his or her religion.”

### **Freedom of association and of peaceful assembly**

87. The Transitional Constitution (as amended) upholds everyone is right to freedom of association and peaceful assembly, including children and this right is non-derogable. In practice, children enjoy access to a range of youth clubs, NGOs and associations and participation in the activities and gatherings of their choice.

### **Protection of privacy**

88. The right to privacy is protected in the Constitution, in Article 22: “The privacy of all persons shall be inviolable, no person shall be subjected to interference with his or her private life, family life, home or correspondence, save in accordance with the law.” Children in conflict with the law have their right to privacy specifically protected under Article 180 of the Child Act, which prohibits publishing information that may lead to the identification of a child offender or accused and ensures confidentiality of records. The right to privacy for child victims and witnesses of crime is also stressed as part of the training of staff members in Special Protection Units and for the South Sudan National Police Service, who have been issued with Guidelines on Women and Child Rights that requires keeping personal and other information confidential.

### **Access to appropriate information**

89. Article 32 of the Transitional Constitution (as amended) guarantees the right to access official information, with exemptions for public security and personal privacy. In December 2013, the Media Authority Act, the Broadcasting Corporation Act, and the Right of Access to Information Act, also known as the ‘Media Laws,’ came into force in 2014. They are the key legal frameworks promoting press freedoms and access to information in country. The Right of Access to Information Act allows citizens to access information from both public and private bodies without charge. The right to information is further elaborated

upon in Article 36 (2) (j) and (t) of the Child Act under which the government encourages the media to disseminate information of social and cultural benefit to the child and take steps to protect him or her from harmful information and material as well as disseminate information on child rights within the country.

90. In practice, radio is the main source of information for children in the country and there are many different networks and media outlets run by churches, community organisations and private businesses as well as a UN radio station (Radio Miraya), which can be heard across most areas in the country. To celebrate the Day of the African Child in 2017, 30 students from schools across Juba participated in Radio Miraya's prime show, such as the Morning Breakfast Show and the Drive Time; they read the news in English and Arabic and were trained in photography and videography. In addition, children participated in South Sudan Broadcasting Corporation shows programmes on TV regarding gender and awareness raising and child rights issues.

## **V. Violence against children (arts. 19, 24 paras. 3, 28 paras. 2, 34, 37(a) and 39)**

### **Abuse and neglect**

91. Children have the right to be protected from abuse and neglect and the Child Act, 2008 places an obligation on the government to ensure that every child who is a victim of abuse shall be accorded appropriate treatment and rehabilitation. Abuse in this law is defined in broad terms include:

- (a) All forms of physical or mental violence, injury, abuse, negligent treatment, maltreatment or exploitation;
- (b) Abduction and trafficking, for any purpose or form, by any person including parents or guardians;
- (c) Sexual abuse, exploitation and harassment including, but not limited to rape, incest, inducement or coercion of a child to witness or engage in a sexual activity;
- (d) The use of a child in prostitution or other sexual practices; and
- (e) The use of a child in pornographic performances and materials.

Section 36 of the Child Act requires that all level of the governments "to provide effective remedies to redress violations of the child rights, including through access to child friendly, independent complaints procedures and competent Courts."

92. Section 56 of the Child Act, 2008 criminalises abandonment of children and places an obligation on parents to provide adequate food, clothing, medical treatment, lodging, care, guidance and protection. Section also 57 establishes offence of wilful ill treatment and neglect of a child in such a way as to cause unnecessary suffering. Further, section 30 of the General Education Act, prohibits sexual relationships between teaching staff and learners as well as molestation and sexual harassment of learners. Any schoolteacher or staff member who impregnates a learner shall be dismissed and de-registered.

93. There is no national information management system that systematically collects data on incidents or trends of abuse, violence, exploitation and neglect against children. There is a Gender Based Violence (GBV) Information Management System, which functions in some parts of the country, although the number of contributing actors is low. According to this information system, during 2016, approximately 98 per cent of reported GBV incidents affected women and girls.

94. It is likely, although unverified, that only a few cases of abuse and neglect of children are reported to authorities such as the police or reach the formal courts. They are more often considered in customary courts. Child victims of abuse and neglect can face difficulties if they decide to report an offence committed against them.

95. Some of the underlying causes of the abuse and neglect of children are parental and societal lack of knowledge about child development and traditional attitudes towards children. To make the reporting system more effective, the Government is making efforts to raise public awareness of the impact of abuse and neglect against children. Furthermore, the geographical coverage of integrated services and referral mechanisms for child survivors of abuse and neglect is still regrettably low. Both reporting and referral services to help child victims of abuse and neglect require strengthened institutional mechanisms as does provision of legal remedy.

### **Harmful practices including female genital mutilation and early and forced marriages**

96. Child marriage is a significant challenge to the Government. It undermines girls' survival and development prospects and their participation in other developmental activities and is one of the main reasons why girls do not always complete primary and secondary school. The South Sudan Household Survey (2010) found that 7.3 per cent of girls are married before 15 years of age and 45.2 per cent before 18 years of age. A 2010 Study conducted by the Ministry of Gender, Child and Social Welfare, with the support from UNICEF, looked in to knowledge and practices around child marriage and found that it is deeply rooted in cultural norms in country making it a widely-accepted practice in most communities because girls are perceived as family 'assets' owing to the practice of dowry payments.

97. Section 23(1) of the Child Act states that every child has the right to be protected from child marriage. Also, section 30 of the Child Act imposes a maximum penalty of seven years' imprisonment for infringement of a right of a child including the right to be protected from child marriage.

98. Building on the legal framework, the Government has taken steps to prevent, investigate, prosecute and punish child marriage with the support of partners. Efforts have been made to raise awareness about the damaging impact of child marriages by way of radio talk shows and community consultations in seven States, with traditional chiefs and leaders, parents and religious leaders and by encouraging girls to participate in the International Day of the Girl Child and the Day of the African Child.

99. The Ministry of Gender, Child and Social Welfare is part of the African Union (AU)'s ongoing campaign for ending child marriage. In February 2017, the Government in collaboration with the UN Population Fund (UNFPA), launched a taskforce to end child marriage. The Government has also developed a plan of action to end child marriage by 2030, which was launched in the year 2018 and is aligned to the SDGs and to the AU 2040 Agenda for Children.

100. Some of the challenges facing the Government and its partners in combatting child marriage are difficulty in enforcing laws, lack of birth registration for verifying children ages, the fact that girls are considered as assets and bring bride wealth with them to their husband's families, failure to report cases, poverty and the strong influence of community, traditional and religious leaders.

101. Female genital mutilation is a criminal offence under Section 259 of the Penal Code and 80 per cent of the population disapprove of the practice. Although not a common practice – the Household Survey states a prevalence of one per cent of women aged 15–49 years – female genital mutilation has occurred, particularly along the northern border regions.

### **Sexual exploitation and sexual abuse**

102. There are a number of protections in law against sexual and gender-based violence against children:

(a) Section 26 of the Child Act, 2008 specifically states that “every female child has a right to be protected from sexual abuse and exploitation and gender-based violence,

including rape, incest, early and force marriage, female circumcision and female genital mutilation.”;

(b) Also, section 22(2) of the Child Act 2008, provides that: “every child has the right to be protected from the following types of treatment and abuse while in the care of parents, legal guardians, teachers, police or any other person who has care of a child sexual abuse, exploitation and harassment, including but not limited to rape, incest, inducement or coercion of a child to witness or engage in a sexual activity; the use of a child in prostitution or other sexual practices; and the use of a child in pornographic performances and materials.”;

(c) Section 247(2) of the Penal Code, 2008, provides that the minimum age for sexual consent for men and women is 18 years. Under the Penal Code, there are standard provisions, which punishes offences related to bodily injury, kidnapping, abduction, rape, assault and other sexual offences, committed against a child or any other person;

(d) Section 137 of the Child Act provides for protection of child witnesses and victims, where necessary, including protection from intimidation.

103. Data on the commercial sexual exploitation of children is not readily available although it is understood that boys and girls in street situations are particularly vulnerable. The South Sudan Household Survey (2010) found that one out of five women in South Sudan was affected by gender-based violence and 79 per cent of both male and female respondents found it justifiable for men to beat their wives or partners under some circumstances.

104. In 2012, the Government conducted a Comprehensive Country Gender Assessment, which found that most common causes of violence against women and girls include alcoholism (31 per cent), cultural practices (24 per cent), poverty (24 per cent) and conflicts (19 per cent). The other causes of violence included polygamy and general misunderstandings and suspicion between married couples. SGBV was reported to be widely perceived as ‘normal’ and the beating of girls and women was seen as a corrective disciplinary measure taken by their male ‘guardians’. The 2012 Comprehensive Gender Assessment also found that majority of both women and men believe that a man is justified in hitting a woman if she goes out without telling him, if she neglects children or if she argues with him. In a separate assessment of attitudes and beliefs towards violence against women and girls in South Sudan, the majority of respondents (68 per cent of women and 63 per cent of men) also agreed that ‘there are times when a woman deserves to be beaten’.

105. Due to presence of strong cultural beliefs, many women and girls do not speak about such incidents of sexual exploitation, rape and other abuses for range of reasons including fear of experiencing the stigma associated with sexual violence survivors; risks of physical violence; lack of knowledge of health consequence and inadequate access to services.

106. The Ministry of Gender, Child and Social Welfare takes lead in GBV prevention, protection and response at the national level whereas at the State level, the mandate is with the State Ministries of Social Development. In this endeavour, the Ministry of Gender, Child and Social Welfare collaborates closely with other ministries, including the Ministry of Health, Ministry of Justice and Constitutional Affairs, Ministry of General Education and Instruction, Ministry of Culture, Youth and Sports and Ministry of Interior as well as international development partners, and civil society organizations on addressing GBV.

107. One important coordinating mechanism introduced by the Government is the GBV Sub Cluster, which aims to improve and support the prevention of and response to GBV and to consider all types of gender-based violence in its coordination, planning and advocacy activities. The current membership of the GBV Sub-cluster includes more than 150 individual members, with approximately 35 organizations participating in bi-weekly Sub-cluster meetings. Members include UN agencies, relevant UNMISS units, Government ministries, international NGOs and national NGOs, representatives from other clusters and donors.

108. Efforts are underway to prevent SGBV, improve the care and support that child survivors receive and to encourage more reporting. The Ministry of Gender, Child and Social Welfare has produced a National Gender Policy which addresses sexual exploitation

and abuse explicitly and Standard Operating Procedures for addressing various forms of GBV were developed in 2014. Currently the Juba Teaching Hospital provides services for survivors of SGBV in a one-stop Clinical Management of Rape Centre. In addition, there is a safe house in Torit for survivors of SGBV where they can access psychosocial, legal and health support.

109. One important initiative made by the Government in collaboration with international development partners is the establishment of Special Protection Units (SPUs) in police stations in 2008. The SPUs are designed to provide a place where girls and women can feel safe reporting SGBV crimes to the police. Police officers trained to investigate and prosecute cases involving women and children and to ensure provision of legal aid, protection, medical care and psychosocial support. There are now 14 SPUs located in police stations across country although primarily in urban areas. Challenges facing proper functioning of the SPUs, include frequent re-deployment of officers who have received specialised training and use of the office-space for other police tasks. There are also communication challenges that emerge because police officers often communicate in Arabic rather than English.

110. The Government with support from UNDP conducted training to police in dealing with SGBV cases as well as to lawyers. However, such trainings have been ad hoc in nature. The police have established a specific department of female police officers. One significant development was the Inspector General of Police's release of Administrative Order 10 which clarifies the policy on Form 8, a document that many still believe incorrectly is a prerequisite for survivors of sexual violence to access medical care. All police officers are in violation of the policy if caught charging a fee, either to make a copy or to manually fill in the form. In 2015, the South Sudan National Police Service were issued with Guidelines on Women and Child Rights which set out to sensitise all police personnel on how to deal with girl and women victims of gender-based violence, domestic violence and those in contact with the law in other cases.

111. A Department of Women and Juvenile Justice has been established under the Directorate of Public Prosecution in the Ministry of Justice and Constitutional Affairs and developed a manual for prosecutors to prevent the trivialisation of cases that involve SGBV within the criminal justice system.

112. At the informal level, children affected by SGBV are protected by the local level sector that includes Kinship, Clan, Community, Church-based institutions, Customary/Village Courts and Women and Youth groups who operate primarily through providing mediation and ensuring that children remain in extended families. Children do not participate actively in these groups because of cultural barriers.

113. The effects of multiple armed conflicts on the stability and security of the country, contributes to the prevalence of violence against children and increases chances for possible violations on the rights of children. In 2013, the Government has conducted a baseline study looking at the impact of conflict on the rights of children, to inform preparation of an action plan to improve their protection in accordance with UN Security Council Resolution (UNSCR) 1325. Concerning sexual and gender-based violence, the study found that there is limited available data.

114. Following the baseline study for UNSCR 1325, the Government launched in 2016 a National Action Plan to respond to the needs of survivors of sexual violence in armed conflict, to be known as the South Sudan National Action Plan 2015–2020 with aim of implementing the UN Security Council Resolution 1325 on Women, Peace and Security and Related Resolutions. The objectives of this detailed National Action Plan are:

(a) Provide protection for women and girls, including those with disabilities, against any form of sexual and gender-based violence and restore the respect for human rights, human dignity and equality in South Sudan;

(b) Increase women's participation in the prevention and resolution of conflicts, the maintenance of peace and security, and guarantee their participation in post-conflict peacebuilding and state building processes;

(c) Enable peace and security stakeholders in South Sudan to galvanize their efforts and ensure the creation of synergy and long-term engagement for the improved implementation of gender-sensitive peace- and security-focused initiatives at national and state levels;

(d) Enhance the capacity of the key actors implementing the National Action Plan for data collection, analysis and quality reporting, and promote increased public awareness of the principles underlined in UNSCR 1325 and the subsequent Security Council resolutions on women, peace and security; and

(e) Ensure the inclusion of women and girls' needs in the national budgetary priorities of the transitional assistance plans developed by the Government and all programmes funded by development partners, including in the negotiations of the New Compact Deal.

115. In 2015, women participated actively, in the negotiations, in Addis Ababa, Ethiopia of the Agreement on the Resolution of the Conflict in the Republic of South Sudan, which included in it a gender-sensitive agenda for peace and sustainable development. As part of the Agreement signed in August 2015, the warring parties committed themselves to refraining from acts and forms of sexual and gender-based violence, including sexual exploitation and harassment. The Intergovernmental Authority on Development (IGAD) has also trained women on peace promotion and are active stakeholders in the implementation of the ongoing Revitalised Agreement signed in September 2018.

116. In addition to implementation of the UNSCR 1325 Action Plan, the Government has taken the following concrete steps to address and prevent conflict-related sexual and gender-based violence. The South Sudan Peoples' Defence Forces (SSPDF) Code of Conduct explicitly prohibits sexual and gender-based violence. As a commitment by the Government, in 2014, it signed a joint memorandum with the Special Representative on Sexual Violence in Conflict. This memorandum includes measures to be implemented by the Government, such as issuance and enforcement of clear orders through military and police chains of command, prohibiting sexual violence, accountability mechanisms, and exclusion of perpetrators from the security forces and to enhanced multi-sectoral services for survivors. To put this into effect, the Government established a Joint Technical Working Group on Conflict-Related Sexual Violence under the Office of the President which its members include line Government ministries and institutions and representatives from UN bodies including UNICEF, UNMISS, UN Women, UNDP and UNFPA.

### **The right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment, including corporal punishment**

117. The Bill of Rights embodied in the Constitution guarantees the right not to be subjected to torture. In implementation of this constitutional provision, the Government acceded to the United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, 1984 and its additional protocol, which mandates for the establishment of a national preventive mechanism. Article 18 of the Constitution further guarantees that "no person shall be subjected to torture or cruel, inhuman or degrading treatment or punishment" and that this right is non-derogable even at times of emergency.

118. Article 17 of the Constitution prohibits children corporal punishment in all settings at home and in alternative care settings: "Every child has the right to be free from corporal punishment and cruel and inhuman treatment by any person including parents, school administrations and other institutions". This provision was also reiterated in the Child Act, in section 21, which prohibits corporal punishment by chiefs, police, teachers, prison guards or any other person. Further, the General Education Act, 2012 prohibits child corporal punishment. The Government is working towards total prevention of corporal punishment and protection of children, physical and psychological integrity, through adoption of legislation, which encourages positive discipline and promotes the child education through non-violent methodology.

## **The availability of helplines for children**

119. The Government in 2015 conducted a feasibility study through Child Helpline International by establishing a helpline in country. The Child Helpline is intended to take the following forms: telephone calls, text messages, in person – outreach and walk-in and radio and television counselling. The objectives of Child Helpline are:

- (a) To receive complaints about child rights violations from children and adults who are contacting the helpline on behalf of children;
- (b) To offer an intervention service to children who are faced with violations in form of counselling, referral or direct intervention;
- (c) To carry out awareness raising and outreach activities about the child helpline to ensure accessibility;
- (d) Preventive mechanism through counselling; and
- (e) To ensure collaboration with existing social services and the child protection systems that are available.

The Government has developed a roadmap for the establishment of helpline; however, implementation is currently on hold owing to a lack of financial resources and ongoing instability.

## **VI. Family environment and alternative care (arts. 5, 9–11, 18, paras. 1 and 2, 20, 21, 25 and 27, para. 4)**

### **Family support**

120. The Government recognizes family institution as vital source for care, survival and development of children by ensuring that mothers, fathers and caregivers are supported in their crucial parenting role. Article 39 of the Constitution further confers duty on the parents to care for and bring up of their children. The Constitution also states that: family is the natural and fundamental unit of society and shall be protected by law and that all levels of government shall promote the welfare of the family and enact the necessary laws for its protection. Children shall not be separated from their parents or persons legally entitled to care for them against the will of such parents or persons, except in accordance with the law.

121. Chapter III of the Child Act, 2008 confers rights and duties on parents and makes them responsible and accountable for the upbringing of the children. If parents were married at the time of child's birth, both mother and father will be responsible for up bring of the child. If they are not married, the mother will have a sole parental responsibility, however, the father may acquire a shared care of the child by decision of the court (Article 41 of the Child Act). When reaching a decision regarding custody of a child, the court shall primarily consider, what is best in the interest of the child (Article 54(3)).

122. The Government has endeavoured to support parents and caregivers by alleviating poverty and placing them in a better position by developing a Safety Nets and Skills Development Project in partnership with the World Bank to enhance income opportunities and employment among poor and vulnerable groups including through a component of social protection and cash transfer. The Government also developed a National Social Protection Policy.

### **Children without parental care**

123. The Government is faced various challenges in administration, promotion and protection of child rights in the country as many children are deprived of parental care because of poverty, violence, family disintegration often caused by polygamy, divorce and displacement from their homes as a result of conflict. Such children are deprived of their first line of protection, their parents and families and therefore, such children became

vulnerable and at risk of violence, exploitation, discrimination and abuse. Children who may be categorised as being without appropriate parental care include the following:

- (a) Orphans;
- (b) Separated Children and Unaccompanied Minors;
- (c) Children of and in the street/markets;
- (d) Children Associated with Armed Forces or Groups (CAAFG);
- (e) Children in Governmental and Non-Governmental institutions;
- (f) Children in Custody;
- (g) Children in Child-Headed Households;
- (h) Children living with their parents, who are deprived, excluded, not attending school, abandoned, or survivors of SGBV;
- (i) Children living with HIV/AIDS, with mental and physical special needs, trafficked or, abducted children, working children, born out of incest relations, born out of inheritance, children affected by harmful traditional practices, children discriminated due to gender roles, children in prison of convicted mothers or of mothers with mental disabilities;
- (j) All children not living with at least one of their parents, for whatever reason and in whatever circumstances;
- (k) Children without parental care who are outside their country of permanent residence or victims of emergency situations designated as “unaccompanied” or “separated”.

124. There are legal frameworks in place to ensure the rights of children without parental care. They are:

- (a) Section 13 (4) of the Child Act, 2008 states that every child who has been separated from their parents shall have a right to be reunified with them and shall be aided to do so by the government;
- (b) Section 29 of the Child Act, 2008: every refugee and displaced child shall be accorded the same care and protection as any other child permanently or temporarily deprived of his or her family environment for any reason;
- (c) Section 36 of the Child Act, 2008: Government will provide appropriate assistance for raising a child when parents, or others charged with that responsibility, fail to do so;
- (d) Chapter IX of the Child Act provides for measures to be taken when a child is in need of special protection arising from lack of parental care, through engagement of a social worker and where required court proceedings;
- (e) Finally, section 85 of the Child Act, permits courts to make an adoption order but provision that such child agrees to adoption, if he or she is over 10 years old. Whereas a child under ten years old will have his or her opinion taken into account.

125. The Government bears primary duty to offer services to the children in need of special protection and assistance or children who are deprived of their family environment. The Government carries out this function through the Directorate of Child Welfare at the national Ministry of Gender, Child and Social Welfare and in the devolved structures at State and County level. In order to implement its activities, the Directorate of Child Welfare works closely with development partners, including UN agencies and CSOs who complement government efforts in supporting programming for children. However, other government institutions, at national, State and County levels are closely and very prominently involved including the Justice for Children and Women Section at the Ministry of Justice; Constitutional Affairs; the South Sudan People’s Defence Forces (child protection unit) the South Sudan National Police Service (Special Protection Units for women and children) and the Specialized Committee on Gender, Child and Social Welfare



at the Transitional National Legislative Assembly. At the sub-national level, the Child Welfare Directorates in the State Ministries of Social Development play a critical role.

126. Children deprived of a family environment are also protected by the informal sector which include kinship, clan, community, church-based institutions, customary or village courts and women and youth groups, which provides mediation and counselling to children.

127. There are networks of agencies working to trace and reunify children who are separated from their parents or primary caregivers due to conflict and displacement. The networks are made up of international organizations and local NGOs, supported by state ministries of Social Development. Since the onset of the 2013 conflict, they have reunited more than 5,000 children with their families.

128. In 2013, the Government developed a National Policy on the Protection and Care of Children without Appropriate Parental Care, with the objectives of:

- (a) Preventing the need for alternative care and preventing family separation;
- (b) Providing family and community support to mitigate risk of loss of appropriate parental protection and care; and
- (c) Providing informal alternative care for children without appropriate parental care and rapid response measures to manage the rise of children without appropriate care living on the streets/markets as well as the care and protection of children in emergency situations.

A significant innovation in this policy is setting up children's panels as the decision-making body to decide where a child will be placed in case of separation or to determine if reintegration back to the family of origin is the best course of action, following the assessment by the panel. This policy has a detailed implementation plan.

129. According to the South Sudan Household Survey (2010), around 17 per cent of the child population in the country are orphans. The Government and civil society organisations have established some institutions for orphans and informal fostering, in accordance with South Sudan's customs and traditions where extended families take up care of children whose parents are absent. In the town of Torit in Eastern Equatoria, there are three orphanages run by NGOs. One of the orphanages is housing about 305 children of which 113 are boys.

130. In Juba, there are three orphanages; two are run by NGOs (Confident Children out of Conflict and Straight Link). The Government runs one. The Government-run and housing 52 children as of February 2018, 36 are boys and 16 are girls. Health care professionals, the police and chiefs of various communities referred these children to the orphanage. The objective for referring these children to orphanage is to provide them with protection, medical treatment, education and psychosocial support and reunify them with families where possible.

131. The Straight Link orphanage was established in 2010 and as of February 2018 had 146 children living in it. The orphanage institutions in the country are faced with the following challenges:

- (a) Inadequate funding for food, fuel for generator, medical and educational supplies;
- (b) Lack of office space for counselling and confidential meetings and no dining area;
- (c) Lack of transport hinders reunification efforts between children and families; and
- (d) Lack of training opportunities for staff including social workers.

132. The orphanage run by the NGO Confident Children out of Conflict was established in 2007 and accommodates approximately 100 children and further supports 2,500 children at alternative homes, with school fees and other expenses. The children living in the centre have usually lost one or both parents or have run away because of hunger or because their parents cannot afford to feed them. Several have chronic medical conditions, disabilities

and special needs, which their parents were not able to cover for their medical treatment. Many of the children are GBV survivors or have experienced violence, abuse or neglect and need psychosocial support. This orphanage experiences some of the following challenges:

- (a) Limited provision of safe houses for children at risk of violence;
- (b) Limited funding for health care and food;
- (c) Finding alternative care for children can take a long time which creates depression and anxiety amongst children about their long-term future;
- (d) Drug and alcohol dependency is a significant issue;
- (e) Family tracing and reunification is a hurdle given that traditional systems of support with relatives and extended families have often broken down and
- (f) Refugee children can wait a long time to obtain the correct documentation.

133. The War Disabled, Widows and Orphans Commission Policy Framework specifically addresses the needs of war-orphaned children. The Commission has established a Directorate for War Orphans, which its responsibilities include overseeing and evaluating implementation of projects, programmes and activities for the benefit of vulnerable war orphans. This Directorate also collaborates with the Ministry of Gender, Child and Social Welfare and South Sudan Human Rights Commission on issues related to social and economic welfare and rights promotions of the war orphans.

### **Illicit transfer and non-return**

134. There is very little information available on the extent of internal and cross border trafficking on children. The Government with international development partners have instituted a number of measures to fight any illicit transfer and non-return of children through the following legal frameworks:

- (a) Chapter VIII of the Child Act prohibits trafficking and abduction of a child and prescribes punishments of up to 10 years' imprisonment for such crimes;
- (b) Sections 278 and 279 of the South Sudan Penal Code, 2008, prohibits also trafficking and abduction of children and prescribes punishments of up to seven years' imprisonment for abduction and illicit transfer or control over a person for the purpose of unlawful compulsory labour. Section 276(Penal Code) criminalizes buying or selling of children, for the purpose of prostitution and prescribes a punishment of up to 14 years' imprisonment. Further, section 258 prescribes punishments of up to 10 years' imprisonment for parents or guardians who causes or allows their children to be involved in sex trade;
- (c) In December 2015, the Government appointed the National Aliens Committee to serve as the National Coordination Mechanism on Migration to address child trafficking issues in the country;
- (d) The Police Services Act, 2009 designates the Police Service as the lead on investigation of potential human trafficking crimes and enforcement of the law;
- (e) The Government has memoranda of understanding with Kenya, Rwanda, Ethiopia, and Uganda to facilitate sharing of information, including on human trafficking.

### **Children with incarcerated parents**

135. The Prisons Service Act, 2011 provides that in respect of pregnant female prisoners where practicable, necessary precaution shall be taken for them to deliver their babies in civil hospitals and if a child is born in the prison no mention of the same shall be made in the registries. Also section 191 of the Child Act, 2008 sets out the rights of child born in Prison. Children usually stay in prison with their mothers up to the age of two years. After this, they are placed in foster care, institutions or with family.

## VII. Disability, basic health and welfare (arts. 6, 18, paras. 3, 23, 24, 26, 27, paras. 1–3, and 33)

### Children with disabilities

136. Most of the South Sudan laws provide for the rights and welfare of children with disabilities. The Constitution ensures that all levels of government guarantee participation of persons with disabilities in society as well as the enjoyment of their rights and freedoms. Article 29 of the Constitution provides for right to access education without discrimination of persons with disability. Whereas Article 31 of the Constitution further ensures that persons with disabilities have an entitlement to access all health services.

137. The Child Act, 2008, provides for protection of children with disabilities from discrimination based on their disability. Section 9 of the Act provides that anyone who does discriminate against a child or his or her parents commit an offence punishable by imprisonment for a term not exceeding one year or with a fine or both. Also, section 27 of the Child Act states that “every child with disability has the right to free and special care, medical treatment, rehabilitation, to found a family, participate in sports and recreation, education and training”. Further, the Act mandates all levels of the government to provide assistance to any child with disabilities, to enjoy a full and decent life and achieve the greatest possible degree of self-reliance and social integration.

As a commitment by the Government, the Transitional National Legislative Assembly has recently approved South Sudan accession to the United Nations Convention on the Persons with Disabilities.

138. The Population and Housing Census conducted in 2008/2009 identified that persons with disabilities accounted for 5.1 per cent of the population in the country. No gender differences were found, and prevalence was evenly spread across age groups. This figure of 5.1 per cent may be an under-estimation since globally, the WHO estimates that 15 per cent of the world population has disabilities. A 2016 household survey carried out by the Food Security and Livelihood Cluster in South Sudan found that around 15 per cent of households had at least one disabled family member. Former Unity State in Upper Nile had the highest proportion (26 percent) of the households with at least one handicapped member, followed by former Central Equatoria (20 percent). Lakes and Western Bahr el Ghazal had relatively low proportions (8 percent), while others had between 10 and 18 percent. Warrap had the highest proportion (19 percent) of the households with at least one member chronically ill. In 2011, the Government conducted a National Disability Assessment, which indicated that physical impairments represent between 35 per cent to 52 per cent of all disabilities, visual impairments between 33 per cent and 20 per cent, hearing impairments between 15 per cent to 12 per cent, intellectual impairments and mental illness between 17 per cent and 10 per cent and speech impairment is about 4 per cent to 7 per cent. According to the National Disability Assessment, the following are causes of impairment among the surveyed population with severe disability in South Sudan:

- Eye disease – 23.5 per cent
- War/conflict – 21 per cent
- Poliomyelitis – 21 per cent
- Mental illness – 14.1 per cent
- Acquired at birth – 12.2 per cent
- Road accident – 10.6 per cent
- Animal/snake bite – 10 per cent
- Physical violence and abuse – 8.8 per cent
- Burns – 6.7 per cent
- Hypertension – 3.8 per cent

- HIV/AIDS – 0.9 per cent

139. A National Study carried out by the Ministry of General Education in 2011 on Inclusive Education Policy in Yei, in the former Central Equatoria State and Mundri in the former Western Equatoria, found that 700 children with disabilities had significant impairments in the sample were epilepsy (39.4 per cent), physical impairment (18.3 per cent), hearing impairment (12.9 per cent) and nodding syndrome (10.6 per cent).

140. Children with disabilities in South Sudan can experience discrimination in accessing health, education, support and protection services and that is due to the public negative attitudes towards them. Children with disabilities full participation in social, political and economic life cannot be realised without public awareness.

141. The Government is having challenge to provide access education children with disabilities. The 2011 National Disability Assessment carried out by the Government found that children with disabilities school attendance varies from 21.9 per cent to 24.3 per cent. The ratio drops to 17.6 per cent for females in all surveyed locations and to only 10 per cent in the former Warrap State. The 2015 EMIS figures record that 17,546 primary schoolchildren or 1.7 per cent, have special educational needs. The largest groups reported are children with learning disabilities (2,966 boys and 2,270 girls); children with poor vision which includes children who need glasses are (3,021 boys and 1,895 girls); partially deaf children (2,194 boys and 1,350 girls); and children with physical impairments (1,401 boys and 832 girls). The number of completely deaf and completely blind children attending school is much lower.

142. In order to identify the main barriers preventing the inclusion of children with disabilities in education, fieldwork, the Government carried out as part of the preparation for developing the National Inclusive Education Policy in 2014 in 54 schools. In poorer areas, poverty and inability to pay school costs were found to be a big barrier. In less densely populated areas, transport to school was a bigger factor and prejudice was a factor. This combined with lack of access to school buildings was prioritised by the largest number of respondents, followed by lack of teachers training and resources and appropriate communication system such as Braille and sign language.

143. Another challenge to the Government is that children with disabilities do not access health care they need for a variety of reasons which include traveling long distances from where they live; lack of ambulance services; inadequate drugs supply in the health centres; negative attitude from health workers; inadequate health information and knowledge as most of health education and campaigns are in inaccessible formats; lack of sign language and braille material.

144. The Ministry of Gender, Child and Social Welfare has the mandate to promote and protect the rights of children with disabilities. In 2013, the Ministry produced a South Sudan National Disability and Inclusion Policy, which is guided by principle of non-discrimination while taking a rights-based approach. The Policy promotes affirmative action; diversity and inclusiveness. Further, the Policy recognises people with disabilities as not a homogenous group. The overall goal of the policy is to address and respond to multiple vulnerabilities faced by children with disabilities and to promote and protect their rights and seeks to:

- Ensure access to services for all children with disabilities;
- Strengthen PWDs presence and capacities in decision making for their meaningful participation in political and development processes;
- Promote respect and protection of human rights of children with disabilities in South Sudan;
- Strengthen the capacity of service providers, children with disabilities and care givers for effective prevention and management of disabilities; and
- Create an enabling environment for children with disabilities economic and social empowerment and improved livelihood.

145. To date, implementation of the policy has been hampered by lack of resources. Therefore, Government is advocating for its dissemination and implementation, so that the public may have wider understanding of the rights of children with disabilities.

146. To respond specifically to the challenges that children with disabilities faces in accessing education, the Government in collaboration with Norwegian government, produced a National Inclusive Education Policy in 2014. The Policy is a depart from the medical view of special needs education and embraces the social dimensions of disability by putting the focus on the child and their family through person-centred learning and life plans. Generally the policy aims to:

(a) Develop a process that identifies and challenges the barriers to ALL achieving quality educational outcomes;

(b) Enhance early identification, assessment of support needs for learners in pre-school and schools, intervention or rehabilitation to promote awareness on the educational needs and abilities of persons at risk of exclusion within education system and the wider community;

(c) Promote and facilitate inclusion of children at risk of exclusion in formal and non-formal education and training;

(d) Promote barrier-free environment for learners requiring additional supports in all learning institutions;

(e) Provide, train and promote the use of specialized facilities, services, assistive devices and technology, equipment and teaching or learning materials;

(f) Develop capacity of teachers and head teachers, specialists and essential service providers to deliver quality services to learners requiring additional supports, including learners with disabilities;

(g) Enhance collaboration and networking, strategic partnerships and participation of stakeholders, including relevant ministries (e.g., health, social development), parents of children requiring additional supports, including children with disabilities, Disabled People's Organisations and organisations working in the field of disability and health;

(h) Support research and development on inclusive education for all learners (including those requiring additional supports), documentation and dissemination of relevant information;

(i) Promote effective management and coordination of services to support achievement of all learners and those requiring additional supports, including learners with disabilities.

147. The Education Sector Strategic Plan 2017–22, developed by the Government, pledges to “increase access to learning for children with special education needs”, with more accessible classrooms and WASH facilities and training on inclusive education. To encourage this there are plans to set up a model government school for inclusive education in each Payam as well as to set up social clubs within schools to advocate formally and informally for children with disabilities.

148. In addition to the legal and policy framework, the following outlines some of the key support provided by the Government with support from international development partners, to help children with disabilities access services:

(a) Multipurpose Rehabilitation Centre for children and adolescents in South Sudan was established in Juba in 1984. It provides a very wide range of services including: outpatient physical therapy, occupational therapy and speech therapy, social and educational services, inclusive education for children with disabilities, an orthopaedic workshop, a Primary Health Care Centre, epileptic care, vaccinations and a specialist service for maternal and child health. In addition, it trains teachers, educators, health care providers and rehabilitation professionals;

(b) A Physical Rehabilitation Reference Centre (PRRC), established in 2009 to provide a wide range of services for adult and children in need of devices such as prostheses, orthoses, crutches, walking frames, wheelchairs, tricycles and sports wheelchairs. Other services include physiotherapy, counselling and medical treatment. The centre has the capacity to accommodate 60 inpatients at a time, in addition to outpatients from Juba city. In addition to the Juba PRRC, there is a Rehabilitation Centre in Rumbek, former Lakes State and a monthly clinic in Wau, former Western Bahr El Ghazal State. Between 2009 and May 2014, over 6,000 patients benefitted from the various services from the PRRC in Juba and Rumbek;

(c) The Ministry of Gender, Child and Social Welfare currently works in cooperation with the Central Equatoria school for the blind in Buluk, Juba and is also developing the Rejaf Educational Centre for the Blind and Deaf in Juba (plans for those are currently hold pending funding allocations). Once open, this Centre will accommodate 350 students;

(d) The Government set up a War Disabled, Widows and Orphans Commission in 2011 to implement projects that include training in agriculture and self-employment for the SPLA disabled widows and orphans. Unfortunately, its efforts have been hampered by lack of funding in recent years;

(e) The Leonard Cheshire Foundation has set up a Young Voices project run by children and young people with disabilities who have broadcast over 200 talk shows on different radio stations to raise awareness of their rights.

## Health and Health Services

149. Article 31 of the Transitional Constitution of the Republic of South Sudan, 2011 (as amended) provides for free primary health care and emergency services for all citizens. Under the Child Act, 2008, every child has the right to free basic health care, including the right to free immunization and not to be subjected to discrimination because of his or her health status, including HIV positive. Section 36 of the Child Act establishes an obligation on all levels of the government to ensure that every child has access to primary health care facilities and measures to reduce infant mortality.

150. Health services are delivered along the following system: primary health care unit; primary health care centre; County hospital; State hospital and tertiary hospital. County health departments are responsible for managing primary health care services. However, decades of conflict have disrupted the health system and undermined its efficiency to deliver effective health services for children. Consequently, service coverage is low and heavily reliant on periodic support from the international development partners.

151. According to the Southern Sudan Household Survey of 2010, South Sudan has a high infant mortality rate (75 deaths per 1,000 live births) and under-five mortality rate (105 deaths per 1,000 live births). The majority of infant's deaths, (over 60 per cent) are of infants aged under one year with most dying from common but preventable childhood illness and conditions such as malaria, pneumonia and diarrhoea that are exacerbated by undernutrition. The 2010 Household Health Survey found that urban children were three times more likely to access hospitals than rural children and urban children were almost twice as likely as rural children to receive antibiotics for suspected pneumonia (52.4 per cent versus 27.8 per cent).

Table 3  
Trends of selected health outcome indicators

<i>Indicator</i>	<i>2006</i>	<i>2010</i>
Maternal mortality ratio (deaths per 100 000 live births)	2 054	2 054
Infant mortality rate (deaths per 1,000 live births)	102	75

<i>Indicator</i>	<i>2006</i>	<i>2010</i>
Under-five mortality rate (deaths per 1,000 live births)	135	105
Stunting	34.4%	28%
Underweight	32.9%	31%

*Source:* South Sudan Household Survey 2006 and 2010.

152. The Ministry of Health's Health Management Information System states that, in 2016, about 52 per cent of children received measles vaccines and 45 per cent received the third doses of both Polio and Pentavalent vaccines before the age of one year. A national measles immunization campaign was launched in May 2017.

153. According to the 2013 Malaria Indicator Survey (MIS), prevalence of the malaria parasite measured by a rapid diagnostic test ranged from less than 10.6 per cent in the greater Upper Nile region to about 53.4 per cent in the Greater Equatorial region, with a mean for the country of about 30 per cent. Malaria prevalence was higher in rural areas than in urban areas. Prevalence in pregnant women and children under five had increased to 30 and 15.3 per cent respectively from 24.5 and 9.9 per cent in the 2009 MIS. According to the 2013 MIS, up to about 44.9 per cent of children under age five had suffered from a fever during the two weeks before the survey compared to 35 per cent in MIS, 2009.

154. In 2010, the Southern Sudan Household Survey estimated maternal mortality at about 2,054 deaths per 100,000 live births. However, due to insecurity, the Government was not able to complete an updated Maternal Mortality Survey planned for 2016. A 2013 Emergency Obstetric and Neonatal Care assessment conducted by the Ministry of Health indicated that postpartum haemorrhage was the leading cause of maternal deaths in the country health facilities surveyed. The results from a smaller survey conducted in 2014 are set out in the Table below.

Table 4

**Primary cause of maternal mortality by number and percentage, 2014**

	<i>Deaths reviewed (n=78)</i>	
	<i>n</i>	<i>%</i>
<b>Direct causes**</b>	30	38
Antepartum haemorrhage	4	5
Postpartum haemorrhage	14	18
Retained placenta	1	1
Prolonged/obstructed labour	1	1
Ruptured uterus	1	1
Postpartum sepsis	4	5
Severe preeclampsia/eclampsia	5	6
<b>Indirect causes</b>	14	18
Malaria/Anaemia	4	5
HIV/AIDS-related	2	3
Hepatitis	2	3
Other****	6	8
<b>No cause listed</b>	34	44

*Source:* Ministry of Health, Emergency Obstetric and Neonatal assessment report, 2014.

155. According to Southern Sudan Household Health Survey conducted in 2010, about 46.7 per cent of pregnant women had at least one antenatal visit with a skilled professional, while about 17 per cent had recommended four visits. Data from the Health Management

Information System suggests that, during 2015, coverage of one antenatal care visit was 38.6 per cent (down from 53 per cent in 2014) and four or more visits was about 17.7 per cent (24 per cent in 2014), using the estimated pregnant population as the denominator. This reflects the likelihood that nationally the figures have worsened as a result of the conflict particularly in conflict-affected areas. Pregnant women experience practical challenges in accessing antenatal care, include long distances to health facilities, lack of means of transportation from and to health facilities, floods and poor roads and demand for payment for healthcare at some facilities. Other factors include misconceptions about the benefits of antenatal care and low perceived risk of complications.

156. According to administrative data, the total number of deliveries in health facilities has increased moderately since 2011, but in 2015, this still only represented 13 per cent of estimated deliveries in the country. The overall rate of delivery by skilled birth attendants was still only about eight per cent in 2015 (seven per cent in 2014), substantially below the 2012–2016 Health Sector Development Plan target of about 30 per cent. For 2016, the rate of Caesarean sections also remains very low, with no increase from the 2014 rate of 0.3 per cent, itself a reduction from the 0.5 per cent of 2015, and much lower than the ideal rate of 10 to 15 per cent that is generally associated by the WHO with having a preventive impact on maternal and perinatal morbidity and mortality.

157. The National HIV and AIDS estimate results report, 2015 found that on average, adult HIV prevalence is estimated to be about 2.7 percent, with wide variations within and between regions. According to the 2016 WHO spectrum results, there were over 138,586 AIDS-related orphans aged zero to 17. Of those, living with HIV and about 11,993 were children under the age of 15 years and approximately 164,370 were aged between 15 and 49 years. The National Strategic Plan (NSP) for HIV and AIDS, 2013–2017 was prepared to guide the multi-sectoral national response to the HIV epidemic for five years and details outcomes, outputs, indicators and priority interventions. The NSP is aligned to the national and international frameworks, including SDG 3.

158. The 2016 EMIS research found that a relatively small number of primary schools covered sex education with about 27 per cent covering ‘HIV transmission and prevention’, about 23 per cent covering ‘Life skills’ and 18 per cent covering ‘Sexuality education.’ The teaching of sex education in secondary schools was also low with 45 per cent covering ‘HIV transmission and prevention’, 30 per cent covering ‘Life skills’ and 32 per cent of total Secondary schools covering ‘Sexuality education’. In total, 11 per cent of male teachers across the three school types (Alternative Education Systems, Primary and Secondary) and about 20 per cent of female teachers received training in the teaching of sex education.

159. Access to safe drinking water in country is one of the major challenges to the Government. According to figures from WHO/UNICEF, in 2015, only about 6 percent of the population had access to piped water in their homes, though 61 percent had access to other improved water sources such as boreholes and protected springs. About 16 percent accessed water from other unimproved sources and 17 percent from surface water bodies such as rivers. These estimates are disaggregated by urban and rural areas and it can be seen that urban water supply is slightly better though the difference is minimal. Concerning access to sanitary facilities, it is estimated that about 74 percent of the population in the country practice open defecation.

160. Expanding equitable access to basic health services for children is critical as a means of attaining core health sector objective of rapidly reducing maternal and infant mortality rates. To this end, the Government has taken the following steps by introduction of:

(a) The National Health Policy 2016–2026, which provides for a strategic direction for development in the health sector and defines the basic elements of health and nutrition, prevention, treatment and rehabilitation. The overall goal of the National Health Policy 2016–2026 is to strengthen national health system and partnerships that work to overcome barriers to efficient delivery of the Basic Package of Health and Nutrition Services (BPHNS);



(b) The National Health Sector Strategic Plan for the period of 2017–2021 which is an essential step towards implementing the National Health Policy 2016–2026 and attaining Universal Health Coverage to citizen in the country;

(c) Implementation of the BPHNS at community level largely through the Boma Health Initiative, which aims to establish a formal structure for the health system at community level, for the delivery of an integrated package of health promotion, disease prevention and selected treatment services and training of trainers, to support rollout; and

(d) Sustainable Development Goals to end preventable deaths of new-borns and children under five years of age. Also, the Government is in the process of developing a Reproductive, Maternal, Newborn and Child Health Strategic Plan.

### **Social security and childcare services and facilities (arts. 26 and 18, para 3) and standard of living (art. 27, paras 1–3)**

161. For many years, the extended family has been the tradition of the communities in South Sudan where members of the family share social and economic benefits. The periods of conflict, the displacement of populations and the emergence of modern social systems in urban areas has contributed to the decline in the extended family support system in most parts of the country.

162. The Child Act, 2008 acknowledges that it is the responsibility of the family and the Government to promote and care for the survival and development of the children. Much remains to be done to build sustainable pathways out of poverty so that children have improved access to education, better access to clean water and sanitation, improved health outcomes and sustainable livelihoods and incomes at the household level. This is a challenging undertaking in a context where 51 per cent of the population live below the national poverty lines.

163. The South Sudan Development Plan (2011–2013) identifies the importance of social protection in the achievement of the country's development objectives under its Social and Human Development Pillar. The SSDP's specific social protection objective is to work progressively to reduce risk, vulnerability, poverty and economic and social exclusion throughout the country. In 2013, the Government in partnership with the World Bank developed a Safety Nets and Skills Development Project, which aims to enhance income opportunities and employment among poor and vulnerable groups including through a component of social protection and cash transfer. Within the frame of this project, a National Social Protection Policy was developed in 2014, which aims to progressively accelerate universal access to basic social services to the people of South Sudan with the aim of building human capabilities and upholding their dignity. A Social Protection Unit was also formed to spearhead and coordinate social protection related activities.

164. The Government and international partners developed Community Management of Acute Malnutrition guidelines, which have been approved by the National Council of Ministers and are currently being implemented in the country. On the prevention side, Maternal, Infant and Young Child Nutrition guidelines and strategy have been approved also and are currently being published and disseminated.

## **VIII. Education, leisure and cultural activities (arts. 28–31)**

### **Right to education and aims of education**

165. South Sudan recognizes education as a basic human right and therefore, the Government is providing a life-long, quality and equitable education for all children, youth and adults, on affordable basis and based on the needs and aspirations of the people. Education will enable children to become responsible and productive citizens and this is vitally important in a country where a third of the population is of school age.

166. The right to education in South Sudan is implemented by the Ministry of General Education and Instruction, as well as partner organisations. The framework for the implementation is established through regulations and laws as shown below:

- (a) Transitional Constitution (as amended);
- (b) Child Act, 2008;
- (c) General Education Act, 2012;
- (d) National General Education Policy (2017–2027);
- (e) General Education Strategic Plan (2012–2017);
- (f) Basic requirements and minimum standards indicators for schools (2012);
- (g) National Inclusive Education Policy (2014);
- (h) Alternative Education System (AES) Implementation Guide (2008);
- (i) Board of Governors/School Management Committee Regulations (2012).

167. Article 29 on the ‘Right to Education, of the Transitional Constitution (as amended) is the basis for legal and policy framework for education in the country, including Article 38 on ‘Education, Art and Science’. The ‘Right to Education’ guarantees access to education for all citizens “without discrimination as to religion, race and ethnicity, health status including HIV/AIDS, gender or disability”. The two Articles also provides that education shall be promoted by all levels of the government. Article 29 of the Constitution and General Education Act, 2012 provides that education shall be free and compulsory at primary and secondary levels.

168. As defined by the General Education Act, 2012 and the Education Sector Strategic Plan (2012–2017), the long-term vision for education sector is to build an educated and informed nation and to introduce a series of reforms to improve quality, access to education with aim of reducing illiteracy in the country.

169. The General Education Act provides that education shall foster for development of South Sudan through integration, peace, self-reliance, patriotism; respect and tolerance, for other cultures, traditions, opinions and beliefs. The Act further seeks to promote gender equity throughout the primary, secondary, alternative education systems and all other institutions of learning. The Act also seeks to empower people by grounding education in the country cultures, traditions, including the use of national languages in formal education. The Act provides for needs of learners with disabilities to have access to education and promotes environmental awareness, balance and respect of the natural and human habitats. The National Inclusive Education Policy, 2014 provides a framework within which access to equitable education is developed and promoted so that education is relevant to the local context where all leaners can participate.

170. Article 17 of the Constitution prohibits all corporal punishment in all settings including home, school and alternative care settings. Article 17 also provides that “Every child has the right ... to be free from corporal punishment and cruel and inhuman treatment by any person including parents, school administrations and other institutions....” This is reiterated in section 21 of the Child Act, 2008, which prohibits corporal punishment by chiefs, police, teachers, prison guards or any other person. Further, the General Education Act, 2012 prohibits corporal punishment in the educational system.

171. The principles and provisions for implementing policies and establishment of regulatory structures are enshrined in the General Education Act, 2012. The Act covers areas of formal general education system in the country, which consists of two years of pre-primary, eight years of formal primary (including a primary leaving examination) and four years of formal secondary education, including a secondary leaving examination. It also includes provision for an Alternative Education System and vocational education.

172. The Ministry of General Education in collaboration with State Ministries of Education established the Education Management Information System (EMIS). It collects data regarding schools and children’s enrolment by conducting regular roll calls of teachers and education managers every year. Collecting credible and reliable education data through

EMIS helps in strengthening existing systems and building new ones. EMIS facilitates information-driven policy discussions and decision-making by collecting, processing, storing, analysing, and disseminating education information.

173. According to the National Education Statistics Booklet, 2016, there were about 36,858 teachers identified in the country, slightly more than those registered in 2015. Of these, 2,697 worked in Early Childhood Development, 25,987 in primary education and 2,596 in secondary education. The teachers are predominantly male. Teachers spend three years in the initial training at the National Teacher Training Institutes. County Education Centres have been established at County-level for short-term training. A significant achievement has been establishing a clearly defined structure and staff qualifications vetted to suit positions.

174. The Alternative Education System is non-formal education provided in five main areas and there are about 43.2 per cent of children registered in it. It offers flexible entry and exit points for children, youth, and adults. The following are structure of the educational systems in South Sudan:

(a) Accelerated Learning Program: Where the system of eight years of education is condensed into four years and this enables an over-age child to catch up with others who join the school at age six;

(b) Community Girls Education: These are schools established for girls in the villages or areas, which are far from the main schools to create confidence amongst parents who may not be happy if their daughters travel to far places;

(c) Pastoralist Education: This sort of education is established for nomads who move with their cattle every season. The teachers follow them when they move and once they settle, classes begin;

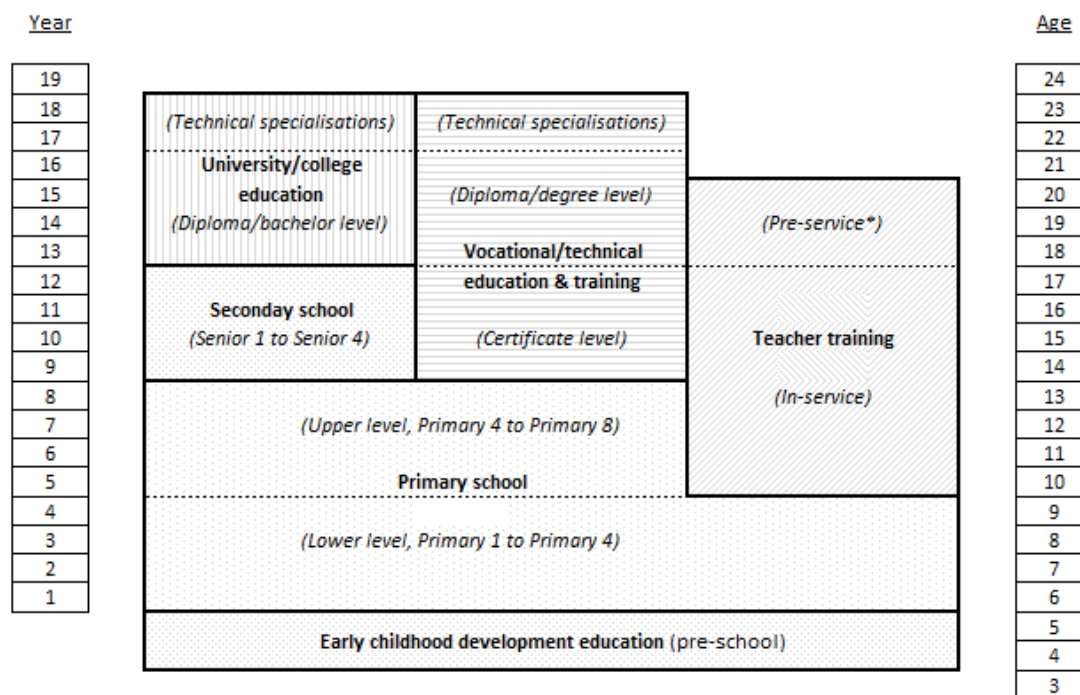
(d) Intensive English programme: This program is meant for teachers of Arabic background, especially those who came from Sudan after the independence of South Sudan. They are given intensive courses before they teach in English and;

(e) Adult literacy programme: This is to cater for older children and adults who missed education during the 21-year war of liberation.

175. The Government has made significant efforts to promote and establish ECD where almost every government school now has Early Childhood Education (ECD) classes for children aged three to five years old. South Sudan has 702 ECD centres and a curriculum for the two pre-school years. Overall, 52.6 per cent of boys and 47.4 per cent of girls attend ECD centres. ECD education has been taken up seriously in urban areas. However, it is not functioning as well in rural areas because most of the children living in rural areas are taken straight to primary school at the age of five or six.

176. The Government ECD strategy and training modules has been developed. Awareness-raising activities also have taken place with communities, especially parents, about the importance of ECD education; this awareness raising has sought to challenge negative cultural attitudes against the education of girls. Further, the Government has established a coordination mechanism between the National Ministry of General Education and the States, headed by the Director of Early Childhood Development.

Table 5  
GRSS Education ladder



\* Pre-service teacher training lasts three (3) years for P8 leavers and two (2) years for secondary leavers

Literacy rates, gross and net enrolment rates, retention, completion and transition rates and teacher-pupil ratios.

177. Based on the current Government statistics, the Gross Enrolment Rate for Primary is 69.8 per cent while the Net Enrolment Rate is 43.5 per cent. The Gross Enrolment Rate for Secondary is 9.3 per cent while the Net Enrolment Rate is 2.9 per cent. The average transition rate for female students in all classes is 66 per cent while the average transition rate for male students is 67 per cent in all classes. Retention, completion and transition rates have improved especially after the introduction of the Girls Education South Sudan (GESS) programme.

178. The average Student-Teacher Ratio is 40. According to the 2016 EMIS report, the national pupil-teacher ratio for primary school (for the areas covered in the EMIS study, which was not nation-wide) was 42.3 in 2016 (43.7 for government schools and 39.1 for non-government schools). The highest rate was found in Twic county of Jonglei State (54.5) and the lowest in Juba County of the former Central Equatoria State (33.4). For secondary school, the overall pupil-teacher ratio was 20.6, and ranged from 40.6 in the western part of former Lakes state to 14 in Kapoeta, in the former Eastern Equatoria State. Class registration ratios are higher and this suggests that each teacher is responsible for a large number of pupils, especially in urban areas where children have migrated because of ongoing conflict.

### Priority Issues

179. Conflict, economic crisis and insecurity has severely worsened the status of education across the country. An assessment conducted by the Government and the international development partners in 2016 showed a drop in enrolment of nearly 10 per cent between 2013 and 2016, partly caused by insecurity, livelihood and economic factors are considered to be the reasons for pupils’ dropout or lack of school attendance. Amongst girls, the principle cause of dropout and non-attendance was marriage and pregnancy. Long travel distances to school and the inability to pay schools fees were cited as other major reasons for dropout amongst both boys and girls.

180. Schools infrastructure still needs attention, as there are insufficient learning spaces. The 2016 EMIS report found that only 34 per cent of primary schools were permanent structures, 35 per cent were open air and 21 per cent were semi-permanent (roof-only, tent and other make up the rest). Although the school environment in many places has been improved by fencing, still many children learn in open air spaces and under trees. Education is also constrained by lack of textbooks. In primary schools, it is 4:1 or 8:1 in remote areas. In secondary schools, the situation is even worse and they rely mainly on samples of the curriculum provided to teachers. Another constraint is that many teachers themselves have had limited access to regular training.

181. High rates of pupils' dropout from school in turn lead to high rates of unemployment. To respond to this, the Government is making efforts to promote entrepreneurship, by reintroducing and expanding Technical and Vocational Education and Training (TVET). TVET prepares student with practical and applicable skills, which leads to employment.

182. Current Government priorities for General Education include developing the sector through:

- (a) Teachers training and professional development;
- (b) The implementation of new funding mechanisms to support schools and girls' education;
- (c) Development of AES with focus on adult literacy and education for hard to reach children; and
- (d) Capacity enhancement of education institutions.

The Government aim is to increase access to quality education and to promote equity; facilitate implementation of education reforms; building institutional and human capacity both at national and State levels. The Government is also working on improved partnerships among key stakeholders in education, including civil society actors.

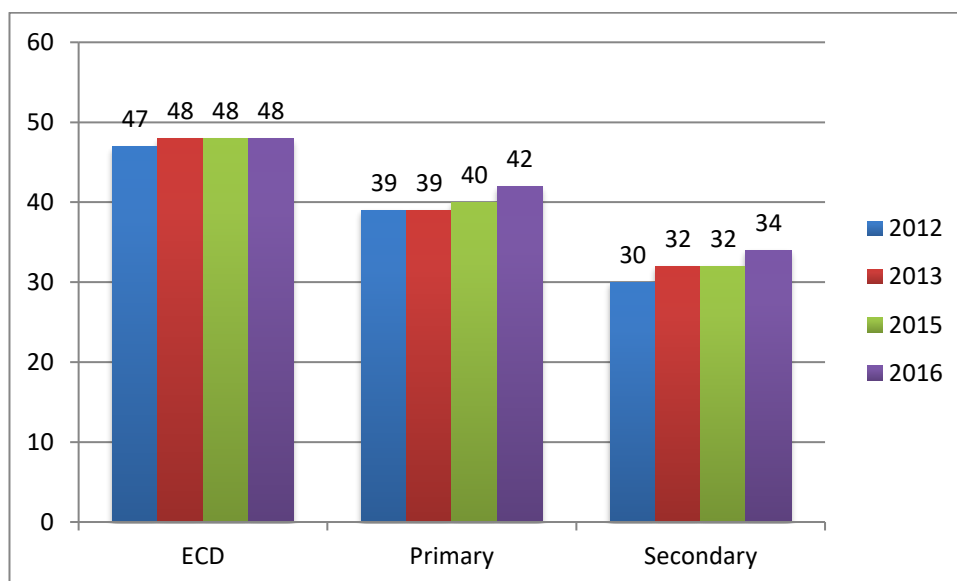
183. While the Government ambitious goals to improve education will take time and resources to be implemented, interim successes have already been achieved through implementation of the General Education Act, 2012 and General Education Strategic Plan Documents. Measures which include:

- (a) Increasing percentage of qualified teachers at all levels through training and continual Teacher Professional Development;
- (b) Revision of the South Sudan curriculum for ECD, Primary School, Alternative Education Systems and Secondary Education;
- (c) Adoption of English as the language of instruction;
- (d) Introducing a National School Inspection framework;
- (e) Regular assessment of learning outcomes;
- (f) Public expenditure tracking conducted by survey, which scrutinizes the level of funding leakage and resources reaching the beneficiaries at different levels;
- (g) The Government has recently introduced a new salary structure. Furthermore, with the support of the European Union, it is intended that primary school teachers will receive monthly incentives worth US\$40 for 18 months (2017–18);
- (h) The Government is also is introducing a standard design for construction of all classes to accommodate 50 children in Primary and 45 children in Secondary and;
- (i) The Government in partnership with the World Food Programme has introduced school feeding for children most in need.

184. EMIS figures from 2012 to 2016 reveal a slow but steady increase in the proportion of girls – child studying at both primary and secondary school levels, though it should be noted that the EMIS figures for 2015 and 2016 do not capture the situation in the whole country. By geographical location, female enrolment varied significantly according to the

2016 EMIS report. In former Lakes State, about a third of pupils were girls, while in Amadi in former Western Equatoria State, more than half were girls (51 per cent).

Table 6  
**Gender in education**



185. In 2013, the Government has implemented laws, which prohibits attacks and occupation of schools by the military. In this regards the Government issued a circular to all field army commanders to evacuate any of the occupied schools by the army. The child protection unit of the South Sudan Peoples’ Defence Forces constantly observes the movement of its personnel and their settlement. Currently there are no schools reported to be under occupation by army.

**Education on human rights and civic education**

186. The revised National Curriculum of 2015 has a separate component on citizenship that is taught in secondary schools. This includes consideration of human rights and the criminal justice system, the governance system in South Sudan and conflict resolution.

**Rest, play, leisure, recreation and cultural and artistic activities**

187. Section 16 of the Child Act,2008 provides that “every child has the right to play and to participate in sports or in positive cultural and artistic activities or other leisure activities that foster the development of the potential of the child”. Article 40 of the Transitional Constitution (as amended) also states that “All levels of government shall:

- (a) Adopt policies and provide facilities for the welfare of children and youth and ensure that they develop morally and physically, and are protected from moral and physical abuse and abandonment;
- (b) Promote recreational facilities and sports for all the citizens and empower the youth to develop their potentials; and
- (c) Establish, protect and support popular sports institutions and guarantee their independence.” There is a plan to collect data from all schools on the facilities and participation of children in co-curricular activities and a questionnaire to this effect has been designed. The normal practice is that a student is involved in sports, cultural and artistic activities but that this is not documented. South Sudan is good in sports but need to be better organized.

## **IX. Special protection measures (arts. 22, 30, 32, 33, 35, 36, 37 (b)–(d), and 38–40)**

### **Refugee and internally displaced children**

188. The Government is committed to meeting international standards for refugee protection. It acceded to the 1969 Organisation of African Unity (OAU) Convention Governing the Specific Aspects of Refugee Problems, African Convention on Internally Displaced Persons and the 1951 UN Convention Relating to the Status of Refugees. South Sudan is also a party to the International Conference on the Great Lakes Region Protocol on the Protection and Assistance to Internally Displaced Persons (“Great Lakes Protocol”).

189. In 2012, the Government has also adopted a national legislation on refugees (South Sudan Refugee Act, 2012) and established a Commission for Refugee Affairs to coordinate the government response to refugee and asylum matters. The Refugee Act incorporates the refugee definition established by the 1951 Convention and 1969 OAU Convention and expressly grants asylum for those who have a well-founded fear of persecution on the grounds of race, tribe, religion, nationality, political opinion or membership of a particular social group. It also expressly grants asylum for those who have a well-founded fear of persecution due to gender discrimination practices and guarantees the enjoyment of the rights set out in Part Two (the “bill of rights”) of the Constitution; entitles refugees to seek employment; and provides access to the same basic health services and primary education as nationals of South Sudan (Sections 7 and 33 of the Refugee Act). Regarding unaccompanied children, section 36 of the Refugee Act allows for children in need of care as defined in the Child Act, 2008 to have support when applying for asylum through a *guardian ad litem* to ensure their best interests are met.

190. The Peace Agreement of August 2015 and the Agreement on Cessation of Hostilities, Protection of Civilians and Humanitarian Access of 2017 commits the Government to:

- (a) Secure access to civilian populations in need of emergency humanitarian assistance and protection;
- (b) The right of refugees and Internally Displaced Persons (IDPs) to return in safety and dignity and to be afforded physical, legal and psychological protection;
- (c) The rights of returnees shall be respected in accordance with the Bill of Rights as provided for in the Transitional Constitution (as amended). Given that, efforts shall be made to assist in the re-unification of family members who were separated during the conflict;
- (d) The right of refugees and IDPs to citizenship and the establishment of mechanisms for registration and appropriate identification and/or documentation of affected populations including their children, spouses, property, land and other possessions which might have been lost during the conflict;
- (e) Exercise of the right of refugees and IDPs to return to their places of origin and/or live in areas of their choice in safety and dignity; and
- (f) It is also committed to offering special consideration to conflict-affected persons (children, orphans, women, widows, war wounded, etc.), in the provision of public service delivery, including access to health and education services and grant the host communities the same benefit, protection and humanitarian services.

191. South Sudan has an open-door policy to refugees. As of March 2018, it hosted over 290,000 registered refugees from neighbouring countries. Refugees come primarily from Sudan (over 270,000), the Democratic Republic of Congo, Ethiopia and the Central African Republic. Sixty-one per cent of the refugee population are children. Most refugees are settled in camps in former Upper Nile and Unity States. The Commission for Refugee Affairs works closely with UNHCR and partner organisations to provide assistance and protection to the refugee population, including improving the living conditions of refugees in camps; building better shelters for families; ensuring standards in health care, education,

water and hygiene and provision of documentation such as refugee certificates and identity cards. National and State-level governments have also provided protection and land for settlement and cultivation by the refugees. Refugee children have access to education in refugee camps and some schools are shared with children from the host community. Registration and formal status determination is undertaken in partnership with UNHCR.

192. Many people have been internally displaced as a direct consequence of ongoing conflict and insecurity primarily in former Unity, Upper Nile and Jonglei States. Natural disasters have also caused displacement of populations. It is estimated that there are 1.7 million IDPs in South Sudan of whom half are unaccompanied children or separated from their families. Nearly two million South Sudanese are refugees in neighbouring countries as a result of the conflict.

193. There are also nearly 200,000 IDPs in UNMISS Protection of Civilian (POC) sites in cities of Malakal, Bor, Bentiu, Juba and Wau. They are the top priority of the Government and the Government is facilitating those IDPs who are willing to be relocated to their places of origin. The Government has also resolved that no IDP will be forced to exit POCs or any place against his or her will and that those IDPs seeking to permanently settle in the community where they have been hosted would be allowed to do so and if land is available be granted a piece of land for housing purpose. The Government is soliciting from international partners, technical and financial assistance to build the necessary capacities to receive the IDPs from the UNMISS – POCs.

194. The Relief and Rehabilitation Committee in the Ministry of Humanitarian Affairs and Disaster Management has been set up by the Government to address internal displacement in its different dimensions. It is accountable to prevent internal displacement, to assist and protect them and to support durable solutions. It exercises this responsibility in an equal and non-discriminatory manner, irrespective of the ethnic origin of the IDP community. Working closely with UNHCR and other international and national organisations it supports work on identification, family tracing and reunification of separated and unaccompanied children including provision of alternative care and support and efforts to prevent family separation as well as establishing community-based child protection networks.

195. The Government in collaboration with UNICEF developed an integrated approach which helps in provision of psychosocial counselling and support, child friendly space for examples providing (drawing materials, playing devices, reading material), Provision of safe clean water and immunizations, furthermore they form the family tracing and re-union department within the Ministry of Gender, Child and Social Welfare.

## **Minority Groups**

196. South Sudan is one of the most ethnically and culturally diverse countries in the African continent. The country has over 65 languages about 64 ethnic groups – each one has unique systems of social structure, livelihoods, cultural traditions and sense of identity. This diversity is considered a national source of strength that is to be celebrated even if conflict has disrupted the lives of many children of minority groups.

197. Article 33 of the Transitional Constitution (as amended) concerns the Rights of Ethnic and Cultural Communities. It ensures the right to freely enjoy and develop their particular cultures, to practice their beliefs, use their languages, observe their religions and raise their children within the context of their respective cultures and customs. Article 6 of the Transitional Constitution (as amended) emphasises that all indigenous languages of South Sudan are national languages and shall be respected, developed and promoted even if English is the official working language and language of education. The Constitution also provides for separation of religion and state, prohibits religious discrimination and provides religious groups freedom to worship and assemble freely, organize themselves, teach, own property, receive financial contributions, communicate and issue publications on religious matters, and establish charitable institutions.



198. In addition to a general provision on the right to non-discrimination in section 9, the Child Act, 2008 also has a specific provision on the rights of children “whose origin is from an ethnic, religious and cultural minority” explaining that they have the right to freely enjoy and develop his or her culture, belief, use his or her language and observe his or her religion.

### Children in street situations

199. The on-going conflict and deterioration in the economy has led to children ending up without appropriate care caused by poverty, the disruption of social networks, family separation and displacement from communities. The exact number of children living and working on the streets in the country remains unknown but there is clear and overwhelming evidence of its existence primarily in urban areas.

200. Research conducted by the University of Juba in 2015 found that majority of children without appropriate care in Juba were male and between 10–14 years old and came from backgrounds of low socio-economic status. Most of them ended up without appropriate care because they were seeking employment, followed by parental loss, child abuse, strict regulations at home, committing a criminal offence, large polygamous families, child marriage and dissolution of marriages. They survive by selling and shoe shining, collection of rubbish, washing cars and others beg or steal. They face many problems such as school dropouts, drug dependency abuse (mostly sniffing glue and other such compounds) and sexual exploitation.

201. Following independence, there were efforts by the Government to train 176 social workers in University of Juba from all ten former States on identification, assessment and response to children without appropriate care. Interim drop-in centres were established in the cities of Torit, Wau and Malakal but owing to conflict and lack of resources, they were discontinued. During 2013 and 2014, an assessment was conducted by the national Ministry of Gender, Child and Social Welfare (MGCSW) and State Ministries of Gender and Social Development of children living and working on the street in six out of ten States. The assessments formed part of a Child Mobilization Initiative aimed at protecting the rights and welfare of the children living and working on the streets in the country. It is geared towards mobilizing these children off the streets, rehabilitating them and re-uniting them with their families. The goal is to have a South Sudan free of children living and working on the streets. During the assessments, it was found that most children living and working on the street are against their will and they experience many difficulties for which they need various forms of assistance for example, to enrol in schools and acquire education, find a home for accommodation, clothes, capital to start income generating activities, employment, training to acquire vocational skills, food and medical care were the most pressing needs of the children.

Table 7:

**Showing the number of children living and working on the street registered per State as of 2013/14**

<i>S/N</i>	<i>Name of the State</i>	<i>Town</i>	<i>No. of children registered</i>
1	Central Equatoria	Juba	200 and above
2	Eastern Equatoria	Torit	180
3	Warrap	Kuajok	83
4	Western Bahr El Ghazal	Wau	221
5	Unity	Bentiu	60
6	Northern Bahr-el Ghazal	Aweil	114
<b>Total</b>			<b>858</b>

*Source:* Child Mobilization Initiative, Assessment of Situation of Children Living and Working on the Streets MGCSW (2013/2014).

202. More recently, the Ministry of Gender, Child and Social Welfare has drafted a National Policy on the Protection and Care of Children without appropriate parental care. When finalized by the Council of Ministers, this document and accompanying plans of action will help to systematically address the issues faced by children living and working on the streets.

### **Economic exploitation, including child labour**

203. According to the 2008 census figures, 45.6 per cent of children, aged 10–14 were working and of these, 60.2 per cent worked in agriculture and 38.2 per cent in services. Economic activity was more common in lower household income quintiles, and in households with poorer parental educational attainment. It was slightly more prevalent in rural than urban areas. Rural employment of children includes work in cattle camps as well as agricultural work including ‘bird scaring’ when children are removed from school to protect harvests. A 2013 survey of children without appropriate care in Juba found that 87.8 per cent were involved in some form of work. Boys were mainly involved in trading in markets or on the street, polishing shoes, slaughterhouse work, washing cars and casual labour. Some girls were working in market centres or are street traders, making tea, cooking food or aiding blind people. Many girls living on the street have been sexually exploited. The children faced work-related dangers including: carrying heavy loads; operating dangerous equipment; exposure to dust, fumes, fire, gas, flames, loud noises or extreme heat; work in water; and work in dark and confined environments. Most children suffered from constant shouting and repeated insults or were reportedly beaten or physically hurt, sexually abused and/or raped in the workplaces.

204. Compulsory recruitment of children under 18 in armed forces is classified as one of the worst forms of child labour. The SPLA Child Protection Unit plays a critical role in preventing and responding to the recruitment of children into the army and this is discussed further below.

205. The Government has taken a number of measures to protect children from economic exploitation and child labour. In 2012, the Government ratified the International Labour Organisation’s (ILO) Convention on Minimum Age (No. 138) and the ILO Convention on Worst Forms of Child Labour (No.182). The Minimum Age for Work is set at 14 years old in Article 25 (3) of the Child Act and for “light work”; it is set at 12 years old in Article 25(4) of the Child Act. The Minimum Age for Hazardous Work is set at 18 in Article 25(1) of the Child Act. Hazardous Occupations or Activities Prohibited for Children are set out in Article 25 (2) of the Child Act. Furthermore, child trafficking is prohibited under Article 22 (2) (b) of the Child Act.

206. The Ministry of Labour, Public Service and Human Resource Development has the responsibility for developing of policies, enforcing child labour law, conducting workplace inspections and overseeing vocational training centres. The Child Labour Unit under the Ministry of Labour, Public Service and Human Resource Development, currently comprised of six investigators, has investigated cases of child labour. The Unit also leads on a National Steering Committee on Child Labour. The Ministry’s Policy Framework and Strategic Plan (2012-2016) awaits updating and aims to eliminate child labour and support workplace best practices. It is acknowledged that owing to limited human and financial resources and insufficient training, inspection and enforcement against child labour, the Unit needs to be strengthened to enable it to conduct workplace inspection and investigate child labour cases. Furthermore, criminal law enforcement and prevention should also be improved.

### **Sexual exploitation and sexual abuse**

207. There are a number of protections in law against sexual exploitation and abuse of children:

(a) Section 26 of the Child Act, 2008 specifically states, “every female child has a right to be protected from sexual abuse and exploitation and gender-based violence,

including rape, incest, early and force marriage, female circumcision and female genital mutilation;”

(b) Section 22(2) of the Child Act 2008 provides that: “every child has the right to be protected from the following types of treatment and abuse while in the care of parents, legal guardians, teachers, police or any other person who has care of a child...Sexual abuse, exploitation and harassment including but not limited to rape, incest, inducement or coercion of a child to witness or engage in a sexual activity; the use of a child in prostitution or other sexual practices; and the use of a child in pornographic performances and materials;”

(c) Under the Penal Code, 2008 the minimum age for sexual consent for men and women is 18 years (section 247(2)) and there are standard criminal provisions prohibiting offences related to bodily injury, kidnapping, abduction, rape, assault and other sexual offences;

(d) Under the Child Act, Article 137, child witnesses and victims are given protection where necessary including protection from intimidation.

208. Data on the commercial sexual exploitation of children is not readily available although it is understood that boys and girls without appropriate care are particularly vulnerable. There is some data available regarding the prevalence of sexual violence against children in the country. In 2009, a UNIFEM Gender Based Violence (GBV) assessment was conducted which found that 13 per cent of women had experienced sexual violence. Unfortunately, many women and girls do not speak about such incidents for fear of social stigma associated with sexual violence survivors. In South Sudan, it is still very difficult to get credible information because of a culture of silence and since the issue is not publicly discussed; most survivors do not report its occurrence to the police or seek medical or any other form of assistance.

209. The MGCSW takes the lead in prevention, protection and response at the national level whereas at the State level, the mandate is with the State Ministries of Social Development. In this endeavour, the MGCSW collaborates with other ministries including the Ministry of Health, Ministry of Justice, Ministry of Education, Ministry of Culture, Youth and Sports and Ministry of Interior as well as UN Agencies, Development Partners, and Civil Society Organizations on addressing sexual exploitation and abuse of children. One important coordinating mechanism on this issue is the GBV Sub Cluster, which aims to improve and support the prevention of, and response to GBV and to consider all types of gender-based violence in its coordination, planning, and advocacy activities. The Ministry of Gender, Child and Social Welfare has produced a National Gender Policy, which addresses sexual exploitation and abuse explicitly, and Standard Operating Procedures for addressing various forms of GBV were developed in 2014 but have been endorsed by the Government. Currently the Juba Teaching Hospital provides services for survivors of SGBV and has a Clinical Management of Rape Centre.

210. One important initiative was the establishment of Special Protection Units (SPUs) in police stations in 2008 with support from UN WOMEN, UNHCR, UNDP and other development partners. They are designed to provide a place where girls and women can feel safe reporting sexual crimes to the police. They are staffed by officers trained to investigate and prosecute cases involving women and children and to ensure provision of legal aid, protection, medical care, and psychosocial support. There are now 14 SPUs located in police stations across the country although primarily in urban areas. Challenges include frequent re-deployment of officers who have received specialised training and use of the office-space for other police tasks. There is on-going training to the SPUs by the MoGCSW in collaboration with the international development partners down to the states level.

211. UNDP has provided training to police in dealing with SGBV cases as well as to lawyers. The police have also established a specific department of female police officers. One significant development was the Inspector General of Police’s release of Administrative Order 10, which clarifies the policy on Form 8, a document that many still believe incorrectly, is a prerequisite for survivors of sexual violence to access medical care. All police officers are in violation of the policy if caught charging a fee, either to make a copy or to manually fill in the form. In 2015, the South Sudan National Police Service were

issued with Guidelines on Women and Child Rights which set out to sensitise all police personnel on how to deal with girl and women victims of gender-based violence. A Department of Women and Juvenile Justice has been established under the Directorate of Public Prosecution and measures are being taken by the Ministry of Justice and Constitutional Affairs to prevent the trivialisation of cases that involve SGBV within the criminal justice system such as developing a manual for how to go about investigating and prosecuting SGBV cases.

212. At the informal level, children affected by sexual exploitation and abuse are protected by the local level sector that includes Kinship, Clan, Community, Church-based institutions, Customary/Village Courts and Women and Youth groups who operate primarily through providing mediation and ensuring that children remain in extended families. Children do not participate in these groups because of cultural barriers.

213. In 2013, the Government conducted a baseline study looking at the impact of conflict on girls and women in order to inform preparation of an action plan to improve peace and security for women and girls in accordance with UN Security Council Resolution (UNSCR) 1325. With regards to sexual violence, the study found that only limited data exists concerning the scale of the problem and its possible relation to conflict. Therefore, rigorous and sensitive research is needed to establish the root cause of sexual and gender-based violence and to improve responses. Following the baseline study for UNSCR 1325, a National Action Plan was developed to respond to the needs of survivors of sexual violence in armed conflict through implementation of the South Sudan National Action Plan 2015–2020 on the UN Security Council Resolution 1325 on Women, Peace and Security and Related Resolutions. The UNSCR 1325 Action Plan was launched in 2016 and is being implemented. The objectives of this detailed National Action Plan include providing protection for women and girls, including those with disabilities, against any form of sexual and gender-based violence and restoring the respect for human rights, human dignity and equality in the country.

214. In addition to implementation of the UNSCR 1325 Action Plan, the Government has taken the following concrete steps to address and prevent conflict-related sexual and gender-based violence. In 2014, the Government signed a joint communiqué with the Special Representative on Sexual Violence in Conflict. This agreement includes such measures as the issuance and enforcement of clear orders through military and police chains of command prohibiting sexual violence, accountability mechanisms, exclusion of perpetrators from the security forces and from amnesty provisions and enhanced multi-sectoral services for survivors. In order to put this into effect, a Joint Technical Working Group on Conflict-Related Sexual Violence was set up under the President's Office which includes line Ministries as well as UN bodies including UNICEF, UNMISS, UN Women, UNDP and UNFPA.

215. As part of the Peace Agreement signed in August 2015, the warring parties committed to refraining from acts and forms of sexual and gender-based violence, including sexual exploitation and harassment. The SPLA also has a Code of Conduct of its own relating to SGBV.

### **Sale, trafficking and abduction of children**

216. Children in South Sudan, particularly those without appropriate care including unaccompanied IDPs, are vulnerable to being trafficked for the purposes of exploitation including sex work or labour, particularly through the use of abduction. Even though there is evidence of internal and cross-border trafficking, the exact number of children who have been victims has not been estimated. South Sudan is also a destination and transit country for trafficked children from other countries.

217. South Sudan has not yet ratified the 2000 UN Human Trafficking Protocol. However, the Government and its partners have instituted a number of legal, policy and administrative measures to fight the trafficking of children:

(a) Chapter VIII of the Child Act concerns trafficking and abduction of a child and prescribes punishments of up to 10 years' imprisonment for such crimes;

(b) The Penal Code of 2008 prohibits some forms of trafficking and abduction: Sections 278 and 279 prohibit and prescribe punishments of up to seven years' imprisonment for the abduction and transfer of control over a person for the purpose of unlawful compulsory labour; Section 276 criminalizes buying or selling of a child for the purpose of prostitution and prescribes a punishment of up to 14 years' imprisonment. Section 258 prescribes punishments of up to 10 years' imprisonment for parents or guardians who cause or allow their child to be involved in the sex trade;

(c) In December 2015, the government appointed the National Aliens Committee to serve as the National Coordination Mechanism on Migration to address trafficking issues in the country;

(d) The Police Services Act, 2009 designates the Police Service as the lead on investigation of potential trafficking crimes and enforcement of the law;

(e) The Government has memoranda of understanding with Kenya, Rwanda, Ethiopia, and Uganda to facilitate information exchanges, including on human trafficking; and

(f) There are child centres providing direct institutional support to vulnerable children, including victims of trafficking, such as the Juba based NGO Confident Children out of Conflict.

218. A long-term solution to the problem of child trafficking is needed which considers how socio-economic and political conditions of the individual children, their families and the community in which they live are strengthened so that the challenges of child trafficking can be simultaneously addressed from both the demand and supply sides.

### **Children in conflict with the law and child victims and witnesses of crime**

219. The Child Act, Chapter X guarantees protections for children in conflict with the law in line with international standards. It provides for the establishment of a specialised juvenile justice system, diversionary measures, alternatives to detention and the fostering of linkages with social welfare systems. The overriding objectives of the juvenile justice system in Article 135 of the Child Act are "reformation, social rehabilitation and reintegration of the child, while emphasizing individual accountability for crimes committed; and the restoration of harmonious relationships between the child offender and the victim through reconciliation, restitution and compensation."

220. Section 30 of the South Sudan Penal Code, 2008 provides that a child under 12 years of age shall be deemed to lack criminal capacity and shall not be tried for or convicted of any offence, which he or she is alleged to have committed. Section 31 of the South Sudan Penal Code provides that no person who is above the age of 14 years shall be presumed to lack the capacity to form the necessary intention to commit an offence or where negligence is an element of the offence, he or she lacked the capacity to behave in the way that a reasonable adult would have behaved in the circumstances.

221. Section 149 of the Child Act, 2008 states that pre-trial detention "shall take place only in exceptional circumstances, for most serious cases, as a measure of last resort and for the shortest possible period"; that "sentencing shall be non-custodial where possible"; and "sentencing of a child shall be reasonable and proportionate to the circumstances and gravity of the offence as well as the circumstances and needs of the child." Section 11 of the South Sudan Penal Code Act, 2008 specifies that children can be sentenced to reformatory schools for between two and five years.

222. In practice, there are many challenges in implementing Chapter X of the Child Act. There is a lack of specialised personnel such as judges and social workers. Legal aid is currently provided by civil society, paralegals and law firms on a somewhat ad hoc basis. Too often children are held for longer than necessary in detention in police cells and on

remand alongside adults. Often children in conflict with the law will be dealt with in customary courts which are recognised in the Transitional Constitution (as amended), the Local Government Act, 2009 and the Child Act, 2008 which states that nothing in this Act shall prevent, discourage or prohibit the application of customary and traditional laws that are protective of the rights of the child except where those laws are contrary to the best interests of the child.”

223. In 2012, the Ministry of Gender, Child and Social Welfare developed a Strategic Framework on Justice for Children (2012) which promotes diversion as well as alternatives to pre-trial detention for child offenders at County level in line with the Child Act. An additional strategy for developing diversion and restorative justice was developed in 2013 and has been tried out in Malakal and Wau but owing to the conflict disruption has not yet been fully implemented. Some more concrete progress has been made in Rumbek, (former) Lakes State, where a specialised court for children was established in 2015 with the support of Save the Children although it is not currently in operation. Since 2015, the Ministry of Social Development in Western Bahr el Ghazal State has been engaged in a small-scale diversion programme designed to build on the strengths of customary restorative justice traditions. It is intended for this model to be scaled up in areas less affected by conflict and is based upon extensive research and consultation conducted by the Ministry of Gender, Child and Social Welfare with the support of UNICEF.

224. After the signing of the CPA in 2005, children deprived of their liberty were placed in Juba Central Prison and although separated from adult prisoners during the night-time, they were not separated during the day. To respond to this situation, the Government, with the support of international partners, constructed a specialised detention facility for boys in Wau with provision for children placed to have access to agricultural training. In 2017, the first detention centre for girls was opened in Wau with the support of UNMISS. This building also includes court facilities and girls can access health and education services there.

225. Despite these new facilities, children are still being held in adult prisons at State-level. In the prison situated in Torit for example, there were 25 boys in detention as of April 2018. Although the prisons administration is fully aware of the need to hold children separately from adult inmates, some children continue to be imprisoned with adults owing primarily to lack of resources. When this occurs, efforts are made as far as practicable to hold children in separate buildings and cells. There is a lack of rehabilitation and reintegration programmes for children in detention and challenges include a high level of illiteracy amongst prison employees and lack of provision of probation and community services.

Table 8

**Total number of juveniles in prisons and reformatory school in South Sudan as of October 2017**

<i>Convicted</i>		<i>Remand</i>		<i>Total</i>
<i>Male</i>	<i>Female</i>	<i>Male</i>	<i>Female</i>	
187	10	121	7	325

Source: Prison Service, October 2017.

Table 9

**Number of juveniles in Wau Reformatory School as of October 2017**

<i>Convicted</i>		<i>Remand</i>		<i>Total</i>
<i>Male</i>	<i>Female</i>	<i>Male</i>	<i>Female</i>	
51	2	41	4	98

Source: Prison Service, October 2017.

226. The Child Act refers explicitly to child witnesses of crime in section 137, which states “child witnesses and victims shall be afforded protection where necessary, including protection from intimidation.” Additional measures are still needed to implement this provision.

### **Children in armed conflict**

227. South Sudan has been affected by armed conflict for many decades, most recently since the outbreak of hostilities in 2013 and again in 2016. Children’s lives have been seriously affected by growing up in this context owing to increased cross-border migration and internal displacement, separation from families, compromised access to education, health and protection services, disrupted agriculture leading to poverty and malnutrition and in some cases, exposure to violence including sexual and gender-based violence. Furthermore, some children have been recruited and used as soldiers by different parties. This section focuses primarily on the recruitment and use of child soldiers since other issues affecting children in armed conflict are considered elsewhere in this report.

228. The Government is fully committed to eliminating recruitment and use of child soldiers. South Sudan has been a State Party to the four Geneva Conventions of 1949 and their Additional Protocols of 1977 since 2013 in addition to the ratification of the two Optional Protocols relating to the involvement of children in armed conflict and Sale of children. Furthermore, the Government has endorsed the Principles and Guidelines on Children Associated with Armed Forces or Armed Groups (“Paris Principles”) of 2007 as well as the Safe Schools Declaration of 2015.

229. Article 17(1) (d) and (4) of the Transitional Constitution, 2011 (as amended) specifies that a child shall not be required to serve in the army and that a child is any person under the age of 18 years. Article 31 of the Child Act, 2008 specifies that the minimum age for conscription or recruitment into armed forces is 18 years and that children shall not be used in any military or paramilitary activities contrary to the law. This law also explicitly lays out penalties for recruitment or use of a child in an armed force of “imprisonment for a term not exceeding ten years or with fine or with both.” Under South Sudan’s SPLA Act, 2009 a person must be 18 years of age or older to be eligible for enlistment.

230. According to the Agreement on the Resolution of the Conflict in the Republic of South Sudan, signed by the SPLA and the SPLA in Opposition (SPLA-IO) in 2015, both parties are committed to the immediate and unconditional release of child soldiers under their command or influence, to be carried out by UNICEF and ICRC.

231. Measures have been actively taken to end the recruitment and use of child soldiers since 1995 when the SPLA first joined hands with UNICEF and Save the Children to form a screening task force in Rumbek, which demobilised approximately 3,000 children. Following the signing of the CPA in 2005, the issue remained at the top of the agenda of the SPLA leadership. On 20 November 2009, the SPLA made a commitment to the UN to implement an Action Plan to End the Recruitment and Use of Children as Soldiers that includes releasing all children associated with government security forces; providing services for their family reunification and reintegration; investigating grave violations against children and holding perpetrators accountable. The Government is also committed to ending all grave violations against children.

232. In order to implement this 2009 Action Plan, the following steps were taken:

(a) A National Disarmament, Demobilisation and Reintegration Commission (NDDRC) was established pursuant to Article 149 of the Transitional Constitution (as amended). One of its objectives is to release all persons below 18 years from the armed forces and support their successful reintegration into civilian life;

(b) The SSPDF Child Protection Department was established in 2009 within the Ministry of Defence and Veterans Affairs supported by international development partners. The Child Protection Department coordinates implementation of the Action Plan and has different roles including raising awareness – for example, during 2010, 1,043 child protection officers were trained to be focal points from across the whole organisation

including all SPLA divisions. The Department also helps to facilitate access by the UN, UNICEF and NDDRC personnel to monitor, report, verify and register any recruitment of children by the army. In 2013, it submitted a joint progress report on implementation of the Action Plan to the Special Representative of the Secretary-General for Children and Armed Conflict.

233. Despite these achievements, implementation of the 2009 Action Plan during 2010 and 2011 was disrupted by insecurity caused by violence around elections and a lack of technical and financial resources. Therefore, in 2012, the Government, the UN and UNICEF signed a Revised Action Plan with an increased focus on accountability. As a result, in 2013 alone, 821 boys and girls were released from the national army and 540 were released from militias groups operating within the country;

234. On 14 August 2013, the SSPDF issued a General Punitive Order underscoring the prohibition on the recruitment and use of child soldiers and mandating administrative action upon evidence of any violation of this rule. In 2014, the Ministry of Defence and Veterans Affairs signed a Re-commitment Agreement with the UN to continue the activities to end grave child rights violations. The UN and the SSPDF also launched the 'Children, Not Soldiers' campaign to raise awareness against using children in armed forces and armed groups. On 26 May 2015, the Government issued a Ministerial Order reminding all members of the SPLA to refrain from deliberate attacks against civilians, rape and sexual violence and the use of child soldiers and mandated referral of all violations of child rights to the Military Justice for prosecution.

235. In 2015, 1,755 children were separated from the Cobra faction of the South Sudan Democratic Movement in the greater Pibor administrative area and two children who had been captured from the SPLA-IO were released to the NDDRC for their reintegration. In 2016, the SSPDF and NDDRC demobilised 25 children from the SPLA in Bentiu and 145 children in Pibor from the Cobra Faction. With the support of UNICEF, all the released children have benefited from and or continuing to benefit from reintegration services (alongside other vulnerable children in their communities of return), including family tracing and reunification, psychosocial support, education, vocational training and livelihood opportunities. On the 7th February 2018, 311 child soldiers were released from two armed groups in Yambio, Gbudue State in the former Western Equatoria State; further, 216 children were released from the South Sudan National Liberation Movement and 96 child soldiers from SPLA/IO. From the demobilized child soldiers, 224 were boys and 87 were girls. In April 2018, 112 boys and 95 girls, some as young as 14, were released in Yambio from two armed groups: the South Sudan National Liberation Movement (SSNLP) and the Sudan People's Liberation Army-In Opposition.

236. The on-going efforts by the Government to transform the army into a professional force have faced various challenges, including eruption of internal conflicts, low recruitment standards and a lack of training, financial resources and knowledge of child protection. This has all affected the ability of the SSPDF to fully tackle the recruitment and use of child soldiers. What is further required is technical and financial resources and better communication equipment and transport for the SSPDF Child Protection Unit to perform its tasks.

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