

SSHURSA

South Sudan Human



Rights Society For Advocacy

"Your Rights, Your Dignity"

SSHURSA QUARTERLY HUMAN RIGHTS REPORT

ON

SOUTH SUDAN

DECEMBER 2012 TO JUNE 2013

"Adherence to rule of law is the only way forward for South Sudan to improve its poor human rights records"

SSHURSA,

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(I) SSHURSA BACKGROUND:

South Sudan Human Rights Society for Advocacy (SSHURSA) is an incorporated non political and non profit making Human Rights organization founded in June 2007 by South Sudanese Lawyers and Law Students at Makerere Law Development Centre (LDC), Kampala-Uganda.

In 2009, it became operational in South Sudan with its head office in Juba and co-ordination offices in the states. Its **vision** is to advocate for a democratic and human rights abiding South Sudan and its **mission** is to monitor, document and publish human rights status in South Sudan and also train general public on the importance of human rights, fundamental freedoms of an individual, Rule of Law and democracy, all geared towards creating a more responsible, justice and good governance oriented South Sudan.

(II) SUMMARY OF FINDINGS OF SSHURSA ON HUMAN RIGHTS VIOLATIONS IN SOUTH SUDAN:

The South Sudan Human Rights Society For Advocacy (SSHURSA) publishes the following facts about the human rights Cases it has come to be aware of in South Sudan. SSHURSA also appeals to the Government of South Sudan to ensure that the Constitution of South Sudan and International Human Rights Law and other legal instruments are respected since South Sudan does not exist in isolation of the international community.

The report covers some of human rights violations that had happened between December 2012 to June 2013 but Jonglei, Budi and Wau crises have not been covered and will be included in the next general annual report of 2013.

The examples of violations are as follows:

1. THOSE IN DETENTION AT ILLEGAL DETENTION CENTRES WITHOUT TRIALS:

The Government of South Sudan through the SPLA had held the following persons without trials for more than one year to two years:

(i) CDR TELEPHONE KUKU:

He was in detention at SPLA General Headquarters in Juba since April 21st 2010. Commander Kuku, hails from Nuba Mountains and according to him, when SSHURSA team met him on November 29, 2012, he said his arrest was politically motivated by some commanders in the SPLA operating in Nuba Mountains. Kuku was recently released (2013) after on and off outcry by different rights groups. He was in illegal detention at SPLA detention barrack for 3 years without trial as those who accused him never made their case to take him to Court. SSHURSA thanks the Government of South Sudan for releasing him finally though without charges against him to make him stand trial.

(ii) GENERAL GABRIEL TANGINYE AND HIS 2 GENERALS: THOMAS MABOR DHOL AND SIMON GATWEC JOAK:

The above three Generals were arrested since April 27, 2011 and kept in SPLA detention in Juba without trial to date. As of their background, these Generals fought alongside the Sudan Armed Forces against SPLA during the wars of liberation against North by South Sudan. However, they decided to join SPLA in February 2011 just after the referendum vote. Their forces stationed at Kaldak, an area in Upper Nile State. They were accused of having authored the April 23, 2011 clashes between SPLA and their forces, that led to the disputed figure of about 254 of deaths mostly children and women at Kaldak. These Generals have not been formally charged nor taken to Courts over the last two years. They are kept in one room. When SSHURSA team met them, they described their detention as political and that the SPLA has no case against them.

“If we were the ones who fired the first bullet against the SPLA, we would have captured the town, sent off the SPLA and controlled their ammunitions and the death of civilians would have been limited as we would have protected the civilians because our number was overrunning the SPLA units at Kaldak” Tanginye, the leader of the group told SSHURSA team. “But because we decided to join South Sudan’s national army, the SPLA, committed our hearts to peace and unity of South Sudan less we knew there was a plan to assassinate me and my colleagues however, we decided to come to Juba to continue the process of integration of our forces into the SPLA despite the incident and only to end up at this room” Tanginye added.

The above detainees have their Constitutional rights violated by the Government as they were never taken to Court over the last two years and are still in detention to date. This is a violation of their rights to fair trial as enshrined in Article 19 of the Transitional Constitution of South Sudan 2011 and Section 64 of the Criminal Procedure Act 2008, Laws of South Sudan.

(iii) PETER A. SULE AND OTHERS:

Sule, a man accused by the SPLA of staging a rebellion against South Sudan, was the former leader of political party, the United Democratic Front (UDF), one of the political parties in South Sudan. He was arrested on November 4, 2011 and taken to SPLA military detention on November 5, 2011. The following 9 persons were arrested together with him and their names are as follows:

- a) Emmanuel Wani
- b) Mathias Ladu A.
- c) Phillip Pitia Alfons
- d) Nyombe George
- e) Legge Loku Wurda
- f) Loku Tombe Augustino

- g) Ladu**
- h) Wurnyang and**
- i) Tahir Philip**

The 9 persons according to Sule and other sources SSHURSA spoke to, have been held incommunicado at Mafoko area in Yei River County. They have been denied the right to access their families and have been alleged to be working under hard labour on SPLA farms. Upto the release of this summary report, they are still in military detention and it is only Sule being detained in Juba, accessible to the family. Currently, since SSHURSA team has not yet met the 9 detainees, it is hard to confirm or deny that they are put under hard, ill and inhuman treatment under the SPLA detention.

The fact that they could not be allowed to meet their families nor taken to Court of law for trial is a clear violation of their Constitutional rights as enshrined under the South Sudan's Constitution.

2. SOME PERSONS UNDER ENFORCED DISAPPEARANCES:

(i) REV. MANASE GWAGWE MATAYO:

He is a pastor of the Episcopal Church of Sudan/South Sudan. He disappeared on Saturday March 16, 2013 and according to the sources SSHURSA has met, Rev. Manase left his house, going to Jebel market an outskirts of Juba, just for haircut, he never returned to date. Despite loud appeals made by the ECS Senior leadership including the ECS leader Arch Bishop Dr. Daniel Deng Bul, Rev. Matayo's whereabouts is not known today. National Security or military Intelligence personnel are highly believed to have picked him but as per now, there have never been independent investigations published to verify the suspicion though this is a possibility.

(ii) REV. IDRIS NALOS KIDA AND

(iii) PASTOR TRAINEE DAVID GAYIN:

They both were picked on May 19, 2013 at about 8 PM and 10 PM respectively. They were picked in Jebel and Gudele areas, outskirts of Juba, South Sudan. According to eyewitnesses, upon arrival, those who arrested him fired three gunshots in the air, before proceeding to beat Reverend Idris and then they took him away in a car belonging to the security forces. They also searched and confiscated material belonging to him and his family members, including one mobile phone, two cameras, family money, house keys, two laptops and a suit case containing his documents. For David Gayiin, the following were taken from him; a thuraya, a laptop, mobile phone among others. Both men are members of the Presbyterian Church of South Sudan and come from Murle Community.

No reason(s) as required by South Sudan Constitution given to either man's family for the arrests and their whereabouts remain unknown up to date. They have not had access to a

lawyer or their family members since they were arrested. According to the sources close to them, there is a looming rumour that they were picked up by SPLA military Intelligence (MI) and they are being accused of having links with the rebel leader David Yau-Yau whose South Sudan Democratic Army/Movement (SSDA/SSDM) has been waging war in Jonglei State since 2010 resulting into the abuses of human rights and death of civilians by the warring parties involved.

Detaining someone for more than 24 hours without the permission of the court, as both men have been, is illegal in South Sudan's Constitution and procedural laws.

(iv) MODESSA WIYUAL:

He was a civil Society activist working with a youth organization. According to his relatives, he disappeared in December 2012 while returning from Kenya Commercial Bank in Juba as he went to withdraw money. Though according to his close relative, he was identified by one informant at national security cell at Jebel, a few days after his disappearance, such a report has been disputed, altogether denied and to date, Wiyual's whereabouts remains a mystery and nobody has been held accountable.

(v) ENGINEER JOHN LOUIS:

This is also a high profile case that took place since March 2011. Though this summary report covers the first half of 2013, it is worth mentioning as nothing has been done by the authorities on the case. According to his family, Louis disappeared in March 2011 and preliminary contacts with the members of National security showed that he was somewhere kept and alive but such information according to his father didn't materialize as they were told thereafter, nobody knew the whereabouts of John Louis within the security sector. In July 2011, General Marial, the then head of Criminal Investigations Department (CID), in a five charges by the then Inspector General of Police General Acuil Tito, one of which was the disappearance of Eng. Louis. Though General Marial was in detention for more than three months which was also a violation of his rights without trial and was later released however still remains at his house. To date, the whereabouts of Eng. John Louis is a mystery and the government has remained sitting on the case. Is he dead or alive still? Nobody could give any better answers except the government.

(3) MURDER CASES:

(i) ISAIAH ABRAHAM

(ii) BANYJIOTH MATHOAT TAP:

The two were murdered on December 5th 2012 and March 29, 2013 respectively. For Isaiah, 6 months down the line, no justice has been done to his family as those alleged arrested in connection with his assassination as stated on January 3, 2013 by Honourable Barnaba Marrial Benjamin, the South Sudan government's spokesperson and the Minister of Information and Broadcasting, such persons have not been taken for trial to date. SSHURSA had tried pushing for justice over the last 6 months, nothing has been materialized. Whereas, for Banyjioth, he

was found dead and slaughtered beneath the fence of the house of Deputy Minister of Interior Lt. General Salva Mathok Gengdit who was subsequently accused of the murder which he strongly denied. However, so far despite the promise by the Government to reveal investigations, this has not come true because, according to the analysis SSHURSA has had, there would be NO tangible results as the Deputy Minister of Interior who is the accused person, sits in the Ministry that purports to investigate the crime. There is direct and clear conflict of interest and it is very natural for the Deputy Minister to manipulate the outcome.

(4) MEDIA: FREEDOM OF SPEECH AND EXPRESSION:

- (i) **Michael Koma**, the Managing Editor of the Juba Monitor was detained by the police in Juba from May 2nd 2013 and released on May 5th 2013 after three days in an unlawful detention.
- (ii) **Alfred Taban**, the Editor-In-Chief of the same Newspaper, on May 6, 2013, was put into interrogations by the same police for eight (8) hours in Juba and this equally amounts to unlawful detention. According to the findings of SSHURSA, the journalists were detained by the police under the orders of the Deputy Minister of Interior Lt. General Salva Mathok Gengdit. Minister Mathok complained of being defamed by the Newspaper and the Bul Community of Unity State. In a letter written and signed by their leaders, Bul Community made a rebuttal against the denials by the Deputy Minister on the allegations in Bul Community's first letter against him on the murder of Banyjioth Mathoat Tap from Bul Community. The community members in its letter published after the incident accused the Minister of being behind the demise of their son, allegations of which the Minister strongly denied as false. This led to the Community's rebuttal to the Minister's denial and in a letter published by Juba Monitor. The publication angered the Deputy Minister Mathok who ordered the police to summon and investigate the Senior Management of the paper as he claims that his name was being tarnished by both the Juba Monitor Newspaper and Bul Community.

(iii) SHUTDOWN OF CATHOLIC'S RADIO IN RUMBEK:

On June 28, 2013, the Lakes State Government shut down Good News Radio, one of the Radio Stations of Catholic Radio Networks in South Sudan. Though the Radio came back on air a week later, however, it was a clear sign of the continued crack down on the freedom of speech, expression and the press contrary to **Article 24** of the Transitional Constitution of South Sudan (TCSS) 2011 that allows the right to freedom of speech, expression and press.

As per now, Lakes State is under "*permitted fire*" set and fueled by a purely militant caretaker Governor imposed on the people of Lakes State by the President of the Republic Salva Kiir Mayardit. This came as a result of implementing **Article 101(r)** of the TCSS 2011 which

unfortunately allows the President to remove an elected state Governor¹ and the President by virtue of **Article 101(s)** of the TCSS 2011, is expected through the Caretaker Governor, to organize the gubernatorial elections within 60 days. This has not happened. The caretaker governor and his executive arm of government have turned the Lakes State into purely military detention Centre where human rights are abused and anything unconstitutional is easy to be implemented.

Analyzing the long and illegal detentions of the accused persons, it is a total defiance and an attack on **Article 19(4)** of the TCSS that provides for the rights of a suspect to be released on bail after 24 hours, unless a court decides he or she should be remanded in prison. This has not happened in the above cases. Some accused persons have stayed in the illegal detention places without taking them to Court for a trial if truly charged. This is by all standards, a violation of the rights to a lawyer, family or next of kin, medical attention among other non-derogable rights such as the right to be produced publicly or before the court of Law (habeas corpus)

(5) SSHURSA IN THIS QUARTERLY HUMAN RIGHTS REPORT MAKES THE FOLLOWING RECOMMENDATIONS:

(a) To the President of the Republic Salva Kiir Mayardit

- i. SSHURSA appeals to the President of the Republic to decree the release of all detainees in South Sudan and this will be in compliance with the Constitution.
- ii. Or through the Ministry of Justice and Judiciary, if the detainees cannot be released through a Republican decree, then they should be taken to Court for trial so that they know their charges leveled against them.
- iii. Assent to, the media laws as soon as possible.
- iv. Order new search and investigations for those persons under enforced disappearances.
- v. Remove the immunity of the Deputy Minister of Interior to allow free and fair investigations of the cases he was accused of.

(b) To the National Security and Military Intelligence Personnel:

- i. Refrain from detaining persons at illegal detention centres mostly those accused of having links with rebels.
- ii. Maintain and uphold the values enshrined in TCSS 2011 and adhere to professional ethics of an organized armed force.

(c) To the Judiciary:

- i. Make unclassified and unlimited Judicial review to find out those in detentions illegally.

¹ 2nd elected Governor removed by President Kiir after Eng. Chol Tong Mayay is Governor Taban Deng Gai of Unity State removed on July 7th 2013.

- ii. Ensure unrepresented accused persons, are explained their rights of a legal representation.

(d) To Human Rights Commission and Ministry of Justice:

- i. Document all cases of human rights violations committed by agents of government
- ii. Ensure fair and speedy prosecutions of the accused persons including those accused in the cases of Eng. John Louis, Isaiah Abraham and Banyjiioth Mathoat Tap.

(e) To the church leaders and family members of the disappeared and murdered persons:

- i. Ensure a push on behalf of those who disappeared from your membership and in entire public.
- ii. Engage the leadership of South Sudan at higher levels for directives to release the long and illegally detained persons.
- iii. Continue to bold condemn and challenge the evils being meted on the entire public in South Sudan by the powerful in the government.

(f) To the International Community:

- (i) Never abandon the people of South Sudan but continue to assist financially its institutions to get strong for viable rule of law and human rights abiding nation.
- (ii) Use all reasonable avenues to blank-point the limitations of the Government of South Sudan at whatever forum you have, so that there is improvement in its institutions to promote rule of law and human rights.
- (iii) Support human rights groups and Civil Society to speak and defend human rights and also to train the general public in South Sudan.

(g) To the South Sudanese Civil Society and human rights groups:

- i. Make more efforts to speak out with one voice and on behalf of those who cannot speak for themselves.
- ii. Put more advocacy against the violations of human rights and rule of law so that people understand their rights and be able to spot out how the Government and powerful individuals in South Sudan have been trampling down these rights.

(6) CONCLUSION:

Human rights are universal and their respect is a must by any state. It is therefore, incumbent upon the State of South Sudan to respect, protect and fulfill the human rights. The President of the Republic carries an ultimate responsibility for every violation of human rights and rule of law, particularly those which had come to his notice but failed to act in protection of such rights.

As for SSHURSA, we will continue to remind the government of its obligations to respect, protect and fulfill human rights in South Sudan. The President of the Republic would do well further to vow into action in ending impunity over human rights abuses in the country for which he fought for and liberated from the human rights abuses by Sudan's successive military regimes.

NOTE:

SOME ISSUES TO EXAMINE IN DEPTH IN THE NEXT ANNUAL REPORT SHALL BE GOVERNANCE, OBSERVANCE OF RULE OF LAW AND DEMOCRATIC PRINCIPLES IN SOUTH SUDAN.