

Resolution on the Situation of Human Rights in the Republic of South Sudan - ACHPR/Res.542 (LXXIII) 2022

Dec 12, 2022

The African Commission on Human and Peoples' Rights (the Commission), meeting at its 73rd Ordinary Session, held in Banjul, The Gambia from 20 October to 9 November 2022;

Recalling its mandate to promote and protect human and peoples' rights under the African Charter on Human and Peoples' Rights (the African Charter);

Cognizant of Article 23 of the African Charter, which provides for the right of all peoples to peace and security; of Articles 10 and 11 of the Protocol to the African Charter on the Rights of Women in Africa, which provide for the right to peace and protection of women in armed conflicts; and of the African Union (AU) Transitional Justice Policy (AUTJP) and the African Commission's Study on Transitional Justice and Human and Peoples' Rights (TJ Study), which contain the authoritative views of the AU and the African Commission on Transitional Justice Processes;

Recalling its previous resolutions on the Republic of South Sudan, including Resolution ACHPR/Res.428 (LXV) 2019; its Press Release on human rights violations in the South Sudan conflict of 12 July 2018; its Press Releases on the human rights situation and related developments in South Sudan of 05 November 2019, 21 February 2020, and 24 June 2020; as well as all relevant decisions and communiqués of the AU and the Intergovernmental Authority on Development (IGAD);

Further recalling that the Government of South Sudan bears the primary responsibility for the promotion and protection of human rights and has the responsibility to protect its population from genocide, war crimes, ethnic cleansing and crimes against humanity, as well as from human rights violations and violations of international humanitarian law, including those committed by its forces;

Highlighting that while the transitional justice mechanisms envisioned by Chapter V of the Revitalized Agreement on the Resolution of the Conflict in the Republic of South Sudan (R-ARCSS), namely the Commission for Truth, Reconciliation and Healing (CTRH), the Compensation and Reparation Authority (CRA), and the Hybrid Court for South Sudan (HCSS), are yet to be established, there is a need for continued monitoring of and reporting on human rights violations;

Noting that Chapter V of the R-ARCSS envisages that the Revitalized Transitional Government of National Unity (R-TGoNU) should cooperate with the Commission for putting in place transitional justice institutions, notably the CTRH;

Highlighting the continued important role of the reconstituted Joint Monitoring and Evaluation Commission (R-JMEC) and of the Ceasefire and Transitional Security Arrangements Monitoring and Verification Mechanism (CTSAMVM) in supporting the implementation of the R-ARCSS;

Noting with appreciation the ongoing cooperation of the Government of South Sudan with the AU, the IGAD, the Office of the United Nations High Commissioner for Human Rights (OHCHR), the Commission on Human Rights in South Sudan (CHRSS) established by the United Nations Human Rights Council, and the United Nations Mission in South Sudan (UNMISS) – including its Human Rights Division;

Welcoming the progress made in the implementation of the R-ARCSS including the formation, despite delays, of the R-TGoNU, the appointment of governors and deputy governors in all States, the reconstitution of the Transitional National Legislative Assembly, and steps taken towards the formation of unified armed forces under Chapter II of the R-ARCSS, including the recent graduation of the first batch of 20,000 members of the unified national army, police and other security forces;

Noting the agreement by parties of the R-ARCSS, as announced on 4 August 2022, on a roadmap that extends the transitional period by 24 months, while stressing the need to use this 24-month extension to open the political space, adopt an election law, establish an inclusive electoral system, and advance the permanent constitution-making process;

Stressing the need for the Ministry of Justice to ensure that the national consultations about the establishment of the CTRH are fully inclusive, in particular of refugees and internally displaced persons, before drafting relevant CTRH- and CRA-related legislation;

Encouraging efforts to address sexual and gender-based violence, including conflict-related sexual violence, and the widespread impunity in this regard;

Deploping the continuing human rights violations and abuses suffered by the people of South Sudan, including the deliberate targeting of and retaliatory attacks against civilians, particularly women and children, including sexual and conflict-related sexual violence, gang rape, acts of torture and other cruel, inhuman or degrading treatment, deliberate starvation, recruitment and use of child soldiers, abductions, enforced disappearances and extrajudicial executions;

Further deploring violations of economic, social and cultural rights, including the rights to food, education, and health;

Alarmed by obstacles to humanitarian aid, including undue delays, duties and taxes, as well as reported intimidation and harassment of and attacks against humanitarian workers, including killings, and extrajudicial executions of prisoners;

Deeply concerned by the shrinking of the civic and political space, exemplified by the reported arbitrary arrests and detention of protesters;

The Commission:

1. Condemns all violations of human rights and international humanitarian law in South Sudan, particularly the deliberate targeting of and retaliatory attacks against civilians, particularly women and children, including sexual and conflict-related sexual violence;
2. Calls for the institution of measures, including through empowering and guaranteeing the effective functioning of the South Sudan Human Rights Commission, for the monitoring, reporting, investigation, prosecution and reforms to address these acts of violations affecting the civilian population, particularly women and vulnerable groups;
3. Urges that the government takes urgent measures to ensure that security institutions halt harassment and intimidation of, and attacks against, human rights defenders, members of civil society organizations, journalists and humanitarian workers, violations committed against civilians, including sexual and conflict-related sexual violence, and undue restrictions to the freedoms of opinion and expression online and offline, peaceful assembly and association;
4. Urges the Revitalized Transitional Government of National Unity and other relevant stakeholders to accelerate the implementation of the Revitalized Agreement on the Resolution of the Conflict in the Republic of South Sudan, including by operationalizing transitional justice institutions envisioned in Chapter V of the Revitalized Agreement;
5. Urges in this regard the Revitalized Transitional Government of National Unity to work with the Commission within the framework of ACHPR Resolution 428, to identify workable modalities for the operationalization of all elements of Chapter V of the peace agreement;
6. Requests the Country Rapporteur for South Sudan to engage with the Government of South Sudan and the Commission on Human Rights in South Sudan (CHRSS) in the monitoring of human rights and in following up on Resolution 428 within the framework of paragraph 5 above;
7. Urges the Government of South Sudan to allow and facilitate the full, safe and unhindered access of humanitarian and relief personnel to the millions of people, including internally displaced persons, in need of humanitarian aid;
8. Urges all external actors to continue to provide all the necessary support to South Sudan towards implementing processes of transitional justice, accountability, reconciliation and healing including through cooperation with the AUC and the Commission.

Done in Banjul, The Gambia, 09 November 2022