



Submission to the Universal Periodic Review of South Sudan
For the Consideration of the 40th Session of the UPR Working Group
in January 2022

1. ARTICLE 19 and Free Press unlimited welcome the opportunity to contribute to the third cycle of the Universal Periodic Review (UPR) of the Republic of South Sudan. This submission assesses South Sudan's compliance with its international human rights obligations, in particular examining progress against recommendations accepted during the second cycle of the UPR (November 2016) relating to the right to freedom of expression and information, and the right to freedom of peaceful assembly and association. It focuses on:

- Cooperation with international human rights mechanisms
- Legal framework for free expression
- Human security of journalists
- Media outlets
- Freedom of peaceful assembly
- Access to information
- Freedom of association

The process of data gathering leading to this document is composed of consultations and desk review with South Sudanese media and legal partners.

2. In the period under review, the key positive development has been the ratification of the International Covenant on Civil and Political Rights (ICCPR) and its First Optional Protocol by the legislative assembly of South Sudan without reservations, providing safeguards for the exercise of the right to freedom of expression.¹
3. Freedom of expression and media environment in South Sudan continues to be curtailed despite progressive media and broadcast legislation being signed into law in 2013. Findings indicate that repressive strategies are still used to censor journalists and citizens with critical views of the government and the government's continuous interference with freedom of expression, in various forms, has contributed to shrinking the space for debate and dissent, deterring political participation and resulting in growing self-censorship.

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https://unmiss.unmissions.org/sites/default/files/unmiss_welcomes_ratification_of_international_human_rights_covenants_in_south_sudan.pdf

4. The period under review has also been characterised by continued human rights violations against rights holders. Civic space is restricted on freedom of expression, association and assembly and dissenting voices risk being targeted with arbitrary arrest and /or detention and other cruel inhuman treatment. This coupled with surveillance by security operatives on media and civic actors contributes to a climate of fear resulting in self-censorship and/or refraining from participating in governance processes.

Cooperation with international human rights mechanisms

5. During the second cycle of the UPR, South Sudan received and accepted three recommendations on issuing a standing invitation for country visits from UN Special Procedures.²
6. However, South Sudan has not issued a standing invitation to any of the UN Special Procedures with mandates to cover issues related to the right to freedom of expression.

7. Recommendations:

- Extend a standing invitation for a country visit by the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression to allow for an independent analysis of the environment for the right to freedom of expression.

Legal framework for freedom of expression

8. During the second cycle of the UPR cycle, South Sudan received seven recommendations directly on the right to freedom of expression, accepting four and noting three.³ This included two noted recommendations to revise and amend legislation that has been used to impair the right to freedom of expression, namely the National Security Service Act
9. While the Transitional Constitution's legal framework includes acts guaranteeing freedom of expression, and countries expressed in their UPR recommendations to guarantee freedom of expression in the country, this is often not seen in practice.
10. The right to freedom of expression is protected under South Sudan's 2011 Transitional Constitution. Article 24 provides that every citizen shall have the right to freedom of expression,

2 Supported: 127.17 Strengthen cooperation with the United Nations human rights mechanisms and issue a standing invitation to special procedure mandate holders (Georgia); 127.18 Issue a standing invitation to the human rights special procedures (Rwanda); 127.19 Consider the possibility of extending a standing invitation to the human rights special procedures and setting up an institutional channel for responding to communications from them (Paraguay).

3 Supported: 126.67 Take measures to ensure freedom of expression (Japan); 128.84 Guarantee fundamental freedoms, in particular freedom of expression, which will contribute to the reconciliation process (France); 128.88 Ensure the enjoyment of freedoms of expression and assembly and put to an end the unlawful detention of peaceful protesters (Botswana); 128.83 Ensure protection of freedom of expression and association, and take action to protect journalists (New Zealand). Noted: 128.30 Repeal the National Security Service Act, 2014, or reform it in order to comply with international, regional and national human rights law standards (Germany); 128.92 Revise and amend legislation, including the 2014 National Security Service Act and the 2015 Non-Governmental Organizations Act, which have been used to restrict the rights to freedom of expression, association and peaceful assembly (Switzerland); 128.87 Take concrete steps to ensure freedom of expression, including for civil society and the media, and ensure that harassment, threats, unlawful detainment and intimidation of these groups by the national security services end immediately (Norway).

reception and dissemination of information, publication and access to the press without prejudice to public order, safety or morals as prescribed by law.⁴

11. However, the national legislative framework directly undermines the Constitution's protection of the right to freedom of expression and media freedom, notably the Penal Code Act (2008), the Media Authority Act (2013) and the National Security Service Act (2014).

The Penal Code

12. Article 289 of the Penal Code Act criminalises defamation, an offence punishable by a prison term not exceeding two years or a fine or both. This is defined as “any imputation concerning any person, intending to harm or knowing or having reason to believe that such imputation will harm the reputation of such person”.⁵
13. Article 291 criminalises the printing or engraving of matter known to be defamatory, punishable by imprisonment for a term not exceeding two years or with a fine or with both. Article 292 similarly criminalises the sale of printed or engraved or inscribed substance containing defamatory matter, punishable by imprisonment for a term not exceeding two years or with a fine or with both.
14. We note the UN Human Rights Committee's General Comment 34 has recommended the repeal of criminal defamation laws, emphasising that imprisonment is never an appropriate penalty for defamation.⁶
15. These defamation provisions have been used to prosecute journalists and other civil society actors. In September 2020, the Juba County Court sentenced journalist Zechariah Makuach Maror to one year in prison and 5,000 SSP (38 USD) under the aforementioned Article 289 of the Penal Code. Zechariah Makuach Maror works for the 'Agamlong' daily newspaper and has been writing articles accusing the Minister of Finance, Salvatore Garang, of corruption, tribalism and nepotism. In April 2020, following the publication of such articles, the Minister filed a complaint against the journalist, accusing him of defamation and insulting his reputation.⁷
16. In effect, it is possible to see the impact of the Penal Code through the current state of news dissemination in South Sudan. For instance, while radio professionals indicate that journalists feel that fewer incidents of arrest and detention have happened in the last months, this is because widespread self-censorship ensures that the legal framework is not enforced in the media, with media professionals avoiding coverage that could be perceived to be critical of the government or focusing on issues such as corruption and crackdown on the government are avoided by media professionals, once they know now that these can be contemplated as acts of defamation.⁸

4 The Transitional Constitution of the Republic of South Sudan, 2011:

<https://www.ilo.org/dyn/natlex/docs/MONOGRAPH/90704/116697/F762589088/SSD90704%202011C.pdf>

5 Penal Code(2008): <https://docs.southsudanngoforum.org/sites/default/files/2017-09/Penal-Code-Act-South-Sudan-2008.pdf>

6 UN Human Rights Committee, 'General Comment No. 34', (CCPR/C/GC/34), 13 September 2011, available at:

<https://www2.ohchr.org/english/bodies/hrc/docs/GC34.pdf>

7 Zechariah Makuach found guilty of defamation charges: <https://everadio.org/family-of-a-journalist-to-appeal-court-ruling-in-favor-of-finance-minister/> <https://cpj.org/data/people/zachariah-makuach-maror/>

8 <https://radiotamazuj.org/en/news/article/radio-stations-in-south-sudan-practice-self-censorship-sama-fm-boss>

17. Article 75 criminalises anyone who “publishes or communicates to any other person a statement which is wholly or materially false” that adversely affects the interests of South Sudan. This includes on the grounds of public safety, economic interests, or undermining public confidence in law enforcement. This provision carries a sentence of imprisonment for a term not exceeding 20 years or with a fine or with both.
18. Article 76 allows for the prosecution of anyone who makes a statement about the President that is false or causes “hatred, contempt or ridicule of the President” or makes “any abusing, indecent or obscene statement about the President”. This provision carries a sentence of imprisonment for a term not exceeding one year or with a fine or with both.
19. These provisions are overly broad and vaguely worded, thus prone to arbitrary interpretation which may be used against anyone, including journalists. In their 2017 joint statement, the UN and regional free expression mandates affirmed that “general prohibitions on the dissemination of information based on vague and ambiguous ideas, including ‘false news’ or ‘non-objective information’, are incompatible with international standards for restrictions on freedom of expression ... and should be abolished”.⁹ In her 2020 annual report, the UN Special Rapporteur on freedom of opinion and expression similarly noted how overly broad laws on misinformation are not incompatible with international human rights law.¹⁰

The Media Authority Act

20. 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. The Act states that media shall be protected from censorship by any official or non-official authority. It prohibits the unlawful arrest and detention of journalists and stipulates there shall be no statutory regulation of print media.
21. The Media Authority Act 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.¹¹ The Media Authority is meant to act as an independent body to oversee broadcast content and deal with complaints, as well as to protect the right of access to public information.
22. However, in practice, the Media Authority Act has been used to suppress media actors deemed subversive or working on ‘controversial’ stories. The Media Authority Act in section 19 provides for media registration and licensing which has often been used by the Media Authority to summon and sanction media actors on various occasions. This often happens alongside the surveillance and persecution coming from the National Security Service.
23. For instance, in March 2019, the Media Authority suspended the operations of Radio Miraya, owned by the UN Mission in South Sudan (UNMISS), for failing to comply with media laws. Radio

⁹ Organization for Security and Co-operation in Europe, ‘Joint declaration on freedom of expression and “fake news”, disinformation and propaganda’, 3 March 2017, available at: <https://www.osce.org/files/f/documents/6/8/302796.pdf>

¹⁰ <https://www.ohchr.org/EN/Issues/FreedomOpinion/Pages/Report-on-disinformation.aspx>

¹¹ Media Authority Act (2013): <https://docs.southsudangoforum.org/sites/default/files/2017-09/Media%20Authority%20Act%202013.pdf>

Miraya broadcasts information about UN activities and political programs meant to foster peace that could be seen as critical of the government. Elijah Alier Kuai, Head of South Sudan Media Authority, accused the station of “persistent non-compliance and refusal to be regulated under media laws of South Sudan”. According to reports, the suspension was a result of failure to register and acquire a license in accordance with Section 34(1) of the Media Authority Act.¹²

The National Security Service Act (2014)

24. As mentioned above, during the second cycle of the UPR, South Sudan received and noted two recommendations to specifically revise and amend the National Security Service Act (NSSA) of 2014.
25. The NSSA gives expansive powers to the State to pre-empt and control any situation that may harm and cause danger to the national interest and contains provisions that have led to the active curtailment of freedom of expression. It also provides sweeping powers regarding surveillance, arrest and detention in situations where the national interest could be threatened without providing adequate safeguards and/or oversight against abuse of powers. This provision has been used against journalists and other individuals for exercising their legitimate right to freedom of expression.
26. Article 13 of the NSSA allows the NSS to, amongst other things, monitor frequencies, wireless systems, publications, broadcasting stations and postal services in respect to security interests to prevent misuse by users. The NSS Act does not provide for judicial authorisation and review of intelligence gathering activities such as interception of communications and surveillance.
27. While Article 55 of the 2014 NSS Act describes the process for obtaining a judicial warrant, it does not clearly specify when a warrant is required. It includes a vague provision stating that the NSS should seek a warrant when there are reasonable grounds to believe that a warrant is required to enable the NSS to perform any of its functions under this Act.¹³
28. In the period under review, journalists continued to be threatened by authorities in relation to articles they wrote or news they covered. In January 2019, during the anti-Bashir protests, the NSS confiscated and prevented the printing of newspapers reporting on the ongoing protests. The government withdrew work permits for a number of foreign journalists and arrested journalists.¹⁴ Similarly, in January 2020, the NSS arrested and detained a radio journalist Mr. Ijoo Bosco, who works for Torit Radio, for six days for airing news on United States government sanctions for human rights abuses against the first vice president, Taban Deng Gai.¹⁵

29. **Recommendations:**

- Amend the Penal Code to fully align with international human rights standards on the right to freedom of expression;

12 Media Authority suspends operations of Radio Miraya: <https://www.reuters.com/article/southsudan-media-idINL5N1QR3IN>

13 NSS Act (2014): <https://docs.southsudanngoforum.org/sites/default/files/2020-03/national-security-services-nss-act-2014.pdf>

14 Anti - Bashir protests: <https://www.africanews.com/2019/02/01/police-clashes-with-sudanese-protesting-a-state-of-emergency-in-atbara/>

Letter of summon by the Media Authority: <https://twitter.com/SMupfun/status/1082514845663195137?s=20>

15 <https://radiotamazuj.org/en/news/article/journalist-arrested-for-airing-story-about-sanctions-against-taban-deng>

- Decriminalise defamation, including by repealing Articles 289, 291 and 292 of the Penal Code;
- Guarantee the independence and impartiality of the Media Authority and ensure it does not interfere with journalists and media workers exercising their right to freedom of expression;
- Repeal the National Security Service Act in its entirety;
- Ensure targeted surveillance and/or interception of communications is fully in line with international human rights law, including the principles of lawfulness, legitimacy, necessity and proportionality, and subject to judicial authorisation.

Human security of journalists

30. During the previous cycle, South Sudan received seven recommendations explicitly on the safety and work of journalists, supporting six and noting one.¹⁶ There have been some improvements in the field of safety of journalists since the peace accord was written, and Riek Machar has reached vice-presidency: no journalist has been killed since 2017. Nonetheless, this could also be related to the fact that a lot of dissident voices are exiled from the country, or have left it, and surveillance and crackdowns remain prominent for the NSS.¹⁷ Human rights violations are still continuing with impunity, especially with freedom of expression professionals.
31. These attacks on human rights mostly come from authorities and take the form of intimidation, aggression, and arbitrary detention. Many journalists have been detained or deprived of their working permission following articles reporting international pressures and sanctions and challenges to the government regarding rebel groups and policies.¹⁸ These cases are often supported by the legal framework of the NSS Act.
32. One highlightable case is the death of journalist Christopher Allen, in a crossfire in 2017.¹⁹ While being part of an incident involving many other victims, it has been discussed that the shots taken by Allen were targeted, and he was wearing clothing labelled as “press”. The South Sudanese Media Authority and government, which had denied entry of Allen previously in the country for his “hostile reports”, had denied later the existence of records on Allen, and refused to investigate his death.
33. In addition, these human rights concerns also extend to female journalists, in the form of gender-based violence. For instance, two women journalists suffered physical assault after

16 Supported: 128.83 Ensure protection of freedom of expression and association, and take action to protect journalists (New Zealand); 128.85 Ensure the protection of and access to all areas by journalists, human rights defenders and humanitarian workers (Australia); 128.86 Provide full access for journalists, human rights organizations and other members of civil society to all areas of the country (Iceland); 128.90 Take all necessary measures to ensure that civil society organizations, human rights defenders and journalists are able to carry out their legitimate activities without facing legal or administrative obstructions or fear or threat of reprisals (Sweden); 127.38 Take steps to hold to account the perpetrators of the human rights violations, including sexual and gender-based violence, committed during the violence in Juba in July 2016, more specifically, the perpetrators of the attack on the Terrain Hotel, during which a local journalist was killed and several aid workers were raped (Netherlands); 128.69 End, investigate independently and prosecute promptly cases of sexual violence against civilians, as well as of assaults on and harassment of journalists and civil society activists (Germany). Noted: 128.89 Protect human rights defenders and journalists from violence and arbitrary arrests, address impunity for crimes against human rights defenders and journalists, and notify the United Nations Educational, Scientific and Cultural Organization of the status of judicial inquiries into the murder of journalists (Netherlands).

17 South Sudan, Reporters Without Borders:

<https://rsf.org/en/south-sudan>

18 Journalist arrested for airing stories about sanctions: <https://radiotamazuj.org/en/news/article/journalist-arrested-for-airing-story-about-sanctions-against-taban-deng>

19 Christopher Allen on CPJ: <https://cpj.org/data/people/christopher-allen/>

trying to record South Sudan's People Defence Forces annual meeting, getting hit by an army official. The aggression led to a public apology, with no succession of legal action.

34. Recommendations:

- Conduct impartial, prompt, thorough, independent and effective investigations into attacks and violence against journalists by public officials and ensure perpetrators are brought to justice;
- Develop and implement gender-sensitive policies for preventing and combating attacks and violence against journalists.

Media outlets

35. While media outlets are protected under the rights stipulated by Article 24 on freedom of expression, closures and barriers on media outlets have been observed since the previous UPR in 2016.
36. Recently, media freedom has been consolidated into a code of conduct for journalists, ensuring "objectivity, professionalism, responsibility".²⁰ This is a positive development for media outlets.
37. Since the previous review, several media outlets have been closed, and the prominent actor censoring these outlets is the NSS. For instance, *Agamlong*, an English-language newspaper circulated in Juba, was shuttered by the National Security Service in March 2020 following the publication of articles critical of a senior government official.²¹ In addition, *Dawn* newspaper also was subject to temporary closure after writing an opinion piece on the Warrap State administration which criticised the corruption levels in the state's management²².
38. While foreign newspapers and media outlets are allowed in the country and accounted for in the Access to Information Act and the Media Authority Act, barriers have already been introduced to these newspapers, such as the previously mentioned *Agamlong*, *Sudan Tribune*, and others. This calls for a stronger commitment to the legal framework for the freedom of expression.
39. In July 2017, the South Sudanese authorities blocked in-country access to large South Sudanese media, such as *Radio Tamazuj*, the *Sudan Tribune*, the *Nyamilepedia* and *Paanluel Wel*. These blockages, carried out in accordance with the legal framework in the NSS Act, particularly Article 13 which stipulates that the mandate of the NSS is to advise, gather data and information, have since not been lifted and heavily obstruct access to information. Indeed, Human Rights Watch urges the National Assembly to reform the institution and cease cases of forced arrest and detention.²³

20 <https://radiotamazuj.org/en/news/article/south-sudan-unveils-code-of-conduct-for-journalists>

21 United Nations Mission in South Sudan (UNMISS)- Report of the Secretary-General on the Situation in South Sudan: https://reliefweb.int/sites/reliefweb.int/files/resources/S_2020_536_E.pdf

22 <https://radiotamazuj.org/en/news/article/dawn-newspaper-resumes-printing-after-being-blocked-by-nss>

23 <https://radiotamazuj.org/en/news/article/south-sudan-authorities-urged-to-reform-national-security-agency>

40. In 2017, shortly after the end of the last UPR of South Sudan, South Sudan's National Communication Authority followed with a block on news websites, such as Radio Tamazuj, under the pretext that they posed a threat to the South Sudanese government.²⁴

41. Recommendations:

- Immediately cease the banning or closing of media outlets or publications;
- Refrain from website blocking and ensure any blocking measures are provided by law, strictly proportionate to the aim pursued, and only be ordered by an independent and impartial court or adjudicatory body;
- Cease the involvement of the National Security Service with press surveillance.

Freedom of peaceful assembly

42. During the second cycle of the UPR, South Sudan received two recommendations on the right to peaceful assembly, including accepting one recommendation to put to an end the unlawful detention of peaceful protesters.²⁵ Despite this, there have been ongoing crackdowns on protestors in the period under review.

43. Article 25 of South Sudan's Transitional Constitution recognises and guarantees the right to peaceful assembly. However, the aforementioned NSSA grants significant power to the National Security Service to pre-empt and control any situation that may harm and cause danger to the national interest and has been used against individuals for exercising their right to freedom of assembly.

44. In June 2020, the NSS was deployed to Juba in response to a protest following the killing of four members of one family allegedly by the son of the President. Reportedly, as the protesters marched to the Rajaf Police post, they were intercepted by a group of armed police and military officers who shot live ammunition into the air and at the marchers, killing one man, Deng Thon Deng, and injuring several others.²⁶ At least 30 protesters were arrested and others threatened with the use of force to disperse.²⁷

45. The President, Salva Kiir, also issued verbal threats against protestors during the period under review, creating a climate of fear and a chilling effect on the right to peaceful assembly. In May 2019, a group referred to as the Red Card Movement called for protests seemingly against impunity in government. In response, the President warned that the authorities would respond to protests with 'violent resistance.'²⁸

46. Recommendations:

²⁴<https://radiotamazuj.org/en/news/article/government-blocks-access-to-radio-tamazuj-website-observers-condemn-decision>

²⁵ Supported: 128.88 Ensure the enjoyment of freedoms of expression and assembly and put to an end the unlawful detention of peaceful protesters (Botswana); 128.92 Revise and amend legislation, including the 2014 National Security Service Act and the 2015 Non-Governmental Organizations Act, which have been used to restrict the rights to freedom of expression, association and peaceful assembly (Switzerland).

²⁶ Human Rights Watch-South Sudan: Soldiers Kill Civilians in Land Dispute: <https://www.hrw.org/news/2020/06/09/south-sudan-soldiers-kill-civilians-land-dispute>

²⁷ NSS detains dozens of protesters: <https://ssnewsnow.com/national-security-service-detains-dozens-of-protesters-in-juba/>

²⁸ Salva Kiir warns against planned protests: <https://www.africanews.com/2019/05/16/south-sudan-s-kiir-warns-against-planned-protests/>

- Cease the arbitrary detention of protestors and promote a safe and enabling environment for individuals and groups to exercise their rights to freedom of peaceful assembly.

Access to information

47. Article 32 of the South Sudan Transitional Constitution (2011) provides for the right to access information. It states that every citizen has the right of access to official information and records, including electronic records in the possession of any level of government or any organ or agency thereof, except where the release of such information is likely to prejudice public security or the right to privacy of any other person.
48. However, despite passing the Access to Information Law in 2013, it has not fully been implemented by the government as the government remains hostile to public scrutiny and State institutions tasked with promoting transparency and accountability remain weak and underfunded. In September 2020, the Chair of the UN Commission on Human Rights in South Sudan reported that the Commission had uncovered brazen embezzlement by senior politicians and government officials, together with a number of entities linked to the South Sudan Government. The Commission revealed the misappropriation of a staggering \$36 million US dollars since 2016. The amount represents illicit financial flows from the Ministry of Finance and Economic Planning and the National Revenue Authority.²⁹
49. There is a clear lack of political will on the part of the government to fully implement the Access to Information law and rights holders advocating for transparency and accountability are often treated as enemies as opposed to allies. For instance, in June 2020, the NSS also detained a civil society activist, Mr. Monday Moses, in response to a billboard that was put together by him, which criticised the lack of transparency and accountability in the government.³⁰

50. Recommendations:

- Fully implement the Access to Information Law and ensure easy, prompt, effective and practical access to information held by public bodies.

Freedom of association

51. During the previous review at the UPR, South Sudan supported two general recommendations on the right to freedom of association while noting one specific recommendation to revise and amend the Non-Governmental Organizations Act (NGO Act) of 2015.³¹

29 Statement by Yasmin Sooka Chair of the UN Commission on Human Rights in South Sudan to the Human Rights Council: <https://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=26281&LangID=E>

30 NSS detains activist over 'accountability billboard':

<https://radiotamazuj.org/en/news/article/nss-detains-activist-over-accountability-billboard>

31 Supported: 128.83 Ensure protection of freedom of expression and association, and take action to protect journalists (New Zealand); 128.90 Take all necessary measures to ensure that civil society organizations, human rights defenders and journalists are able to carry out their legitimate activities without facing legal or administrative obstructions or fear or threat of reprisals (Sweden).

Noted: 128.92 Revise and amend legislation, including the 2014 National Security Service Act and the 2015 Non-Governmental Organizations Act, which have been used to restrict the rights to freedom of expression, association and peaceful assembly (Switzerland).

52. Article 25 of South Sudan's Transitional Constitution provides that every person shall have the right to freedom of association with others, including the right to form or join political parties, associations and trade or professional unions for the protection of his or her interests.
53. In February 2016, the government passed the NGO Act which established the legal framework for NGOs operating in the country. Section 9(c) prevents an NGO from operating unless it has been duly registered with the Commission, while Article 15 criminalises carrying out activities without a certificate, punishable by a fine of up to three years in prison, or both.³² The government has also used fees and other bureaucratic barriers, such as requirements to submit proposals, project activities and budgets to the authorities, for approval to carry out their activities.³³
54. This has effectively stifled the ability of civil society actors to conduct their vital work, including workshops, training, documentation efforts, and peacebuilding endeavours. In practice, civil society actors conducting any activity must first seek approval from the government, which may interfere with the event's agenda. These undue interferences in the exercise of the rights to freedom of association have created an environment in which citizens cannot hold meetings freely. This compromises their security and sends a chilling message to independent and critical voices.
55. While States are free to create registration schemes for civil society organisations, the procedures for registration must be 'transparent, accessible, non-discriminatory, expeditious and inexpensive, allow for the possibility to appeal . . . [and] in conformity with international human rights law'.³⁴ In addition, both registered and unregistered organisations are protected under international law. It is impermissible under international law to subject individuals involved with unregistered organisations to criminal sanctions or infringe upon their protected rights. According to the Special Rapporteur on the right to freedom of peaceful assembly and association, criminal sanctions are especially inappropriate 'when the procedure to establish an association is burdensome and subject to administrative discretion, as such criminalization could then be used as a means to quell dissenting views or beliefs'.³⁵

56. Recommendations:

- Amend the Non-Governmental Organizations Act to fully align with international standards on the right to freedom of association and freedom of expression and ensure the law is not used to impede the work of civil society.

32 NGO Act (2016): <https://docs.southsudannngoforum.org/sites/default/files/2017-11/NGO%20Act%202016.pdf>

33 Executive state order to NGOs: <https://docs.southsudannngoforum.org/sites/default/files/2018-11/Sobat%20Executive%20%20State%20Order%20To%20all%20%20%20NGOs.pdf>

34 Human Rights Council resolution 22/6 on the protection of human rights defenders, U.N. Doc. A/HRC/RES/22/6, 12 April 2013, para. 8, available at:

https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/22/L.13.

35 Report of the Special Rapporteur on the right to freedom of peaceful assembly and of association, U.N. Doc.

A/HRC/20/27, 21 May 2012, para. 56, available at:

https://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-27_en.pdf.