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## Human Rights Council

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**Promotion and protection of all human rights, civil,  
political, economic, social and cultural rights,  
including the right to development**

## **Written statement\* submitted by Elizka Relief Foundation, a non-governmental organization in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[30 May 2021]

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\* Issued as received, in the language(s) of submission only.



## Judiciary system in South Sudan

In January 2021, after over two years of delay, the government took the first steps towards adopting major transitional justice measures to address grave human rights violations in South Sudan. It approved the establishment of the AU Hybrid Court of South Sudan to investigate and prosecute individuals responsible for human rights violations, the Truth and Reconciliation Commission (TRC), and the Compensation and Reparation Authority that will administer a fund to provide reparation and assistance to affected victims.

However, many violations by the government of South Sudan were observed. Individuals were arbitrarily arrested and detained, despite the law stipulating the right of any person to challenge the legality of his arrest or detention, but there were no reported cases in which the appellant succeeded in obtaining Compensation for unlawful detention.

In recent months, South Sudan's National Security Agency continued to detain civilians without arrest warrants or court orders. Detainees were held for prolonged periods without charge, access to legal counsel or visitors, and the security services rarely reported such arrests to the police or other civilian authorities.

The biggest crisis is represented by the practices of the National Security of South Sudan (NSS) and the unlawful arrest of civilians. The agency was established after the country gained independence in 2011, with the aim of collecting information, conducting analysis and providing advice to the relevant authorities. However, within few months of its establishment, it has turned into a powerful tool used by the government to crackdown imprisonment and track down journalists, government critics and opposition.

On September 1, 2020, the National security personnel in Juba detained a newspaper journalist, Jackson Ochaya, for allegedly quoting rebel spokesperson in an article critical of the government's financial management. Until mid-September 2020, Ochaya had not been charged and remained in detention without being allowed to see a lawyer or his family.

Therefore, the security forces' harassment and the illegal detention of journalists undermine freedom of expression in South Sudan, and the Independent Media Agency restricts the already difficult living conditions and undermines the media. Thus, governments are not held accountable, which forced journalists, rights activists, and opposition members to flee the country and live abroad; however, they remain at risk of harassment and even murder by South Sudan government.<sup>1</sup>

The October 2014 National Security Act marked the end of 50+ years of struggles for freedoms, justice and equality gains. This happened barely 3 years after independence in 2011. The national security services, NSS, became the most powerful tool to oppress South Sudanese, to intimidate opposition and gag free press and the media. Thereupon, emerged the most dreaded place, the Blue House—with the mention of this building name, most South Sudanese shudder and tremble in fear. Once the “unknown gunmen”, a systematic ghost-like security organ personnel, are ordered to hand pick an opposition member or vocal activists and journalists, often these abductees are never seen again, alive or dead.

The October 2014 Act gives national security officers sweeping powers, including to arrest and detain “suspects”, even though South Sudan’s Transitional Constitution says the NSS should focus only on information gathering, analysis and advice.<sup>2</sup>

At least 100 people are being held in the NSA's main detention facility - the Blue House - in Juba. Many civilians are held without charges, often for long periods, among them is Rick Malwal Coy, a merchant in his late 30s, who has been detained by the security sector

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<sup>1</sup> fashionable, journalists for human rights South Sudan, <https://bit.ly/3yM2GXy>.

<sup>2</sup> Sunspots, Opinion | Juba chamber of torture, The Blue House must be dissolved! May 12, 2021, <https://bit.ly/3fQv0iV>.

for disciplinary reasons. He was arrested for his involvement in financial transactions of the armed opposition.<sup>3</sup>

In October 2020, five journalists were detained by the NSS while covering a press conference held at Suk Custom by the Central Equatorial state Chamber of Commerce to address soaring commodity prices, which reflects the continuing arbitrary arrests and detentions as well as restrictions imposed on freedom of expression and opinion, which has become a feature of daily life in South Sudan.<sup>4</sup>

In early 2021, a woman was arrested three weeks after her wedding. The NSS had summoned her for questioning and then detained her on accusations of fraud in the government agency for which she worked. In the three months since, she had not been taken to court or charged with any offence and had been denied access to her lawyer. Her husband had tried to see her many times, but the NSS turned him away too. Even if she had been a murderer, even if she was the worst criminal, her husband should have been allowed access to her.<sup>5</sup>

It should be noted that the cases monitored in this report are not the first of its kind. As previously mentioned, since the establishment of the NSS in South Sudan, it has become a feared agency and a vital tool in the government's campaign of silencing dissent. Until the time of writing this report, South Sudan dropped in rankings as the media continue to face severe restrictions.<sup>6</sup>

Based on the foregoing, Elizka Relief Foundation presents a set of recommendations to be considered:

1. The President of the Republic of South Sudan should issue a decree to close all detention centers run by the NSS immediately, and to prevent the Agency from operating the detention centers.
2. The Legislative Body in Southern Sudan should issue a law that prohibits the NSS from carrying out arbitrary arrests, and criminalize torture and other forms of cruel, inhuman or degrading treatment or punishment against detainees.
3. The judicial bodies must hold accountable all perpetrators of the violations, regardless of rank, and prosecute them appropriately.
4. The legislative body must ensure that all detainees held by the NSS are released or referred immediately to an independent court to charge them with an identifiable crime, and all detainees who appear before a judge must be granted all due process rights.
5. Ensuring that these victims receive compensation, receive appropriate psychosocial support, and obtain health care.

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<sup>3</sup> Op. cit.

<sup>4</sup> sedans post, South Sudan media group condemns continued harassment of journalists, October 30, 2020, <https://bit.ly/3bZKgZz>.

<sup>5</sup> human rights watch, Will South Sudan rein in its notorious National Security Service?, May 6, 2021, <https://bit.ly/3fSMawg>.

<sup>6</sup> defend defenders, World Press Freedom Day 2021, 3 May 2021, <https://defenddefenders.org/worldpressfreedomday/>.