

# **WOMEN & the NATIONAL TRANSITIONAL CONSTITUTION of the REPUBLIC of SOUTH SUDAN (RSS)**

## **THE CONFERENCE REPORT**

**JUBA BRIDGE HOTEL**

**August 24<sup>th</sup> to 25<sup>th</sup>**

**Organized by:**



**Supported by:**



United Nations Entity for Gender Equality  
and the Empowerment of Women

<b>Contents</b>	<b>Pages</b>
Introduction .....	3
Summary .....	4
Background .....	5
The Conference –Day One .....	6
The Deliberation.....	7
The conference –Day Two .....	8
Group one presentation: <i>The process for adoption of International Instruments</i> .....	8
Group two presentation: <i>Mechanisms for the wider advocacy and lobbying</i> .....	9
Group three presentation: <i>Strategies on how to engage women at the grassroots;</i> .....	11
Special Reports on Girls and Personal Experiences of the conference’s participants .....	11
Two-fold Marginalization of Women with Disabilities .....	12
Girl Child as a Gift or Item for Compensation.....	12
Way Forward, Recommendations and Resolutions.....	13
Conclusion.....	14
Speeches and Presentations .....	14
Opening Speech by H. E Ms. Jemma Nunu Kumba .....	14
Remarks of the UN Women .....	15
<i>Explaining Key Legal Terms and Concepts under International Law:</i> .....	16
Presentation on Women’s Human Rights and International Instruments.....	18
<i>Presentation on the United Nations Convention on the Rights of Persons with Disabilities (CRPD) By Chris Woodburn, Project Manager, Handicap International</i> .....	19
<i>Remarks By, Moulana Hon. Lawrence Korbandy, Chairperson, South Sudan Human Rights Commission (SSHRC)</i> .....	20
<b><i>The conference evaluation</i></b> .....	21

## **Introduction**

Since the Comprehensive Peace Agreement was signed in 2005 by the Government of Sudan and the Sudan People Liberation Movement, women in South Sudan and in the Diaspora continued to advocate for meaningful representation in the national decision making process, realization of respect for women and children's rights, specifically the girl child and achievement of a constitution that protects and allows women to have equal rights with their male counterparts regardless of their social, economic or political status.

The Women Conference on the Transitional Constitution of the Republic of South Sudan was organized by a consortium of women organizations [South Sudan Women Empowerment Network] (SSWEN), New Sudan Women Acting Together for Change (NS-WATCH), South Sudan Women Lawyers Association (SSWLA), and South Sudan Women General Association (SSWGA)] with support of the UN Women. The conference drew 140 women from the ten states of South Sudan. This includes government officials, ministers, advisors, Private Sector, MPs, national NGOs, Human Rights organization, activists, and women from law enforcement agencies, women and with Disabilities.

This conference was a follow up to the first National Women Conference on the Transitional Constitution held on May, 2011 in New Sudan Palace. The May conference gave women a platform to raise several key issues of concerns to be included in the National Transitional Constitution, such as the prevalence of domestic violence and the need to protect women and girls from bad cultural practices; raising the percentage of women representation as an affirmative action from 25% to 30% as pronounced by President Salva Kiir Mayardit during the April 2010 election campaign; protection of girls under 18 from marriage and enacting of laws to punish men who marry girls under the age of 18; and finally adoption and ratification of relevant international instruments and conventions that protect the rights of women and the girl child in the Transitional Constitution.

The May 2011 Women Consultative Conference was an attempt from women to seek for and redress issues such as gender mainstreaming and including women concerns into the Transitional Constitution, which was at a draft stage at the time.

In the May conference, a number of issues were raised and a gender analysis that identified the gaps was developed.

## Summary

The Women and the Transitional Constitution of RSS conference was officially opened by H.E Jema Nunu Kumba, Minister of Housing and Physical Planning. The objectives of the Women Conference on the Transitional Constitution were in three folds, a) to lay down a strategy for advocacy and lobby the government to sign and ratify international conventions and instruments as the bases for making the permanent constitution of the Republic of South Sudan; b) to educate and sensitize women on the National Transitional Constitution and International Conventions and instruments; c) to set a follow up and implementation strategy for the resolutions and recommendations of the conference;

The conference was held at Juba Bridge Hotel, on August 24<sup>th</sup> to 25<sup>th</sup>, and concluded with several recommendations to achieve the above stated goals and objectives. It acquainted the women on their rights in the transitional constitution and also the regional and International women Human Rights instruments. The women discussed how to influence the process of the permanent constitution with the view of having specific provisions in the proposed permanent constitution on women Human Rights,



i.e. family laws (marriage, separation divorce, property ownership, and inheritance etc). They emphasized on prevention and protection of women Human Rights against all forms of discrimination, harmful traditional laws, and gender based violence, forced and early marriage, and how to Lobby the government to fulfill its 25% Affirmative Action and other International and Regional obligations.

Based on the two days presentations and group discussions, concrete recommendations were generated and a taskforce comprised of 15

members was formed by the participants to coordinate the action points;

- ❖ To educate and sensitize women on the current Transitional Constitution and the Regional and International Conventions/instruments.
- ❖ Translate, simplify and disseminate the National Transitional Constitution to women at the grassroots level.
- ❖ Lobby and advocate for women to be appointed as chiefs in local courts in order to address cases of abuse and effect change.
- ❖ Intensify awareness on issues affecting women and the girl child, especially the prevalence of domestic violence, early marriage, child abduction, and the compensation of the girl child for crimes committed by her male siblings or uncles.
- ❖ Organize leadership training/workshops at the grassroots to enlighten and empower women and the girl child.
- ❖ Advocate and lobby for the creation of a gender desk in all levels of government institutions to monitor and report violations of women rights.

- ❖ Lobby and promote the participation of women with disabilities at all levels of government.
- ❖ Initiate a literacy campaign and encourage women to get involved in income generating activities including small scale business e.g. tailoring, sewing, handcrafts making, farming and market creation.
- ❖ Sign a Memorandum of Understanding (MoU) between the law enforcement, the Ministry of Gender, Child and Social Welfare, the Human Rights Commission and women's civil society organizations to further promote the protection of women and the girl child.

## Background

The signing of a peace agreement did not mean immediate stability for Southern Sudan. Years of war were immediately followed by an evidently challenging transition period during which Southern Sudan underwent several changes both good and bad. Bearing in mind the challenges we faced during the transition, there is great need for efforts to be made so as to embrace the culture of reconciliation and peace building among families, neighbors, different ethnic communities and all the citizens in order to ensure peace and stability in South Sudan while fostering long term development. Women are therefore well positioned to champion the realization of these changes.

Following the declaration of independent on July 9<sup>th</sup>, 2011 and the promulgation of the South Sudan Transitional Constitution, a consortium of women organizations with funding from Norwegian People's Aid (NPA), UN Women and technical support from UNDP organized a two-day Conference in May, 2011, the purpose of the conference was to understand and analyze the implications of the transitional constitution and relate it to their own situation and context.

South Sudan embarked on amending the Interim Constitution which was put in place after the CPA and transformed it into a Transitional Constitution. The transitional constitution was approved by the Southern Sudan Legislative Assembly on July 8<sup>th</sup>, 2011 and officially adopted on July 9<sup>th</sup> 2011 with the declaration of the independency of the Republic of South Sudan. The Transitional Constitution has a provision for the bill of rights. However, there are still reservations on how effective these provisions are in terms of providing for women rights as equal citizens. This constitutional provision is also in contradiction with the customary law which partially informs the contents of the transitional constitution.

After extensive lobbying and advocacy by women's organizations to raise the percentage of the affirmative action for women from 25% to 30% per the presidential pronouncement during the campaign period towards the



2010 general elections, this did not appear in the Transitional Constitution.

Furthermore, on June 6<sup>th</sup>, 2011 The Southern Sudan Legislative Assembly (SSLA) invited civil society, interest groups, political parties and other stakeholders to submit comments and questions to members of parliament heading different parliamentary clusters on the review of the constitution. Women raised their concerns on human rights protection, the increment of the percentage for affirmative action among others. Yet, this was not reflected in the current Transitional Constitution of the Republic of South Sudan.

### The Conference –Day One

*Women are beaten,  
sometimes killed, and  
when they go to court,  
they are often referred  
to customary courts that  
in turn refer them to  
resolve the issue in the  
family.*

*Ms. Adak Kosta*

The conference began with brief remarks by the organizers. Ms. Lilian Riziq, the President of South Sudan Women Empowerment Network outlined the purpose of the conference as to keep the participants on track during the deliberations. She also shed lights on the importance of empowering women in South Sudan, politically, socially and economically and the way to achieve this is by making sure, women's rights are well defined in the permanent constitution.

The deputy chairperson for South Sudan Women Lawyers Association Ms. Akur Ajoui gave brief information on what her organization is doing to improve the status of Women in South Sudan, including: Create awareness on the rights of girls and women; advocate for gender sensitive laws and create a platform for women lawyers to provide legal aid and advise to women and children. She also made a presentation on Legal Terms commonly used in the international instruments.

(For a full presentation, see speeches and presentations)

The floor was then handed to Madam Sarah James, the chairperson of S.S Women General Association. In her speech, she brought up several key issues, including the marginalization of women in Sudan and in

South Sudan. She went to say that, women must take action after this conference. She also added that it is our responsibility as women to fight for our rights; no one will give us our rights for free. Madam Sarah pointed out that our unity as women is import for our success

On her remarks, Dr. Olivia Lomoro, Director of NS WATCH said that, opportunities don't just come easily. Women need to go out and grab them! Each woman need to understand the transitional constitution in detailed and fight for our rights. She also reiterates that her organization is working very hard to promote girl child education and empowering women who did not have the opportunity to go to school.

Ms. Lucy Laguga UN Women, Country Program Director, advised women to not assume and think the government knows their rights. We need to keep on pushing as women for more inclusion. UN Women will be looking at the suggestions and recommendations of this conference and how it can be carried on and disseminated to women at the grass roots. UN women also hope that this conference will look at how South Sudan can be part of the international instruments and ratify them. UN Women is willing to



work with women of South Sudan in the realization of these dreams. She also assured the women of South Sudan of the Support of UN Women in their struggle and urged the women to support the permanent constitution drafting commission. (A full speech of the UN Women can be found in page 15)

During the official, opening by the Minister for Housing and Physical Planning, H.E Ms. Jema Nunu, clarified the rationale behind the 25% which is in the current transitional constitution and the demand of the 30% by women. She said we still have an opportunity, because it says “at least 25%” therefore, women can go for more of the remaining %75. Furthermore, she hailed the appointment of women as the first deputy speaker in the national parliament and reaffirmed the commitment of the government to support women because they believe that women are the backbone of the country. She also stressed the need for women to understand the transitional constitution and that although the role of women during the transitional constitution review process was limited; they were able to secure the rights of women and children. (For a full speech see page 14)

*“We now have more women at decision making level, the Deputy Speaker is a woman for the first time, and our achievements are increasing.”*

*Ms. Kumba*



### **The Deliberation**

Following Ms. Nunu remarks, participants brought up some burning issues of prevailing injustices against women in South Sudan including, domestic violence rate is still high, women treated as property in many States. In addition to the issue of inheritance by brother-in-Law which is widely practiced in different parts of the country. In the case of the death of a husband or divorce women have no right to inherit or own property. High bride price or dowry is causing more harm to women. Furthermore, participant

raised a concern of the phenomena of giving girl child as compensation for atrocities committed by men or as gifts to government officials.

In many cases, police is reluctance to address women issues and often blame women for being indiscipline, especially in rape cases. There are no women representation in customary courts hence they feel intimidated to argue their cases.

The participants complement set the table for rich, intense and thought provoking discussions on women rights in South Sudan. During the discussions, concerns were raised including marginalization of women at all levels; attainment of the 25% affirmative action for women representation in the parliament and other national institutions. It was also decided that this provision should include representatives from among women with disability .The other point which came out prominently was the existence of harmful cultural practices and negative customary laws that women and girls in South Sudan are subjected to as issues to be addressed by the permanent constitution.

The presentation on the national, regional and international covenants was presented by Hon. Justice. Mary Maitum (retired) the NU Women consultant. Participants were informed and made aware about the gender issues in the Transitional Constitution of RSS and some of the relevant provisions were

discussed. In addition to the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa, (The Maputo Protocol), the Convention on the Elimination of All Forms of Discrimination against Women, (CEDAW), the Declaration on the Elimination of Violence against Women and other international Instruments. Questions were posed and comments were made, participants then form into these three groups for further discussions and deliberations. *(a full presentation of Justice Mary can be found on page 18 )*

Mr. Chris Woodburn of the Handicap International also made a great presentation and reference to many international instruments and conventions that promote the rights of persons with disabilities and this includes women and men. *(A full presentation of Mr. Chris can be found on page19)*

## The conference –Day Two

After the informative presentations and in depth discussions, participants were divided into three groups of their choice; they were tasked to develop a mechanism, strategy and a way forward towards realization of the conference objectives. This session forms the detailed analysis of the problems that women face and the possible solutions. Participants were given a set of leading questions to guide the group discussions and expected to present back to the conference

### Group one presentation: *The process for adoption of International Instruments*

The leading question was; which international instruments are of immediate relevance to the women of South Sudan and what steps can women take to start the process of adopting the instruments as the basis for making the permanent constitution? In response to the above question, members of group one identified some of the international instruments and conventions listed below as the priority for the Government of South Sudan to sign and ratify. The participants went further to categorize these into National, Regional and

The groups were:

1. The process for adoption of International Instruments
2. Mechanisms for the wider advocacy and lobbying
3. Strategies on how to engage women at the grassroots

International instruments. They then came up with several strategies of how this can be realized and identified the stakeholders as listed below;

The group identified key instruments that are relevance to women of South Sudan as followings:



#### A. National policy, protocol and charter

- Transitional Constitution
- Gender policy

- Maternal and Reproductive Health Policy
- Gender Based Violence Policy (In Process)



- Girl Child Education Policy
- Human Rights Policy

## **B. Regional Policies and Protocols**

- The African Charter on the Right of a Child
- The Maputo Declaration
- The Salom Declaration

## **C. International Instruments and Conventions**

- UN Security Council Resolution 1325 UN Security Council Resolution 1820
- CEDAW
- DEVAW
- Universal Declaration of Human Rights-1945

## **Laying strategy for the achievement of the above and reaching out to women at grass-roots**

At this level the participants sought to identify best possible and practical strategies of how they can effectively help the women at the grassroots to understand the different instruments/conventions, and how best women can attain meaningful recognition of their rights as equal members of the society. The participants were also keen on efficiency and effectiveness of the strategies they would come up with. Therefore they resolved that women need to;

- Form a technical committee to identify and review the existing national, regional and international instruments applicable to women of South Sudan.
- Advocate and lobby the government to sign and ratify the instruments and enactment of gender sensitive laws.
- Document and disseminate the resolutions of this conference widely.

## **Identification of the stakeholders and key actors in this process**

The following were identified as the main stakeholders/actors in this process

- All South Sudanese Civil Society women led Organizations
- All South Sudanese women at different levels of Government
- All South Sudanese women professionals such as women lawyers or individual activists
- Relevant Government institution and women at all levels including the grassroots

## **Group two presentation: *Mechanisms for the wider advocacy and lobbying***

This group was tasked to discuss mechanism of advocacy and lobby for the implementation of the international conventions in South Sudan.

The key issues that came up during deliberations on advocacy and lobbying for the adoption and implementation of the international conventions into the National Constitution were that, most women in South Sudan do not know the existence of such instruments and they have no access to information regarding their rights; that they don't even know their basic rights as provided for in the current Transitional Constitution.

Therefore, participants deliberated on the dilemma of how to advocate and lobby for something most women in South Sudan don't even know about? This was identified



as a fundamental challenge that women must seek to address and overcome. The issue of harmful laws and practices also came up as one of the challenges that women in South Sudan face. This is specifically complicated by the fact South Sudan does not have laws that protect women and girls from such practices and still depend much on customary law.

However, in most cases, customary laws forbid divorce; others give the brother-in-law of the widow right of inheritance, while other customary laws permit giving girl child as compensation for crime committed by a male member of the family. Yet the National Transitional Constitution recognizes the practices of customary laws, but failed to outrightly outlaw some of these harmful practices.

Arbitrary high dowry payment during marriages was outlined as an example because it puts women at a disadvantaged position if the man turns up to be abusive or irresponsible. A woman cannot initiate divorce nor walk out of a marriage where she is being abused because her family was paid hundreds of cows or thousands of pounds which if she is granted the right to divorce the family will not be able to pay back.

Article 16 of the “National Transitional Constitution” guarantees women equal rights as citizens of this country. However, this is hardly being implemented by the local government.

Therefore, domestic violence in South Sudan is rampant. Men feel that they have the right to do as they please, after all, and neither the government nor customary laws can hold them accountable. Security of women and the girl child in South Sudan can be described as inadequate or inexistent. Women and girls are not beneficiaries of the government’s responsibility to provide security to all members of the society in many parts of the country.

In Rumbek, Lakes States for example and based on Hon. Adak Kosta, *Advisor to the Governor of Lakes States*; women are being raped on their way to fetch firewood. When a rape victim goes to the police, they are told to go back home due to the sensitivity of the act. A clear example of such mishap is the case of Achol Dit, said Adak; a woman in her late fifties was gang-raped by more than eight men and the police did not take this as a serious issue. When she reported the case, the police told her **“you are such an old lady, is it not shameful for you to bring up a case like this?”** If this is the attitude of the police, then what would an ordinary man say? What about the women and girls being raped in remote villages? Who is going to fight for them?

The group sought there is great need of awareness and training of the law enforcement on women’s rights within the current transition constitution. They also recommended the simplification of the legal terms in the constitution, in order for women at the grassroots to understand.

“The Maputo Protocol “Articles 6 and 7 provides as follows:

**Article 6, Marriage:-**

- a) *States Parties shall ensure that women and men enjoy equal rights and are regarded as equal partners in marriage. They shall enact appropriate national legislative measures to guarantee that;*
- b) *No marriage shall take place without the free and full consent of both parties;*
- c) *The minimum age of marriage for women shall be 18 years*

**Group three presentation: Strategies on how to engage women at the grassroots;**

*The leading question was what are the best strategies to engage women on the grassroots?*



The group reported that, the issue is that women in the grassroots still remain inaccessible; they don't even have access to towns, let alone information. The roads are virtually none existent, and if available, there are no guaranteed of security due to LRA and militia activities. In most rural areas there is no electricity; therefore, women have no access to Radio or TV to get information. This puts women more at risk hence further marginalized. In addition to women at grassroots level are not adequately represented in the government. The 25% representation that is provided for in the transitional constitution is not being

implemented at the county, payam, and boma levels of governance and there is no mechanism of monitoring the implementation of the Constitution at these levels.

Women have no representation in customary courts yet this is where most of their cases are presided upon. In Torit B Court for example, all the chiefs and assistant chiefs are men, including their clerks. How can they possibly preside on cases arising out of harmful customary traditions?

In light of these daunting challenges, there is a need for solidarity of women more than ever before. This justifies, Madam Sarah James's remarks, when she said *"our common tribe today is our gender status, and that is being women"!!!!*

**Special Reports on Girls and Personal Experiences of the conference's participants**

Women are still subjected to arranged, and in some cases forced marriages, wife inheritance and for those who escape inheritance, they are not granted the right to own their matrimonial properties after the death of their husbands. This mostly happens among the



pastoralist communities. During the conference, a participant shared a story of her colleague who lost a daughter due to domestic violence resulting from forced marriage. The girl was married off at an early age and later the husband became abusive, her quest for divorce was not considered by her brother and no disciplinary action taken against the man. The brothers continued to send her back to the husband. Finally she committed Suicide.

*Women and girls in South Sudan are still undergoing dehumanizing treatment such as forced marriage, giving young girls as gifts/wives to elderly men and in some cases give them as compensation for atrocities committed by men*  
*Participant..*

This was a typical example of how women don't have access to legal justice system. In most parts of South Sudan, customary law is still used as basis for resolving family issues such as divorce, custody of orphans etc. However, in most customary courts, the chiefs are all men and practice a prejudice against women. Usually, customary courts only become helpful to women whose cases are presented by male members of the family and they happen to be close to follow up the proceedings and argue the case through.

According to these stories and experience, domestic violence is a threat to social stability and progress among women. Usually victims of domestic violence or violent marriages lose productivity in their work place and such families don't create a conducive environment for proper child growth hence the children born of such families fall victims as well.

### **Two-fold Marginalization of Women with Disabilities**



In the whole of South Sudan, there is less than 5 deaf people who have attain education beyond primary school and completed Secondary school class of Senior four.

*A deaf participant*

The conference also helped to highlight the plight of women with disabilities. This group of persons suffers double marginalization and time has come for members of the society not to look at their physical status but rather their ability as human beings. Women with disabilities are also discriminated against in job opportunities, access to education, health and legal assistance when their rights are violated. According to one of their representatives who were at the conference, some of these women have been abandoned by their husbands and can't take care of their children. This is not because all women with disabilities lack academic qualification or the physical ability to enable to improve their lives.

### **Girl Child as a Gift or Item for Compensation**

In this section, several heart-breaking reports of what happens to young girls in different part of this country were shared by the participants. These are just few incidences of injustices that South Sudanese women and girls are subjected to. It is of great national concern that in this era of modernization, women and girls in South Sudan are still undergoing dehumanizing treatment such as forced marriage, giving young girls as gifts/wives to elderly men and in some cases give them as compensation for atrocities committed by men. A critical analysis of these acts still portrays women and the girl child as



property of the society and source of income to the family rather than as human beings with equal rights as enshrined in the constitution.

The unfortunate bit is that these practices do not only exist among the rural uneducated and uncivilized men, but also among government officials. These are some of the reasons why there is great need for sensitization and massive advocacy and lobby for signing and ratification of most if not all the international instruments that protect the rights of a girl child.

### **Way Forward, Recommendations and Resolutions**

On the final day of the conference, participants generated recommendations and solutions on how to address women grievances in South Sudan. A taskforce of fifteen (15) Members, representing national non-governmental organizations, women groups and government representatives and MPs was formed to implement the resolutions of the conference.

The women then deliberated on mechanisms of how to advocate and promote their cause. The women resolved that they will use the provisions of the Transitional Constitution and specifically the provisions for women in the bill of rights and that they will push for its implementation.

The signing and ratification of international conventions was prioritized among others because international conventions and instruments obligates member states to promote women and the girl child's rights, it also obliges member states to bring to justice perpetrators of atrocities against women and girls.

The following are the recommendations and resolutions of the conference:

1. To educate and sensitize women on the National Transitional Constitution and the International Conventions/instrument.
2. Translate, simplify and disseminate the National Transitional Constitution to women at the grassroots level.
3. Lobby and advocate for women to be appointed as chiefs in local courts in order to address cases of abuse and effect change.
4. Intensify awareness on issues affecting women and the girl child, especially the prevalence of domestic violence, early marriage, child abduction, and the compensation of the girl child for crimes committed by her male siblings or uncles.
5. Organize leadership training/workshops at the grassroots to enlighten and empower women and the girl child.
6. Advocate and lobby for the creation of a gender desk in all levels of government institutions to monitor and report violations of women rights.
7. Lobby and promote the participation of women with disabilities at all levels of government.

8. Initiate a literacy campaign and encourage women to get involved in income generating activities including small scale business e.g. tailoring, sewing, handcrafts making, farming and market creation.
9. Sign a Memorandum of Understanding (MoU) between the police and the women's civil society organizations to further promote the protection of women and the girl child.

Following the adoption of the conference's resolutions by the participants, the following has been achieved:

- ❖ The taskforce is established and are meeting regularly.
- ❖ Two expert group meetings were convened after the conference.
- ❖ An Action plan and logical frame work of the conference resolutions has been developed.
- ❖ An Advisory Committee of international recognized experts in the field of grassroots mobilization and education is in place.

### Conclusion

- ❖ The conference is a concrete follow up steps to the previous conference on women participation in the constitution making process and sets the start of effort made by women to ensure that the permanent constitution does not give women a row deal.
- ❖ The women of South Sudan during this conference came up with recommendations to step up efforts toward education and sensitizations of women at all levels and lobby the government to sign and ratify identified international and regional instruments that protect rights of women and girl child.
- ❖ However, in order to realize and respect women's rights in South Sudan, women must work very hard and seek the support of established public institutions, such as the Human Rights Commission, the Parliament, Universities and media-outlets to get their voices heard and to demand action from the Government.

### Speeches and Presentations

#### Opening Speech by H. E Ms. Jemma Nunu Kumba



Minister of Housing and Physical Planning addresses official opening of “*Women and the Transitional Constitution of the Republic of South Sudan (RSS)*” Conference. She began her speech by recognizing the presence of all participants from the ten States, advising them that she came to the conference to represent the government and the Minister for Gender and Social Welfare. She thanked the organizers for inviting her to open the conference, she said “as women, we have to assert ourselves; we all know that women are the backbone of this new nation.” The



Minister then went on to congratulate women for the achievement of independence. She thanked South Sudan Women Empowerment Network (SSWEN) for their efforts in highlighting women issues, empowering women, and speaking up for women's rights.

Ms. Kumba then expressed her gratitude and happiness to all the participants; she said women now know their rights more than ever before. She noted that the role of women during the transitional constitution making process was not significant enough, but women managed to be guaranteed fundamental rights including the 25% that was given to women during the Comprehensive Peace Agreement. Although the constitution did not give women 30%, the ruling party, SPLM says women should not worry because the constitution says "at least 25%," meaning that women can still strive for more. Women have another opportunity, and that is the making of the permanent constitution.

Regarding international conventions and instruments, the Minister said the Republic of South Sudan will sign and ratify them, because *"we have become members of the world community, but we (women) need to constantly remind our leaders."* The Minister assured participants that *"it is the responsibility of the assembly to ratify the conventions, and it will be done!"* The presence of UN Women office in Juba is an additive advantage, women in South Sudan need to work closely with the agency on issues that concern women. Women need to redefine their objectives and clearly spell out what they want after independence.

The Minister ended her speech by urging women to educate themselves about their rights and on other national issues so as to catch up with development in the country. She said "as women we need to better manage our time. She thanked all the participants, and partners who have been supportive of women in South Sudan since the time of Struggle." She then declared the workshop opened.

### **Remarks of the UN Women**

Statement by Lucie Luguga, Programme Manager, UN Women, South Sudan to the Workshop on August 24<sup>th</sup>, 2011.

Excellencies, Ladies and Gentlemen,

I bring you warm greetings from UN Women.

At the outset, I would like to congratulate the South Sudan Women Empowerment Network (SSWEN), the South Sudan Women General Association (SSWGA), the South Sudan Women Lawyers Association (SSWLA) and the New Sudan Women Acting Together for Change (NSWATCH) for organizing this workshop. I would also like to thank the participants of the workshop for being able to spare time to attend the workshop. To you participants, I say thank you for coming. I hope you will find the workshop informative and educative.

The purpose of the workshop is to assist the participants to understand Women's rights in the Transitional Constitution as well as in the International and Regional instruments that address women's human rights.

Your Excellencies, this workshop comes right after the endorsement of the transitional constitution by the South Sudan National Assembly and this was just before the independence. With the adoption of the Transitional constitution, South Sudan has again demonstrated its willingness to ensure the respect for women's human rights as well as the protection of women's and girls' rights. These are the rights that the workshop will be discussing so that everybody understands them and determines if they are adequate for their protection and empowerment.

The workshop will also be making comparison of the women's rights in the constitution to the provisions of the international and regional women's rights instruments such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Protocol on the Rights Women in Africa (PRWA), just to mention a few. This comparison and analysis is meant to create more awareness and also to help participants to come up with recommendations and strategies on how to move forward should you find that there are some rights that need inclusion in the permanent constitution.

As you all know the Government is in the process of establishing the National Constitutional Review Commission. We therefore have to be prepared to assist the Commission to make sure that women human rights feature very prominently in the permanent constitution.

Excellencies, we in UN Women will be looking forward to the recommendations of this workshop and the suggested ways for the implementation of the same. Specifically we will be looking at the suggestions on how this same knowledge can be disseminated to the majority of the women who are at the community level. We also hope that the issue of South Sudan being a state party to the international instruments such as the CEDAW will be critically considered and we can work together to make this is realized.

Excellencies, ladies and Gentlemen, again, I thank SSWEN, SSWGA, SSWLA and NSWATCH for organizing this workshop as the start of our solid engagement on making sure that the women of South Sudan understand their rights as they are enshrined in the Transitional Constitution. I want to assure the participants of the continued support from UN Women within our mandate and resources.

I wish you all fruitful deliberations and I thank you.

### ***Explaining Key Legal Terms and Concepts under International Law:***

By Akur Ajuoi Magot-Deputy Chairperson South Sudan Women Lawyers Association (SSWLA)

In the paper I am about to present I will attempt to explain some of the key legal terms commonly used under international law that may come up in the presentation on women's international human rights and that Justice Mary Maitum will next be making.

Before I make my presentation however I would like to first and foremost say thank you to Justice Mary for according me this opportunity. As the South Sudan Women Lawyers Association we would like to ensure that all laws and the rules and legal principles they contain are simplified and readily understood by ordinary women. We would like Nyandeng and foni in the village to be able to understand the law and know her rights. This opportunity provided us certainly gives us an opportunity to explain certain legal terms and concepts and thus helps us to realise one of our objectives of demystifying the law and what we hope will be the beginning of

work in an area in which we hope to make a significant contribution for the benefit of women living in the rural areas.

Going back to the task at hand that is to unpack the meaning of key legal terms and concepts used under International law, I will do this by addressing what international law is and placing the explanations within the context of key concepts in international law.

So what is international law? International law is simply the set of rules that regulate or govern the behaviour of states and other non state actors such as International Organisations such as the UN in their relations with each other.

International law developed from the need of states to co-exist and the need to establish limits in state action in order to facilitate their peaceful co-existence. The initial content of international law governed rules of war and diplomatic relations such as treatment of prisoners of war and that every state must respect the other state's ambassadors, but the content of international law has since grown to cover a wide range of topics such as Human Rights, which are basic entitlements to each and every human being for their needs to be met and for them to live a dignified life and realise their full potential.

States often enter into agreements amongst themselves to for example set rules for international trade and finance, foster cooperation in areas of international concern such as in protecting of our environment such as in the Kyoto protocol and establish basic human rights that every state ought to guarantee to the people in it's territory such as ICCPR, ICESCR, CEDAW, CRC etc.

While under international law all states large and small alike are equal and sovereign, that is, the idea that states are in complete and exclusive control of all the people and property within their territory and the idea that one state does not have the right to interfere in the internal affairs of another. International human rights law challenges and places a limit on state sovereignty and states can no longer act with impunity towards a person in the territory of the state.

The mass destruction and atrocities or grave human rights abuses such as genocide that was committed in the 2 world wars impressed on the world the need to cooperate to avoid a repeat of such wars and atrocities and saw the development of numerous human rights conventions which the states voluntarily signed and ratified.

The earliest agreements to be signed and ratified by states following the 2<sup>nd</sup> world war were probably the charter of the United Nations and the Universal Declaration of Human Rights, 1948.

Because states are considered as equal and sovereign under international law, treaties or agreements entered between or among states are only binding on state's party to the treaty and which they ratify.

Against this background-then what do certain terms such as treaty, convention, declaration, ratification, protocol for example mean?

**Treaty or Convention** are both used as a term to refer to an internationally legally binding agreement concluded between states in written form.

**Declarations** on their part such as the UDHR although concluded between states are not legally binding. They are used when states do not intend to create legally binding obligations but merely want to declare certain aspirations and goals. Some declarations however such as the UDHR have been widely signed by states that they can be said to be part of customary international law or state practice and thus legally binding on all states.

**Signature of a treaty** is an act by which a state initially endorses an international convention or treaty demonstrating the state's intention to further examine the treaty domestically and consider ratifying it. Signature on its own does not create any legally binding obligation on the state. Often the Minister of Foreign Affairs signs unto the treaty.

**Ratification** often follows signature of a treaty after which the state party fulfils its own constitutional or national legislative requirements to domesticate the treaty and make it have the effect of law within the state. An example of such requirement maybe a resolution by the National Legislative Assembly making a formal decision to be a party to the treaty. A formal letter referring to the resolution made by the National Legislature is deposited with the UN Secretary General in New York. The effect of ratification is to create legally binding agreement. On ratification, the state must respect the treaty and implement it.

**Protocol**-After drafting a Convention at times states may find the need to develop additional legal instruments to complement, add onto or even modify the treaty to address a new or emerging concern or add a new procedure. This additional legal instrument is what is called an optional protocol. Optional in the sense that it is not automatically binding on states that have ratified the original treaty as states must independently ratify the protocol. Examples of protocols are the optional protocol to the UNCRC on the involvement of children in armed conflict etc

**Charter** is used to refer to an international instrument that establishes an organization for example the Charter of the United Nations.

Finally the **entry into force** of a treaty is when a treaty or convention takes effect and depends upon its provisions or what the contracting parties have agreed.

Thank you for listening.

## **Presentation on Women's Human Rights and International Instruments**

By Hon. Justice Mary Maitum (Retired) and Consultant with UN Women



Hon. Justice Mary outlined three major conventions and declarations that the Republic of South Sudan has not signed or ratified, these include CEDAW, DEVAW and Maputo Protocol. She then went on to outline few points regarding the conventions.

1. **CEDAW** defines discrimination against women as any distinction, exclusion, restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment, or exercise by

women, irrespective of their marital status, or on the basis of equality of men and women. She then also mentioned few highlights from CEDAW. Marriage to an alien does not mean change of nationality. Neither does it affect participation in political, social and economic activities. Work is an inalienable right for both men and women; women should be afforded equal pay with their male counterparts and afforded all benefits from employment. Women have equality rights before the law in civil matters, contracts, administration of property and equal treatment at all stages of court procedures.

In marriage, women have the right to choose whom to marry and share the same responsibilities. Women have the rights of guardianship and ownership of property. No betrothal of a child for marriage.

2. **DEVAW** defines violence against women as follows among others:

Physical, sexual and psychological violence occurring in the family, it includes battering and abuse of female children, dowry related violence, marital rape, female genital mutilation (FGM), non-spousal violence and violence-related exploitation.

Physical, sexual and psychological violence occurring in the community, rape, abuse, sexual harassment, intimidation at work, in educational institutions, trafficking of women and forced prostitution.

Physical, sexual and psychological violence perpetrated by the state through police, prison and law enforcement officers. She also made a remark regarding State obligations under DEVAW which includes the adoption of non violent laws to prevent violence against women.

3. **On the Maputo Protocol**; she underscored the fact that this protocol can be referred to as the African Charter on Human and People's rights; it focuses on rights of women in Africa. The protocol reaffirms women's rights to dignity of life, integrity and security of the person and provides for the elimination of harmful practices against women. Justice Mary then went on to highlight some of the provisions of the protocol, just to mention a few.

Among other rights, the Maputo Protocol sets the age of 18 years as the minimum age of marriage; and women have the right to choose who they want to marry.

Men and women have the same rights in case of separation, divorce and annulment of marriage. Women have the right to education and training. States must ensure that women have equal access to economic and social welfare rights including equal access to employment; states must provide transparency during recruitment. Widows have the right to equitable share in the inheritance of their husband and continue to live in matrimonial house. Widows have the right to remarry a man of their own choosing.

***Presentation on the United Nations Convention  
on the Rights of Persons with Disabilities (CRPD)  
By Chris Woodburn, Project Manager, Handicap  
International***

The presenter took time to briefly introduce Handicap International as a nongovernmental, international organization that specializes on



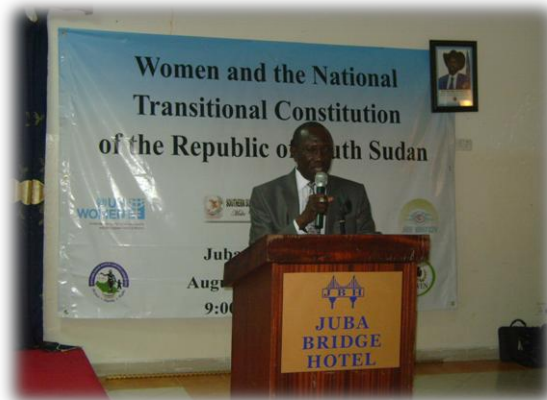


adding value to the lives of persons with disabilities; the organization is also funded on the principles of non-religious, non-political affiliations and non-profit making. It seeks to work with and offers services to persons with disabilities whatever the context. Since the creation of the organization in 1982, Handicap International has set up programs in approximately 60 countries. It is currently operating in Juba, Central Equatoria State, and Bor, Jonglei.

He also made reference to many international instruments and conventions that promote the rights of persons with disabilities and this includes women. He then added that the Republic of South Sudan has an obligation in signing and ratifying the Convention on the Rights of Persons with Disabilities (CRPD) since it has become a member state of the United Nations.

He then said the Convention marks a shift in thinking about disability from a social welfare concern, to a human rights issue, it acknowledges that societal barriers and prejudices are themselves disabling. Women in South Sudan need to understand the CRPD and lobby for the new state to sign and ratify it. The CRPD recognizes that women and girls with disabilities are victims of multiple discriminations, and in this regard shall take measures to ensure the full and equal enjoyment of all human rights and fundamental freedoms by member states.

***Remarks By, Moulana Hon. Lawrence Korbandy, Chairperson, South Sudan Human Rights Commission (SSHRC)***



In his remark, the Chairperson underscored the fact that there were widespread human rights abuses, violations and disrespect which went on without proper documentation. Before and during the war, women in particular became major victims of these violations through acts such as rape, forced marriage, torture, forced labor and human trafficking. This was largely due to lack of institutions to safeguard and protect human rights and in particular the rights of women and the girl child.

He mentioned that since the signing of the comprehensive Peace Agreement and coming into force of the South Sudan National transitional Constitution, there has been efforts made to realize the establishment and empowerment of institutions to safeguard and guarantee respect for right of every person regardless of their gender. Enshrined in the Constitution, the Bill of rights explicitly spells out the rights and fundamental freedoms of women and all the citizens.

He reminded the participants of the theme of the conference ***“Women’s rights in the Transitional Constitution of the Republic of South Sudan”***, The Chairperson reassured the women that the Transitional Constitution is set on the principles of decentralization, democratic multi-party system of governance in which power shall be peacefully transferred, values of human dignity upheld and the principles of equal rights and duties of men and women promoted. He made reference to Article 16 of the Constitution as an article that provides for women to be accorded full and equal dignity of the person together with men. Besides this, he also mentioned the importance of inclusion of international conventions in our constitution making process. In conclusion, the Chairperson underscored the importance of gender equity and women’s inclusion

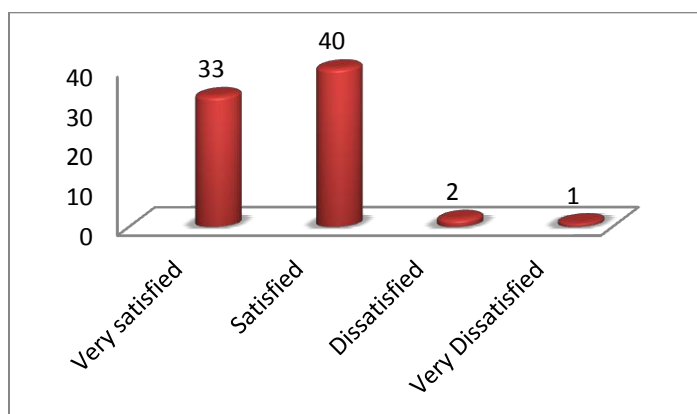


in a post-conflict nation-building process like the case in our country and added that this will play a central role in creating economic and political stability.

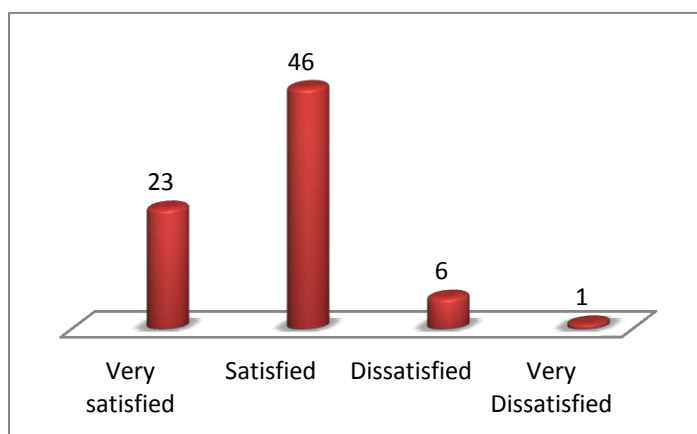
### ***The conference evaluation***

At the end of the conference, participants were asked to fill the evaluation form, to help shape future planning. Their feedback are reflected in the charts below.

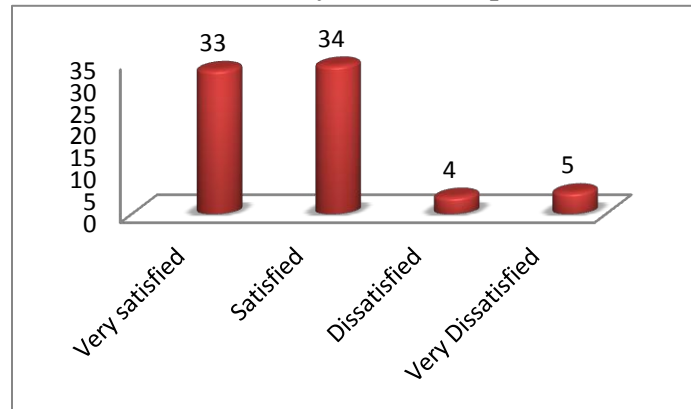
#### **How satisfied were you with the conference overall program?**



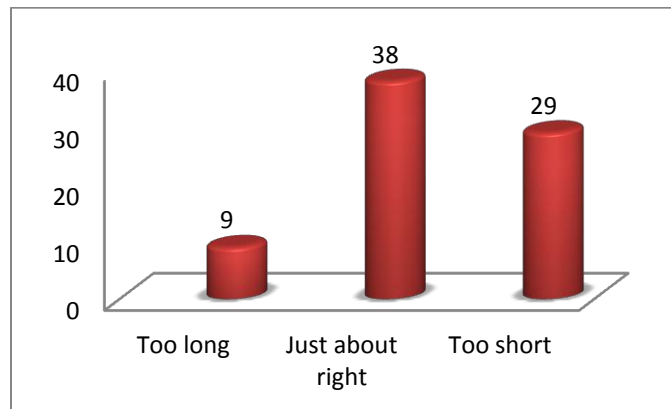
#### **How satisfied were you with the conference's sessions?**



**Overall, how satisfied were you with the speakers/facilitators?**



**Did you feel the length of the conference session were too long, just about right or too short?**



**The content of conference's sessions was appropriate and informative**

