

SOUTH SUDAN

*Innocentia Mgijima-Konopi, * Theophilus Odaudu** & Reshoketswe Mapokgol****

1 Population indicators

1.1 What is the total population of South Sudan?

According to the fifth South Sudan Census conducted before the country's independence in 2011, South Sudan had a population of 8 260 490 in 2008.¹ In 2016 the South Sudan National Bureau of Statistics estimated the population to have increased to 12 230 730.²

1.2 Describe the methodology used to obtain the statistical data on the prevalence of disability in South Sudan. What criteria are used to determine who falls within the class of persons with disabilities in South Sudan?

The 2008 Census defined disability as an impairment 'that can hamper or reduce a person's ability to carry out his or her day to day activities'.³ During the Census people were asked to report whether they experience activity limitations in core domains of function, for example whether they have difficulties in seeing or

* LLB (Hons) (Witwatersrand), LLM (National University of Ireland, Galway) Programme Manager, Disability Rights Unit, Centre for Human Rights, Faculty of Law, University of Pretoria.

** LLM in Human Rights and Democratisation in Africa (Centre for Human Rights, Faculty of Law, University of Pretoria).

*** LLM in Human Rights and Democratisation in Africa (Centre for Human Rights, Faculty of Law, University of Pretoria).

1 National Bureau of Statistics 'Special interest population: Analysis from the 2008 census of population and housing' (2013) http://www.ssnbss.org/sites/default/files/2016-08/special_interest_population.pdf (accessed 22 April 2018).

2 National Bureau of Statistics 'Demographic statistics' http://www.ssnbss.org/sites/default/files/2016-08/special_interest_population.pdf (accessed 22 April 2018).

3 National Bureau of Statistics (n 1 above) 24.

hearing. This approach focuses on the 'activities' component of the International Classification of Functioning, Disability and Health (ICF), developed by the World Health Organisation (WHO) in 2001.⁴

1.3 What is the total number and percentage of people with disabilities in South Sudan?

According to the 2008 Census, 421 285 (5.1 per cent) of the population of South Sudan were reported to have a disability.⁵ However, according to the 2016 Household Survey carried out by the Food Security and Livelihood cluster, 5.1 per cent is an extremely low number, as 15 per cent of households reported to have at least one person with a disability during the survey.⁶

1.4 What is the total number and percentage of women with disabilities in South Sudan?

The 2008 Census indicated that 5 per cent of women in South Sudan have a disability.⁷

1.5 What is the total number and percentage of children with disabilities in South Sudan?

Four per cent of the 800 000 children in South Sudan have disabilities according to a report on the 'Situation assessment of children and women in South Sudan' report published by UNICEF in 2015.⁸

1.6 What are the most prevalent forms of disability and/or peculiarities to disability in South Sudan?

The 2008 Census found the most prevalent form of disability in South Sudan to be physical impairments, which made up 28.4 per cent of disabilities, this included both the limited use of legs and the limited use of arms. Other common forms of disabilities in South Sudan include vision impairments at 23.5 per cent and blindness at 7.8 per cent; mental disabilities at 15.3 per cent; difficulty in hearing at 10.3 per cent; difficulty in speaking at 4 per cent; muteness⁹ at 2.2 per cent; loss of arms at 1.7 per cent; and lastly, loss of legs at 3.6 per cent.

4 WHO 'International classification of functioning, disability and health' (ICF) <http://www.who.int/classifications/icf/en/> (accessed 28 November 2019). 2018) 7ber 2019)t/classifications

5 National Bureau of Statistics (n 1 above) xiv.

6 B Rohwerder 'Disability in South Sudan' *Institute of Development Studies* https://reliefweb.int/sites/reliefweb.int/files/resources/Disability_in_South_Sudan.pdf (accessed 5 May 2018) 2.

7 Ministry of gender, child, social welfare, humanitarian affairs and disaster management *South Sudan national disability & inclusion policy* (2013) 8 <http://mgcswss.org/wp-content/uploads/South-Sudan-National-Disability-and-Inclusion-Policy.pdf> (accessed 22 April 2018) (NDIP).

8 UNICEF 'Situation assessment of children and women in South Sudan' (2015) 7 https://www.unicef.org/appeals/files/UNICEF_South_Sudan_Situation_Assessment_of_Children_and_Women_2015.pdf (accessed 5 May 2018).

9 National Bureau of Statistics (n 1 above) 24.

Disability was found to be more prevalent in Western Equatoria, Central Equatoria and the Upper Nile State. Other states with slightly higher prevalence were Unity and Western Bahr el Ghazal.

Difficulty in seeing, blindness, difficulty in hearing and limited use of arms were more prevalent among females. Mental disability affected both males and females almost equally although males accounted for a slightly higher percentage. Limited use of legs and loss of legs were more prevalent in males.¹⁰

2 South Sudan's international obligations

2.1 What is the status of the United Nation's Convention on the Rights of People with Disabilities (CRPD) in South Sudan? Did South Sudan sign and ratify the CRPD? Provide the date(s).

South Sudan became an independent State in 2011, they have to date not ratified the United Nation's Convention on the Rights of People with Disabilities.

2.2 If South Sudan has signed and ratified the CRPD, when is/was its country report due? Which government department is responsible for submission of the report? Did South Sudan submit its report? If so, and if the report has been considered, indicate if there was a domestic effect of this reporting process. If not, what reasons does the relevant government department give for the delay?

South Sudan is not a State Party to the United Nation's Convention on the Rights of People with Disabilities.

2.3 While reporting under various other United Nation's instruments, or under the African Charter on Human and Peoples' Rights, or the African Charter on the Rights and Welfare of the Child, did South Sudan also report specifically on the rights of persons with disabilities in its most recent reports? If so, were relevant concluding observations adopted? If relevant, were these observations given effect to? Was mention made of disability rights in your state's UN Universal Periodic Review (UPR)? If so, what was the effect of these observations/recommendations?

South Sudan has ratified the following Conventions: The Convention on the Elimination of All forms of Discrimination Against Women (CEDAW) together with its Optional Protocol; the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment and its Optional Protocol; and lastly the Convention on the Rights of the Child.¹¹ The country has not submitted any communication to these bodies to date.

10 National Bureau of Statistics (n 1 above) 37.

11 United Nations Human Rights Office of the High Commissioner 'Status of ratification' <http://indicators.ohchr.org/> (accessed 5 May 2018).

South Sudan's UPR, submitted in November 2015, does not specifically mention persons with disabilities. However, in the report on education, it is stated that everyone, including persons with disabilities shall have access to education.¹² Since South Sudan's submission of the 2016 UPR report, the country has not received any concluding observations from the UN's Committee on Human Rights.

2.4 Was there any domestic effect on South Sudan's legal system after ratifying the international or regional instrument in 2.3 above? Does the international or regional instrument that had been ratified require South Sudan's legislature to incorporate it into the legal system before the instrument can have force in South Sudan's domestic law? Have the courts of South Sudan ever considered this question? If so, cite the case(s).

See 2.1 above.

2.5 With reference to 2.4 above, has the United Nation's CRPD or any other ratified international instrument been domesticated? Provide details.

The 2011 Transitional Constitution of South Sudan declared that all human-rights treaties ratified would be reflected in the country's Bill of Rights.¹³ The Bill of Rights covers CEDAW in article 55 on the right of women, article 34 on equal rights for men and women and article 33 on equality before the law. The Convention on the Rights of the Child is covered by article 56 on the rights of children. Article 32 on the rights of people to not be enslaved, article 35 against torture and article 38 on security from the death penalty speak to the Convention against Torture and Other Cruel Inhuman and Degrading Treatment or Punishment.¹⁴

3 Constitution

3.1 Does the Constitution of South Sudan contain provisions that directly address disability? If so, list the provisions and explain how each provision addresses disability.

Article 30(1) and (2) of the Constitution of South Sudan is a standalone article on disability. It sets out the rights of persons with special needs and the elderly. The article stipulates that the government at all levels has an obligation to ensure that persons with disabilities are able to enjoy their rights and freedoms on an equal basis with others. In addition, the article reaffirms that it is the States' duty to

12 HRC National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21: South Sudan (23 August 2016) UN Doc A/HRC/WG.6/26/SSD/1 (2016) para 66.

13 Government of South Sudan 'Transitional constitution of The Republic of South Sudan' (2011) 4 <https://www.ilo.org/dyn/natlex/docs/MONOGRAPH/90704/116697/F762589088/SSD90704%202011C.pdf> (accessed 5 May 2018).

14 As above.

ensure that persons with disabilities in the country have access to suitable education, employment and public services.¹⁵ The article stresses the States responsibility to ensure access to adequate medical healthcare for persons with disabilities.¹⁶

3.2 Does the Constitution of South Sudan contain provisions that indirectly address disability? If so, list the provisions and explain how each provision indirectly addresses disability.

Article 29 on the right to education states that everyone, including persons with disabilities, has the right to receive an education.¹⁷

Article 31, on the right to health, states that all persons, including persons with disabilities have the rights to receiving adequate healthcare.¹⁸

Article 139(1)(d) on basic values and guidelines for civil service requires the government to ensure that services are provided fairly and equitably to all members of the country despite, among other issues, their physical disabilities.¹⁹

4 Legislation

4.1 Does South Sudan have legislation that directly addresses issues relating to disability? If so, list the legislation and explain how the legislation addresses disability.

South Sudan does not have such legislation.

4.2 Does South Sudan have legislation that indirectly addresses issues relating to disability? If so, list the main legislation and explain how the legislation relates to disability.

- **The Labour Act of 2017**

The Labour Act of 2017 provides a legal framework for conditions of labour, employment, labour institutions, disputes resolutions and safety in the workplace.²⁰ Section 6 of the Labour Act which addresses fundamental rights in the workplace contains a non-discrimination clause which requires the State to ensure that persons with disabilities in the workplace are not discriminated against on the basis of their disability.²¹

In section 34 of the Act, the State is required to prepare reports and provide information on the different forms of assistance offered to persons with disabilities

15 Art 30 of the Constitution.

16 As above.

17 Art 29 of the Constitution.

18 Art 31 of the Constitution.

19 Art 139 of the Constitution.

20 Labour Act of 2017.

21 Sec 6 Labour Act of 2017.

in their work place.²² Section 70 on employees with special needs, encourages ministers to promote rules that govern the hiring of persons with disabilities.²³

- **Child Act 10 of 2008**

The Child Act 10 of 2008 is aimed at extending, protecting and promoting the rights of children in South Sudan. Section 9 on non-discrimination requires the State to ensure equal treatment for all children, despite any differences, either due to disability, gender or ethnicity.²⁴

Article 2(i) requires the State to provide community-based systems of rehabilitation and supportive devices for children with disabilities. In addition, it places an obligation on the State to ensure that children with disabilities have equal access to integrated educational spaces, and that they can participate fully in family life, and recreational and sporting activities.²⁵ It is the duty of the State to ensure that they are able to integrate in communities and be self-reliant.

Section 14 on the 'right to education and wellbeing' states that all children have the right to free primary education, and that the access should not exclude children with disabilities, despite the severity of the child's disabilities.²⁶

Section 27 on the Act stipulates that children with disabilities shall be ensured access to special medical care and treatment, and to rehabilitation.²⁷

Section 36 on duties of the government, in Article 2(h), obligates the State to raise awareness on the rights of children with disabilities; on what their potential is and how they can contribute to society.

South Sudan also has a Bill of Rights which includes the right to life and human dignity in Article 11, equality before the law in Article 33, rights of children in Article 56 and many others; all of which apply to persons with disabilities as well.²⁸

5 Decisions of courts and tribunals

5.1 Have the courts (or tribunals) in South Sudan ever decided on an issue(s) relating to disability? If so, list the cases and provide a summary for each of the cases with the facts, the decision(s) and the reasoning.

There are no reported decisions of courts or tribunals.

22 Sec 34 Labour Act of 2017.

23 Sec 70 Labour Act of 2017.

24 Sec 9 Child Act of 2008.

25 Sec 36 Child Act of 2008.

26 Sec 14 Child Act of 2008.

27 Sec 27 Child Act of 2008.

28 Government of South Sudan (n 13 above) see general.

6 Policies and programmes

6.1 Does South Sudan have policies or programmes that directly address disability? If so, list each policy and explain how the policy addresses disability.

The **South Sudan disability and inclusion policy** adopted in 2013 under the Ministry of Gender, Child, Social Welfare, Humanitarian Affairs and Disaster Management directly addresses the needs of persons with disabilities.

The policy seeks to address issues pertaining to persons with disabilities:

- **Advocacy and awareness raising**

In South Sudan, people have little information on the realities of persons with disabilities. As a result, they hold negative perceptions which lead to discriminatory practices. Policy makers, government officials and community leaders also have limited awareness on disability issues. The policy therefore seeks to create greater awareness.²⁹

- **Improving accessibility**

The policy will guide the government to ensure that they create policies to eradicate the infrastructural barriers that impede persons with disabilities from accessing buildings, transportation and outdoor and indoor facilities such as schools, housing and medical facilities.³⁰

- **Ensuring active involvement and participation of persons with disabilities in the development process**

The policy will mandate the different departments of government to ensure that persons with disabilities actively engage in processes and key decision-making on policies regarding the development of the country.³¹

- **Access to healthcare**

The policy also seeks to ensure that equal access to health services and education are realised for persons with disabilities. Moreover, the policy calls for the creation of more rehabilitation services to cater for persons with disabilities.³²

6.2 Does South Sudan have policies and programmes that indirectly address disability? If so, list each policy and describe how the policy indirectly addresses disability.

The National Gender Policy is aimed at ensuring equal access to opportunities in education and other public services for women and girls including those with

29 *South Sudan national disability & inclusion policy* (n 7 above) 18.

30 As above.

31 *South Sudan national disability & inclusion policy* (n 7 above) 19.

32 *South Sudan national disability & inclusion policy* (n 7 above) 20-24.

disabilities.³³ The policy also seeks to ensure that the needs of women and girls with disabilities are incorporated into the national development agenda.³⁴

The Health Policy for the government of South Sudan seeks to provide access to the necessary medical care for all persons with disabilities.³⁵

7 Disability bodies

7.1 Other than the ordinary courts or tribunals, does South Sudan have any official body that specifically addresses the violation of the rights of persons with disabilities? If so, describe the body, its functions and its powers.

The Southern Sudan National Commission for War Disabled, Widows and Orphans was created to ensure the participation of people disabled as a result of the war, widows and orphans in the development process and ensure that they access social services.³⁶ The Commission prioritises those persons with disabilities disabled as a result of the war and not persons with disabilities in general.³⁷ No report was, however, found to assess the effectiveness of this Commission. Some critics have pointed out that having a Commission that serves a subset of persons with disabilities may create inequality amongst persons with disabilities by providing privileges to the prioritised group not enjoyed by others.

7.2 Other than the ordinary courts or tribunals, does South Sudan have any official body that though not established to specifically address the violation of the rights of persons with disabilities, can nonetheless do so? If so, describe the body, its functions and its powers.

The Public Grievances Chamber is established by section 147 of the Constitution. The Chamber has the mandate to monitor and inspect the activities of the government; it receives complaints from the public including social grievances, investigates such complaints and makes recommendations to government.³⁸ Therefore, this Chamber can address issues of violation of the rights of persons with disabilities. Complaints can be brought before it by persons with disabilities and their representative organisations as well as members of the public.

33 Ministry of Gender, Child, Social Welfare, Humanitarian Affairs and Disaster Management *The Republic of Sudan national gender policy* (2012) 21 <http://mgcswws.org/wp-content/uploads/National-Gender-Policy.pdf> (accessed 22 April 2018).

34 *The Republic of South Sudan national gender policy* (n 33 above) 42.

35 Ministry of Health *Health policy for the government of South Sudan* 38 http://www.africanchildinfo.net/clr/policy%20per%20country/south%20sudan/ssudan_health_2006-2011_en.pdf (accessed 5 May 2018).

36 As above.

37 Email communication with John Api on 4 May 2018.

38 L Moses 'Public Grievances Chamber unveils its priorities' (16 February 2012) <http://www.gurtong.net/ECM/Editorial/tabid/124/ctl/ArticleView/mid/519/articleId/6485/categoryId/1/Public-Grievances-Chamber-Unveils-Its-Priorities.aspx> (accessed 7 April 2018).

8 National human rights institutions, Human Rights Commission, Ombudsman or Public Protector

- 8.1 Does South Sudan have a Human Rights Commission or an Ombudsman or Public Protector? If so, does its remit include the promotion and protection of the rights of persons with disabilities? If your answer is yes, also indicate whether the Human Rights Commission, Ombudsman or Public Protector of South Sudan has ever addressed issues relating to the rights of persons with disabilities.**

South Sudan has a Human Rights Commission as established by section 145 of the Constitution. The Commission has the mandate to monitor and report on the protection and promotion of human rights in the country.³⁹ Even though the Constitution did not expressly mention the promotion and protection of the rights of persons with disabilities as one of the functions of the Commission, it however states that the Commission has the mandate to ‘monitor the application and enforcement of the rights and freedoms enshrined in this Constitution’ for all people which includes persons with disabilities.⁴⁰ In doing this, the Commission can proceed on its own initiative or upon a complaint made by a member of the public on the violation of any rights or freedoms.⁴¹ Since the Constitution contains provisions on the rights of persons with disabilities,⁴² it follows that its remit includes the promotion and protection of the rights of persons with disabilities. In carrying out its investigation, the Commission can issue summons or order any individual or representative of any body to appear before it or produce any document.⁴³ However, no record was found of a decision or recommendation of the Commission specifically addressing the rights of persons with disabilities in South Sudan. In its first and only report so far,⁴⁴ the Commission while reporting before the Human Rights Council, did not report on the situation relating to the rights of persons with disabilities even in the context of the war.⁴⁵ This seems to suggest that disability rights have not been on the agenda of the Commission.⁴⁶

39 Amnesty International ‘South Sudan: Conflict and impunity’ (2016) submission to the UN Universal Periodic Review, November 2016, 4 <https://www.amnesty.org/download/Documents/AFR6546322016ENGLISH.pdf> (accessed 5 April 2018).

40 Sec 146(1)(a) of the Constitution.

41 Sec 146(1)(b) of the Constitution.

42 See secs 6, 29 and 30 of the Constitution.

43 Sec 145(4) of the Constitution.

44 Amnesty International (n 46 above).

45 For the report, see the presentation by Lawrence Korbandy, Chairperson of the South Sudan Human Rights Commission before the Human Rights Council, Geneva, 24 September 2014 https://paanluelwel2011.files.wordpress.com/2014/09/lawrence-korbandy_south-sudan-human-rights-commission_pd_ss_36.pdf (accessed 10 April 2018).

46 (n 6 above) 4.

9 Disabled peoples organisations (DPOs) and other civil society organisations

9.1 Do you have organisations that represent and advocate for the rights and welfare of persons with disabilities in South Sudan? If so, list each organisation and describe its activities.

There are several organisations in South Sudan working on the rights of persons with disabilities. These include:

Humanity and inclusion (previously Handicapped International): This is an independent international aid and development organisation. It operates in situations of poverty and exclusion, conflict and disaster; providing support to vulnerable persons to improve the living conditions and promote respect for their dignity and fundamental rights.⁴⁷ Humanity and Inclusion makes interventions through humanitarian actions and development action. In South Sudan, due to the fragile nature of the State the organisation is providing both humanitarian assistance and development assistance targeted at persons with disabilities.⁴⁸

Light for the World: This is an organisation which has been working in South Sudan to promote the welfare and dignity of persons with disabilities since 2005 to ensure their full participation in the society.⁴⁹ Though its main focus is the promotion of eye health and prevention of blindness, the organisation is also involved in advocacy for the inclusion of the rights of persons with disabilities in policy formulation.⁵⁰

South Sudan Association of the Visually Impaired: This is a nongovernmental organisation founded in 2010 shortly before South Sudan gained her independence. It seeks the promotion and protection of the rights of persons with disabilities and persons with visual impairment in particular. Writing on the activities of the organisation, the organisation stated that:

[W]e advocate for recognition, protection and promotion of the rights of people with disabilities by providing reasonable accommodation and accessibility at the forefront of our advocacy, and by maintaining a gender sensitive environment, we consider nondiscrimination as a core principle. We are working to empower individuals who are blind by boosting their self-esteem and enhancing their capacities.⁵¹

Therefore, the activities of SSAVI can be summarised as awareness, advocacy, empowerment and problem solving.

47 Handicap International <https://hi.org/en/index> (accessed 20 April 2018).

48 See <https://reliefweb.int/job/2571269/administration-coordinator-south-sudan> (accessed 24 April 2018).

49 Light for the World 'Country strategy plan South Sudan' 2 https://www.light-for-the-world.org/sites/lfdw_org/files/download_files/south_sudan_strategy.pdf (accessed 9 April 2018).

50 Light for the World (n 56 above) 6. See also <http://www.lightfortheworld.nl/wp-content/uploads/2016/09/L-NL-Strategic-Plan-2016-2020.pdf> (accessed 28 November 2019).

51 Anyang (n 36 above) 2.

South Sudan Women with Disabilities Network: This is an organisation that advocates for the rights of women with disabilities in South Sudan. However, no information was found on the activities of this organisation.

9.2 In the countries in South Sudan's region (East Africa) are DPOs organised/coordinated at national and/or regional level?

Disabled People's Organisations in East Africa are largely organised at national levels. In South Sudan, for instance, DPOs are organised on cluster basis, that is, according to the different categories of disabilities. There is no single umbrella body that tends to bring all DPOs together. Though some of these DPOs have national and state branches, there is no cohesion between the national and state branches.⁵²

9.3 If South Sudan has ratified the CRPD, how has it ensured the involvement of DPOs in the implementation process?

South Sudan is yet to ratify the CRPD. Though the Constitution referred to persons with disabilities and the country has the National Disability and Inclusion Policy, and the Inclusive Education Policy, there is no specific legislation in South Sudan for the protection of the rights of persons with disabilities.⁵³ As mentioned above, DPOs were involved in the formulation of these policy documents, but there is however, no record found of a formal platform for DPOs' involvement with implementation.

9.4 What types of actions have DPOs themselves taken to ensure that they are fully embedded in the process of implementation?

In South Sudan, DPOs are actively involved in lobbying the government to ensure the implementation of disability-friendly policies. They also carry out advocacy and awareness campaigns to sensitise the public on disability rights and to garner more public support for disability inclusive policies.⁵⁴ These campaigns are carried out through seminars and workshops, publication of articles, media interviews amongst others.⁵⁵

9.5 What, if any, are the barriers DPOs have faced in engaging with implementation?

Despite the efforts of DPOs to engage with the government in the implementation process, not much has been achieved due to lack of support from the government. It is also difficult for DPOs to keep their programmes on advocacy and awareness running due to financial constraints. This has also affected the scope of outreach as advocacy activities. Activities are largely concentrated within Juba where the DPOs are mainly situated.⁵⁶ Many DPOs in South Sudan lack adequate technical expertise to strategically engage with the government and the general public;⁵⁷ there is also a lack of cohesion among the various DPOs which puts a spoke in the wheel of progress.

52 Email communication with Henry Legge on 7 May 2018.

53 Rohwerder (n 6 above).

54 As above.

55 Email communication with Ben Poggo on 2 May 2018.

56 Legge (n 44 above) 2.

57 Poggo (n 62 above).

9.6 Are there specific instances that provide ‘best-practice models’ for ensuring proper involvement of DPOs?

No data was found on existing best-practice models on ensuring proper involvement of DPOs.

9.7 Are there any specific outcomes regarding successful implementation and/or improved recognition of the rights of persons with disabilities that resulted from the engagement of DPOs in the implementation process?

As stated in 7.1 above, DPOs played an important role in the development of the Policy on Inclusive Education by the Ministry of Education. Furthermore, they advocated for the development of the National Disability and Inclusion Policy by the Ministry of Gender, Child, Social Welfare and Humanitarian Affairs. These policies protect disability rights in the country even though a lot still has to be done with regards to implementation and strengthening the legal framework.

9.8 Has your research shown areas for capacity building and support (particularly in relation to research) for DPOs with respect to their engagement with the implementation process?

Though DPOs in South Sudan are making efforts to push for the implementation of existing policies and creation of more comprehensive ones, including domestic legislation, the government does not seem to be very supportive. This, coupled with the dearth of technical knowhow in the leadership of the various DPOs makes the process of implementation slow and the achievements few.

9.9 Are there recommendations that come out of your research as to how DPOs might be more comprehensively empowered to take a leading role in the implementation processes of international or regional instruments?

Research has shown that South Sudan lacks experts who can strategically engage the government in the implementation process. Therefore, capacity building is required that if DPOs will make meaningful impact through their involvement with the implementation process. DPOs should also create a platform for synergy where they can exchange ideas and pursue a common cause with one voice.

9.10 Are there specific research institutes in the region where South Sudan is situated (East Africa) that work on the rights of persons with disabilities and that have facilitated the involvement of DPOs in the process, including in research?

No such institutions were found.

10 Government departments

10.1 Does South Sudan have a government department or departments that is/are specifically responsible for promoting and protecting the rights and welfare of persons with disabilities? If so, describe the activities of the department(s).

The Ministry of Gender, Child and Social Welfare is the government department with a mandate to protect and promote the rights and welfare of persons with disabilities.⁵⁸ The Ministry in close consultation with Disabled persons organisations (DPOs) has developed and is implementing the 2013 National Disability Policy and the Inclusive Education Policy. The Ministry is committed to the promotion of equality of previously marginalised groups and monitors the violations of the rights of women, children and persons with disabilities.⁵⁹ The Ministry is responsible for the development of social welfare, social protection and disability policies and programmes, and mainstreaming disability issues in public and private institutions.⁶⁰ However, not much could be found on the level of implementation of these objectives.

Another Ministry that promotes the rights of persons with disabilities is the Ministry of Health. Its mission is to improve the health condition of people in South Sudan and ensure quality healthcare especially the most vulnerable.⁶¹ Despite the existence of a Ministry dedicated to ensuring the implementing of Article 31 of the Constitution which provides for equal access to healthcare services, access to healthcare remains inequitable. Rohwerder reports that accessibility and affordability of health services remain a challenge for most persons with disabilities in South Sudan. Health facilities lack basic assistive technology for persons with disabilities.⁶²

The Ministry of Education, Science and Technology is a government department concerned with matters of education in South Sudan. The Ministry has formulated a National Policy on Inclusive Education to ensure inclusion of persons with disabilities in the educational system of the country. It has also spearheaded the development of a new curriculum that takes into account the needs of learners

58 M Anyang 'A presentation by the Education Secretary of South Sudan Association of the Visually Impaired' <https://worldinstituteondisabilityblog.files.wordpress.com/2016/11/mauots-presentation.pdf> (accessed 2 April 2018).

59 SIDA 'Disability rights in Sudan and South Sudan' (2014) 3 <https://www.sida.se/globalassets/sida/eng/partners/human-rights-based-approach/disability/rights-of-persons-with-disabilities-sudan-and-south-sudan.pdf> (access 17 April 2018).

60 More details can be found on the ministry's website, <http://mgcswss.org/> (accessed 3 May 2018).

61 SIDA (n 37 above).

62 Rohwerder (n 6 above).

with disabilities. Both initiatives were done in consultation with DPOs in the country.⁶³ The Transitional Constitution provides for inclusive education and the rights of persons with special needs.⁶⁴ Hence, the action of the Ministry is in keeping with these provisions.

11 Main human rights concerns of people with disabilities in South Sudan

11.1 Describe the contemporary challenges of persons with disabilities, and the legal responses thereto, and assess the adequacy of these responses.

The lack of a legislation to promote and protect the right of persons with disabilities is a challenge in the realisation of the rights of persons with disabilities. The policies in place do not adequately address the different needs of persons with disabilities and implementation of these policies has been slow. The negative attitude of the public towards persons with disabilities creates barriers for persons with disabilities to participate fully in the social, cultural and economic life of South Sudan.⁶⁵ There is limited legal recourse for persons with disabilities to vindicate their rights where such rights have been violated. Access to justice remains a concern for persons with disabilities. The Constitution in Article 14 recognises the rights of all citizens irrespective of status, to equality before the law and equal protection of the law; Article 19 contains the right to a fair hearing; and Article 20 provides for the right to seek redress in a court of law for any violation of rights. While these provisions apply to all citizens, there are barriers that impede access to justice for persons with disabilities such as inaccessible court premises and lack of reasonable accommodation. For instance, even though the Constitution in article 6 provides for the promotion of sign language for the benefit of persons with special needs, not much is being done in this regard.⁶⁶ So, even in the courts or police stations, getting a sign-language interpreter for the hearing impaired remains a challenge.⁶⁷

11.2 Do persons with disabilities have a right to participation in political life (political representation and leadership) in South Sudan?

Yes. The Constitution provides the right of all eligible citizens to vote and stand for elections and the right to form a political party. However, few persons with disabilities participate in these structures.

63 H Legge 'South Sudan UPR report – 2016: Coalition of organisations of persons with disabilities' (2016) 5 <https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=3454&file=EnglishTranslation> (accessed 3 April 2018).

64 Secs 29 and 30.

65 R Rieser 'Inception report: The development of a national policy for the inclusion of people with disabilities in education in South Sudan' (2014) 3 http://worldofinclusion.com/v3/wp-content/uploads/2014/01/World-of-Inclusion_South-Sudan_Inception-Report.pdf (accessed 2 April 2018).

66 Coalition of organisations of persons with disabilities *South Sudan UPR report*, (2016) 4 <https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=3454&file=EnglishTranslation> (accessed 20 June 2018).

67 Gilbert (n 66 above).

11.3 Are persons with disabilities' socio-economic rights, including the right to health, education and other social services protected and realised in South Sudan?

Section 37 of the Constitution provides for the economic objectives of the state which include achieving a decent standard of life for the people, promoting self-reliance and inclusive development. However, no deliberate mechanism is in place to ensure the realisation of the socio-economic rights of persons with disabilities in South Sudan. Persons with disabilities are said to be 'generally invisible in development programming'⁶⁸ as they are not considered as part of the target group.⁶⁹

The right to housing is guaranteed for all citizens under the Constitution. Article 34 provides: '(1) Every citizen has the right to have access to decent housing.' Despite this constitutional guarantee, no policy document addressing the issue of accessible housing or affirmative action programme on housing for persons with disabilities exists.

In terms of social security there is no social security programme for persons with disabilities in South Sudan.⁷⁰

Persons with disabilities in South Sudan face a lot of barriers in interacting with the physical environment. Public buildings and facilities such as schools, hospitals, offices, courts, recreational facilities are hardly accessible due to the absence of reasonable accommodation such as ramps, lifts, voice or braille facilities where needed and accessible road signs. This contributes to the social exclusion of persons with disabilities in South Sudan.⁷¹

Regarding access to public transport there is no clear policy framework on public transport taking into account the needs of persons with disabilities in South Sudan. The cost of transportation and the poor transportation infrastructure make it difficult for persons with disabilities to access services.⁷²

Article 29 of the Constitution recognises education as a right for all citizens. It is the responsibility of government at all levels to ensure that this right is guaranteed for all 'without discrimination as to religion, race, ethnicity, health status including HIV/AIDS, gender or disability'. This right is not yet realised for most persons with disabilities, especially for those living outside of Juba. This is particularly true for girls with disabilities, children with multiple disabilities and those with intellectual disabilities.⁷³ Some of the challenges to the realisation of the right to education for persons with disabilities in South Sudan are: location of the schools; negative attitudes towards students with disabilities; insecurity in some areas; lack of assistive devices; physical inaccessibility and lack of teacher experience.⁷⁴ Efforts to realise inclusive education as stated in the Education Sector Strategic Plan 2017-22 is yet to yield an appreciable result.⁷⁵

68 Rohwerder (n 6 above) 8.

69 As above.

70 NDIP (n 7 above) 11.

71 NDIP (n 7 above) 11 & 18.

72 Rohwerder (n 6 above) 3.

73 As above.

74 NDIP (n 7 above) 10-11.

75 Ministry of General Education and Instruction, Republic of South Sudan *Education Sector Strategic Plan 2014-22* (2017) 61.

In addition, there are several technical and vocational education training centres in South Sudan to enable participants to acquire employable skills for the world of work.⁷⁶ However, a clear strategy for the participation of persons with disabilities in vocational training is lacking as their special needs are often ignored.⁷⁷

Access to employment for persons with disabilities remains a challenge. Article 30 provides that government at all levels should guarantee access to suitable employment for persons with special needs. However, persons with disabilities in South Sudan continue to experience discrimination and inequalities when it comes to accessing employment. They are among the poorest and unemployed in South Sudan. A National Disability Assessment conducted in 2012 revealed that about 89.3 per cent of respondents with disabilities are unemployed.⁷⁸ This figure has not changed significantly. Women and girls face more challenges in accessing employment and vocational training.⁷⁹

Article 40(b) of the Constitution provides for the right to access recreational and sports facilities and the right to participate in these activities. No record was found on the access to recreational and sport facilities by persons with disabilities.

11.4 Case studies of specific vulnerable groups

No case study on specific vulnerable groups was found.

12 Future perspective

12.1 Are there any specific measures with regard to persons with disabilities being debated or considered in South Sudan at the moment?

In South Sudan, the current issue topping the agenda of DPOs is the adoption of a domestic legislation on the rights of persons with disabilities. Consultations are ongoing with the legislature and the executive to see to the realisation of this goal.⁸⁰

12.2 What legal reforms would you like to see in South Sudan? Why?

South Sudan should ratify the CRPD and its Optional Protocol. It should also enact a domestic legislation in line with the provisions of the Convention. This will give persons with disabilities the platform to claim their rights if violated. It is important that the legal capacity of persons with disabilities be recognised to prevent abuse, especially for persons with psychosocial disabilities.

76 UNESCO *TVET policy review South Sudan* (2014) 37 <http://unesdoc.unesco.org/images/0023/002312/231287e.pdf> (accessed 18 June 2018).

77 UNESCO (n 72 above) 39.

78 Legge (n 44 above) 5.

79 Rieser (n 65 above).

80 Legge (n 44 above).