



**South Sudan's Compliance with the Convention on the Elimination of All Forms of
Discrimination Against Women
Suggested List of Issues Relating to the Death Penalty**

Submitted by The Advocates for Human Rights

a non-governmental organization in special consultative status with ECOSOC since 1996
and

The World Coalition Against the Death Penalty

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The Advocates for Human Rights (The Advocates) is a volunteer-based non-governmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law. Established in 1983, The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact finding, direct legal representation, education and training, and publications. The Advocates is the primary provider of legal services to low-income asylum seekers in the Upper Midwest region of the United States. In 1991, The Advocates adopted a formal commitment to oppose the death penalty worldwide and organized a Death Penalty Project to provide pro bono assistance on postconviction appeals, as well as education and advocacy to end capital punishment. The Advocates currently holds a seat on the Steering Committee of the World Coalition against the Death Penalty.

The World Coalition Against the Death Penalty, an alliance of more than 150 NGOs, bar associations, local authorities and unions, was created in Rome on May 13, 2002. The aim of the World Coalition is to strengthen the international dimension of the fight against the death penalty. Its ultimate objective is to obtain the universal abolition of the death penalty. To achieve its goal, the World Coalition advocates for a definitive end to death sentences and executions in those countries where the death penalty is in force. In some countries, it is seeking to obtain a reduction in the use of capital punishment as a first step towards abolition.

South Sudan fails to uphold its obligations under the Convention on the Elimination of All Forms of Discrimination Against Women

1. South Sudan authorizes the death penalty for intentional murder, bearing false witness resulting in an innocent person's execution, participating with four or more people in a robbery during which a murder occurs, terrorism-related offenses, aggravated drug trafficking, treason, and attempted murder by a person under sentence of life imprisonment.¹
2. Article 21(3) of the Transitional Constitution as well as the Code of Criminal Procedure prohibit execution of a pregnant woman or a woman with a child under the age of two.²
3. There is limited information about death penalty practices in South Sudan, and state practices lack transparency.
4. In South Sudan, customary courts may handle even serious criminal cases.³ According to a source from the South Sudan Law Society, the death penalty is not applied under customary law.⁴ But the country has approximately 60 different customary systems in place, and in some parts of the country these customary courts are the only feasibly accessible justice system.⁵ According to the most recent report by the UN Commission on Human Rights in South Sudan, "[t]he statutory court system in South Sudan continued to suffer from a trust deficit among citizens."⁶ Customary courts in at least two jurisdictions, however, "lack[] procedural safeguards and exhibit[] deeply entrenched cultural biases towards women and girls, . . . impeded[] meaningful access to justice."⁷
5. Since independence in 2011, South Sudan has executed at least 39 people, all or nearly all of whom had been convicted of murder.⁸ In December 2018, however, a spokesperson for the President of South Sudan asserted that the country had not executed anyone since 2011 and the country had been observing a moratorium on executions since 2013.⁹ Independent sources dispute these claims.¹⁰

¹ Death Penalty Worldwide Database, "South Sudan," accessed Jun. 11, 2020, <https://dpw.pointjupiter.co/country-search-post.cfm?country=South%20Sudan#f27-6>.

² Death Penalty Worldwide Database, "South Sudan," accessed Jun. 11, 2020, <https://dpw.pointjupiter.co/country-search-post.cfm?country=South%20Sudan#f27-6>; Amnesty International, *"I told the judge I was 15": The use of the death penalty in South Sudan* (2018), 9,

<https://www.amnesty.org/download/Documents/AFR6594962018ENGLISH.PDF>.

³ Death Penalty Worldwide Database, "South Sudan," accessed Jun. 11, 2020, <https://dpw.pointjupiter.co/country-search-post.cfm?country=South%20Sudan#f27-6>.

⁴ Death Penalty Worldwide Database, "South Sudan," accessed Jun. 11, 2020, <https://dpw.pointjupiter.co/country-search-post.cfm?country=South%20Sudan#f27-6>.

⁵ Death Penalty Worldwide Database, "South Sudan," accessed Jun. 11, 2020, <https://dpw.pointjupiter.co/country-search-post.cfm?country=South%20Sudan#f27-6>.

⁶ UN Human Rights Council, *Report of the Commission on Human Rights in South Sudan* (Jan. 31, 2020), UN Doc. A/HRC/43/56, ¶ 28.

⁷ UN Human Rights Council, *Report of the Commission on Human Rights in South Sudan* (Jan. 31, 2020), UN Doc. A/HRC/43/56, ¶ 28, 16.

⁸ Death Penalty Worldwide Database, "South Sudan," accessed Jun. 11, 2020, <https://dpw.pointjupiter.co/country-search-post.cfm?country=South%20Sudan#f27-6>.

⁹ Denis Dumo, *Amnesty says executions rising in S. Sudan, government denies it*, Reuters, Dec. 7, 2018, <https://af.reuters.com/article/topNews/idAFKBN1O619U-OZATP>.

¹⁰ See, e.g., Amnesty International, *South Sudan: Execution spree targets even children and threatens nursing mothers*, Dec. 13, 2018, <https://www.amnesty.org/en/latest/news/2018/12/south-sudan-execution-sprees-targets-even->

6. As of January 2019, there were approximately 387 people on death row in South Sudan.¹¹
7. In April 2018, the Director-General of the National Prison Service of South Sudan ordered all persons on death row to be transferred to Wau Central Prison and Juba Central Prison, where all executions take place. Among the people transferred under this order were two women, including a lactating mother, who had been staying in the Equatoria region in southern South Sudan.¹² After the transfer, the UN Commission on Human Rights in South Sudan expressed concern that the country was planning to step up executions.¹³
8. Prison overcrowding has meant that women are sometimes detained with men.¹⁴

9. Suggested questions for the Government of South Sudan:

- Please provide data about every woman sentenced to death or executed since ratification of the Convention, including: offense(s) giving rise to the death sentence, factual circumstances surrounding the offense(s), name of court pronouncing the death sentence, date of conviction, age at the time of the offense, age on the date of conviction, familial status, age of dependent children (if any) on the date of conviction, location of detention, date and method of execution (if applicable), age of dependent children (if any) on the date of execution, date and nature of adjustments to sentence (if applicable).
- Please explain the discrepancies between statements in December 2018 by the spokesperson for the President and independent civil society reports about the status of the death penalty in South Sudan.
- Please describe the fair trial and due process safeguards in capital cases involving women defendants, including, among other things, how and under what circumstances they are provided with access to effective legal representation, safeguards prohibiting admissibility of evidence obtained through torture or ill-treatment, and provisions to ensure the independence and impartiality of the judiciary.
- What safeguards are in place to ensure that no woman is executed while she is pregnant or caring for a young child?
- Are any customary courts authorized to sentence persons to death under any circumstances?

children-and-threatens-nursing-mothers/.; *Human Rights Council discusses the situation of human rights in South Sudan*, ReliefWeb, Mar. 12, 2019, <https://reliefweb.int/report/south-sudan/human-rights-council-discusses-situation-human-rights-south-sudan>.

¹¹ *Human Rights Council discusses the situation of human rights in South Sudan*, ReliefWeb, Mar. 12, 2019, <https://reliefweb.int/report/south-sudan/human-rights-council-discusses-situation-human-rights-south-sudan>.

¹² “South Sudan: Execution spree targets even children and threatens nursing mothers,” Amnesty International, Dec. 13, 2018, <https://www.amnesty.org/en/latest/news/2018/12/south-sudan-execution-sprees-targets-even-children-and-threatens-nursing-mothers/>.

¹³ *Commission on Human Rights Urges South Sudan to make peace and justice a reality*, ReliefWeb, Sept. 17, 2018, <https://reliefweb.int/report/south-sudan/commission-human-rights-urges-south-sudan-make-peace-and-justice-reality>.

¹⁴ Death Penalty Worldwide Database, “South Sudan,” accessed Jun. 11, 2020, <https://dpw.pointjupiter.co/country-search-post.cfm?country=South%20Sudan#f27-6>.

- What safeguards are in place to ensure that women and girls have full and equal access to justice within customary court systems?
- Under what circumstances may a woman be detained in prison with male detainees? What safeguards are in place to ensure a woman's safety and security in those conditions?