



Baseline Evaluation of the
“Facilitating Access to Justice in South Sudan” Project

Prepared For Search for Common Ground (SFCG)

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List of Acronyms and Abbreviations

APC	Access Partnership Consortium
ARCISS	Agreement for the Resolution of the Conflict in South Sudan (ARCISS)
C&D	Church & Development
CPA	Comprehensive Peace Agreement (CPA)
CSO	Civil Society Organisation
DNH	Do No Harm
FGD	Focus Group Discussion
FGM	Female Genital Mutilation
GBV	Gender Based Violence
IDLO	International Development Law Organization
IDPs	Internally Displaced Persons
IPCA	Initiative for Peace Communication Association
IPIPs	Integrate Peace building in Programming (IPIPs)
KII	Key Informant Interview
MDAs	Ministries, Departments and Agencies
M&E	Monitoring and Evaluation
NGO	Non-Government Organisation
PoC	Protection of Civilians
RNN	Rebuilding the New Nation
RSS	Rural Social Services
OCA	Organization Capacity Assessment
OCAT	Organization Capacity Assessment Tool
SDGs	Sustainable Development Goals
SER	Smart Edge Research
SFCG	Search for Common Ground
SPLM	Sudan People's Liberation Movement
SPLM/A IO	Sudan People's Liberation Movement In Opposition
SSLS	South Sudan Law Society
SSBC	South Sudan Broadcasting Coporation
SSHRC	South Sudan Human Rights Commission
TOC	Theory of Change
TOR	Terms of Reference
WOTAP	Women Training & Promotion

EXECUTIVE SUMMARY

BACKGROUND

This baseline evaluation of the project “*Facilitating Access to Justice in South Sudan*” was commissioned by Search for Common Ground (SFCG), in partnership with the International Development Law Organization (IDLO) and the Initiative for Peace Communication Association (IPCA).

The project’s overall goal is *to improve access to justice services that provide legal remedies to rural and marginalized citizens in five South Sudanese counties of Pageri (Nimule) in Imatong State of former Eastern Equatoria State; Juba in Jubek State; Rumbek in Lakes State; Wau in the Western Bahr Ghazel State and Bor in Jonglei state.* The overall goal of the project will be achieved through a three-pronged approach that will 1) increase demand for effective justice services, 2) improve supply of quality legal remedies for the most marginalized populations, and 3) produce community-rooted research leading to policy reform to ensure nationwide impact. It is expected that the project will build on existing access to justice programs, particularly with the provision of legal aid clinics, building on their successes and expanding the impact with creative and quality programming that addresses the *demand, supply, and policy* aspects of access to justice. This programming will be complemented by intensive and integrated research to inform project activities and document results.

The purpose of the baseline evaluation was to 1) Investigate the intersection between justice and conflict in South Sudan (and relevant gaps and opportunities), 2) Conduct a needs assessment to determine the capacities of the Justice sector, Civil Society Organizations (CSOs) and Police and prison officers in supporting access to justice, 3) Assess the project Objectives, Indicators and Theory of Change (TOC), and potential to carry out Objectives 4-7 in the scope of the project, and 4) Conduct a risk assessment in order to ensure “Do No Harm” and conflict sensitivity are respected in the project.

METHODOLOGY

The baseline evaluation was conducted from March 15 – 27, 2017 in five counties, namely: Pageri (Nimule) county in Imatong State of former Eastern Equatoria State; Juba county in Jubek State; Rumbek county in Lakes State; Wau in the Western Bahr Ghazel State and Bor county in Jonglei state.

The baseline evaluation adopted a mixed-method approach entailing desk review, quantitative and qualitative components thus enabling triangulation of the data or results obtained. This comprised of desk research of relevant literature including project documentation, quantitative methodology through household interviews with 400 general citizenry of South Sudan in the target five counties, and qualitative methodology incorporating participatory methodologies through use of 10 focus group discussions (FGDs) with the general citizenry of South Sudan in the target counties and through use of key informant interviews (KIIs) with 48 selected key informants drawn from Ministries, Departments and Agencies MDAs, community structures and 6 civil society organizations (CSOs). The key informants consisted of state and non-state actors. The state actors were interviewed using KII guides as well as the non-state actors, which included mainly CSOs. Quantitative methodology (surveys) was used to determine the status of indicators prior to the project intervention while qualitative methodologies, including FGDs, KIIs and an Organizational Capacity Assessment (OCA) of the participating CSOs, served to provide a more in-depth analysis of project issues and needs assessments of the CSOs which are difficult to measure through quantitative approaches.

LIMITATIONS

During the baseline evaluation, a number of limitations and challenges were observed. These included:

- Authorization to conduct the research by the Rural Social Services (RSS) took longer than estimated thus delaying the quantitative phase of the evaluation.
- The curtailed freedom of speech and association hindered free sharing of information on access to justice and human right issues by the participants due to fear of victimization as was experienced in interviewing the key informants and the citizenry.
- Unavailability and/or the bureaucratic procedures in accessibility of data (documents) especially with the proposed stakeholders at the ministry, prisons, police stations and at the judiciary.
- Owing to their busy schedules, some of the target KII respondents were not immediately available for the interviews at the proposed times, necessitating fieldwork to take longer than anticipated and achieving less of the targeted numbers.
- Key informants drawn from the police, judiciary and the prison department were not easily available for interviews in absence of the authorization to conduct the research and thus the low achievement of the targeted numbers.
- Language barrier¹ with communities who do not speak English leaves room nuances of responses lost in translation.
- Scoring system for potential partner CSOs relies on documents provided by the CSOs and lacks details on their implementation capabilities.

KEY FINDINGS

1. Gaps and opportunities between justice and conflict in South Sudan

A manifestation of conflict in South Sudan is revealed by evaluation findings which show that different but interrelated forms of conflict exist in South Sudan ranging from political conflict instigated by struggles over political leadership and abuse of power to communal conflicts in the form of violent crime by individuals or groups and fight for resources shown through land conflicts. A number of key issues are at play as far as conflict in South Sudan is concerned.

a. Lack of political good will

It is worth noting that lack of good will from the leaders forms barriers to improved access to justice for citizens, and requires continued dialogue targeting both those receptive and non-receptive. It also continued support for local civil society organizations in South Sudan is required to stimulate dialogue and empowerment on justice issues in the communities.

b. Increased poverty, inadequate resources and high rates of unemployment

Unemployment in South Sudan is very high, with youths the most affected. Lack of gainful engagements exposes the already vulnerable youths for recruitment into the militias. The scramble for the few resources for grazing, farming land and water points among pastoralist and farming communities are to some extent a cause of conflict among the people of South Sudan.

The increase in levels of poverty, high inflation²and violence has reduced people's resilience. The conflicts and resulting displacement, deliberate destruction of markets and restrictions of the freedom of movement have led to severe food insecurity across the country

c. Ethnic segregation and emergence of communal defence mechanisms through armed groups and gangs

¹This was experienced by the consultants while handling the Key Informant Interviews with the local leaders. We engaged the use of local enumerators for the translation whom or probably would have distorted the intended meaning through translation. The local enumerators who spoke the local languages administered the household survey questionnaire to the participants.

²World Bank Group- Economic review update 20th October, 2016.

During conflicts the communities often organize defence forces to provide security. These forces lack training and proper command-and-control; have differing motivations and highly localized interpretations of the conflict. Once these forces, especially youth, have been armed and drawn into the conflict, it is difficult to disarm and demobilize them.³

d. Escalating insecurity and confrontations

In South Sudan there is often violence between cattle herders and farmers. It can escalate further due to ethno-politics propagated by political leaders. A new, more urban and digitally connected South Sudanese generation, including the diaspora, can also catalyse violence.⁴

To assess the relationship between conflict and justice, respondents were asked what they would do in a hypothetical situation where their rights are violated. Approximately 34% indicated that they would use the formal justice system mainly through reporting to the police, while 16% indicated that they would report to the chief, 7% would report to the customary courts while 4% would take matters in their own hands through self-defence. However, approximately 25% of the surveyed respondents stated that they would do nothing about it. Further questioning on actual use of formal and traditional justice system reveals that more respondents (56%) have used traditional justice system as compared to 39% who have used services provided by formal justice systems. This discrepancy between preferred justice mechanisms as presented in the hypothetical situation and in actual fact when seeking justice services indicates a gap between available justice services and demand for justice services. This is further reinforced by a key finding that approximately 58% of surveyed respondents indicated that they were satisfied with the quality of justice delivered by the traditional justice system while 45% indicated that they were satisfied with quality of justice delivered by formal courts.

Thus a number of gaps and opportunities are observed with regards to access to justice:

- a. The Transitional Constitution of South Sudan has numerous provisions on human rights but the protection of these rights has been a challenge. South Sudan's Transitional Constitution's progressive and extensive list of human rights remains at odds with the underdeveloped operations and practices of political institutions that are supposed to enforce these rights. The South Sudan's 2015 peace agreement did not provide for a list of procedures for implementing of the constitution. At this time, there is a need for dialogue to implement the rights as documented in the constitution as part of the democratic process that drives the peace-making, rather than simply serving the interests of the political class.
- b. The Republic of South Sudan has not yet established a formal justice system that can provide access to justice for its all civilians in all parts of the country.⁵ Local sources, including legal providers, and key informant interviews with South Sudan Law Society (SSLS) and South Sudan Human Rights Commission (SSHRC) report that there are no courts routinely hearing cases in rural areas. Accessibility of the formal justice system throughout the remaining states is restricted to very few areas, which are urban and wealthy.⁶
- c. High youth unemployment in the country provides an opportunity for easy access and recruitment into the army and militia.
- d. An opportunity exist to lobby for the attainment of Goal 16 of the Sustainable Development Goals (SDGs) that recognizes the importance of peace, justice and strong institutions based on the rule of law for sustainable development. Being a central element of SDG 16, access to justice is crucial to addressing the key areas of armed violence and insecurity which have a negative impact on a country's development, affecting economic growth and often resulting

³South Sudan Law Society, *Search for a New Beginning: Perceptions of Truth, Justice, Reconciliation and Healing in South Sudan*, June 2015.

⁵Deng, DK, *Challenges of Accountability: An Assessment of Dispute Resolution Processes in Rural South Sudan* (March 2013) p. 1

⁶ Ibid.

in long standing grievances that can last for generations, and lead to future conflict. Goal16.3 of the SDGs focuses on the promotion of the rule of law at the national and international levels and ensuring equal access to justice, recognizing the link between access to justice, poverty reduction and inclusive growth.

2. Capacities of stakeholders in supporting access to justice: 1) Justice sector; 2) Civil Society Organizations (CSOs); and 3) Police and prison officers.

- a. **Overall capacity of legal clinics to offer *free legal services to citizenry in key target areas is high:*** IPCA's capacity with regard to offering *free legal aid* services was rated at 80%. However, refresher capacity building in *free legal aid* services and legal courses as well as provision of transport facilities for the pro-bono lawyers and the paralegals are some of the key areas that were highlighted as currently required to ensure successful implementation of the Facilitating Access to Justice Programme.
- b. **The capacity of the Ministry of Justice's Directorate of Legal Aid and Human Rights to execute its functions as related to legal aid provision is moderate:** Among surveyed key informants, the Directorate of Legal Aid and Human Rights in the Ministry of Justice reported moderate capacity with regards to execution of its core function of enabling legal aid provision in South Sudan. This was mainly attributed to human and financial under-resourcing and therefore inability to outsource legal aid to lawyers in private practice. This is compounded by a lack of a Legal Aid Fund as envisaged by the Ministry's Legal Aid Strategy (2011-13). In addition, there is no Legal Aid Act. This act would establish the Legal Aid Board to oversee legal aid and human rights in South Sudan as well as guide related administrative processes. The lack of this act has contributed to the inability of the Directorate to optimally carry out its functions as related to legal aid provision.
- c. **There is no comprehensive policy on legal aid provision, and there is ineffective enforcement of existing requirements in the transitional constitution and other legal documents⁷ despite numerous efforts made by the state and non-state actors to enhance access to justice in South Sudan, including through provision of legal aid.**
- d. **The OCA tool rated the capacities of local CSOs⁸ in the six domains of 1) Governance, 2) Human Resources, 3) Programme Development and Delivery, 4) Monitoring, Evaluation, and Learning, 5) Financial Management, and 6) Sustainability and Beneficiary Accountability as strong.⁹** The six CSOs that participated in the study were graded based on their public organizational documents, and showed robust scores of at least 85% in all domains of measurement with an overall score of 88%. In Governance the average score was 92%, Human Resources 90%, Programme Development and Delivery 87%, Monitoring, Evaluation & Learning 90%, Financial Management 88% and Sustainability and Beneficiary Accountability 85%.

⁷ Transitional constitution and Ministry's Legal Aid Strategy (2011-13)

⁸It is important to note that these CSOs four out of six had participated in the implementation of an Access to Justice project in the same localities under the same donor INL and had their capacities built and thus the high ratings.

⁹This tool was purposefully used to capture the targeted CSO's capacity in areas of implementing their work in the project implementation. Capacities of local CSOs assessed were in the six domains of 1) Governance, 2) Human Resources, 3) Programme Development and Delivery, 4) Monitoring, Evaluation, and Learning, 5) Financial Management, and 6) Sustainability and Beneficiary Accountability. The rating scale of 1 to 5 where 1 is nothing in place, 2 is weak and needs substantial attention, 3 is average and needs some improvements, 4 is above average but needs minor adjustments, and 5 is system being adequately implemented/utilized was used by the consultants to rate the CSOs. The rating was not self-rating but based on available organization documents. Each sub section had a rating ranging from 1 to 5. The total score were (when all attributes rated 5) 360 representing 100% score. These scores were worked into percentages as presented within the report.

- e. **Overall technical and institutional capacities of partner CSOs to offer *pro bono* services is moderate:** The six participating CSOs got an overall score of moderately high score with regards to their technical and institutional capacities to offer *pro bono* services to the population. Steward Women, Women Training and Promotion (WOTAP), Friends for Peace and Global Aim have previously run Legal Aid clinics in the target areas of Rumbek, Pageri and Juba and have prior experience in implementing Access to Justice Programmes. In addition, the four CSOs have vast experience in case assessment, case documentation, court representation and offering legal advice to clients. However, Church and Development (20% score) and Rebuilding the New Nation (RNN) (20% score) have demonstrated no prior experience in the implementation of Access to Justice Programmes.
- f. **Local CSOs' level of engagement in justice system activities is moderate:** Partner local CSOs surveyed have an average score of 63% with regards to the extent to which they are currently engaging in justice system activities in the target regions. Steward Women's score was 80%, Women Training and Promotion (WOTAP) (80%), Friends for Peace (80%), and Global Aim (100%) are all currently engaged in advocacy for human rights, and access to justice awareness raising, as well as offering *pro bono* services. However, Church and Development (20%) and Rebuilding the new Nation (RNN) (20%) are not currently engaged in any justice system activity in the target regions.
- g. **Currently, there is poor coordination among legal and justice actors:** With divergent strategies and goals, coordination across Ministries and institutions, especially in the criminal justice sector, is considered very weak mainly due to the lack of inter-agency cooperation or, alternatively, single agency leadership with the guidance of a multi-stakeholder steering committee.

3. Project Objectives, Indicators and Theory of Change (TOC), and potential to carry out Objectives 4-7 in the scope of the project.

This project's intended implementation strategies and principles were based on the theory of change (ToC) that: "***If*** marginalized citizens have increased access to an improved justice sector, ***and*** this access is complemented by interconnected media, civil society, government, and development partner support, ***then*** the foundation will be laid for a more functional, responsive, **sustainable** and equitable justice sector, and improved peaceful coexistence at the community level."

In relation to the *Rule of law actors, including police, prosecutors, and prisons, are provided with increased support to carry out their core functions* the survey found that there existed a lack of effective functioning state institutions due to a myriad of challenges. The survey participants reported that the state justice institutions are unable to serve the needs of the South Sudanese people. Because of that it is necessary to expand the reach of justice beyond what is possible not just through state action alone, but also traditional justice and reconciliation mechanisms; and an empowered paralegal or legal aid programs.

Justice Service providers, including customary law courts and statutory courts, are providing citizens with effective legal remedies albeit at an average 50-60% levels of satisfactions for both customary and statutory courts respectively. The police and local administration are charged with law enforcement and their capacity assessment duty bearers or service providers from the stand point of community members is essential as reported at 37% men and 38% women reporting local administration is performing their roles effectively while reporting 25% of men and 19% of women reporting the police is performing their work effectively. If marginalized communities will have access to justice it is important to increase the capacity of all the justice sector players in terms of training, institutional supports, infrastructure development and other necessary empowerment.

For marginalized communities to have effective access to justice there is a need for local and national level policy makers and donors to have access to knowledge to inform and strengthen reforms to the

legislative and policy framework. This should take a deliberate and targeted messaging through the local CSOs and the media.

There is a need to pass legislation that empowers policy makers to start initiatives to promote peace and reconciliation at the community level. To ensure wide coverage, local radio stations must form part of a wider communication strategy of the project, which should also include places of worship such as mosques, churches and community dialogue meetings as these were also identified as key platforms for disseminating justice sector issues and messages as per this baseline findings.

With the above findings and analysis the *Facilitating Access to Justice Project* TOC is viable and the expected change is a realistic one.

In relation to assessing the potential to carry out Objectives 4-7 in the scope of the project, below is the analysis as regard each objective:

Objective 4: Rule of law actors, including police, prosecutors, and prisons, are provided with increased support to carry out their core functions.

There is a policing gap in the country, years after independence; the police service has yet to fully establish itself in rural areas. This fact is same to the statutory courts and the prisons that are lacking in the rural areas where most of the marginalized and vulnerable people are. Rural areas in South Sudan are confronted with numerous enforcement gaps especially at the Payam and Boma levels. Limited police presence in rural areas, unprofessional conduct¹⁰ of some members of the police service, impunity and inadequate statutory justice services for crimes and abuse perpetrators all pose fundamental challenges to local justice actors.

Perceived abuse of power, and corruption often associated with alcoholism, is also a problem in the police service. People often complain that for small bribes, the police will release suspects from custody. According to a resident interviewed through FGD: *“If a person committed a crime in the villages and arrested, the police normally ask for pounds in order to release the suspect and thereafter frustrate the victim. “Criminals [in Wau] are well aware that if they are caught, they will be able to bribe their way to freedom.”* Prisons face similar resource constraints as police, most prison facilities in South Sudan are in a severe state of disrepair and escapes are commonplace. Low capacity¹¹, prison congestions and resource constraints¹² all contributes to in effective performance by rule of law actors.

Empowerment through technical capacity building and change of perception to increase citizen trust in rule of law actors through improvement in their ability to carry out their duties in line with human rights standards as per the project activities is essentially for achievement of the objective.

Objective 5: Justice Service providers, including customary law courts and statutory courts, are providing citizens (including women and youth) with effective legal remedies.

Local justice systems in South Sudan encompass a variety of formal and informal mechanisms, ranging from mediation within close social networks to adjudication in customary and statutory courts. For the most part, the more formal mechanisms tend to have a limited reach in rural areas and the bulk of disputes are handled by mediation or through the customary courts.

The justice sector suffers from under-resourcing, culture of impunity and a general lack of transparency, and many government actors lack necessary sufficient expertise to oversee South Sudan’s complex judicial systems. Local justice systems face problems of witness protection. Statutory court judges and government prosecutors have restricted the jurisdiction of customary courts

¹⁰ Drunkenness at work, arbitrary arrest and detention of citizens

¹¹ Law knowledge on human right issues and rule of law as per the constitution, lack of effective accountability mechanisms, poor procedures in case bookings for trials, evidence taking, preservation, witness protection and dispensing of cases.

¹² Insufficient funding from the government, salary delays and under human resource in the judiciary

without providing alternatives for populations residing in rural areas where there are no judges. The lack of an effective police force, particularly at the payam and boma levels of local government, makes it difficult for chiefs to enforce judicial decisions, and logistical difficulties, such as lack of transportation to state courts, that justice service providers and disputing parties encounter when manoeuvring through state hierarchies sometimes leads to long delays in judicial processes and unlawfully extended detentions in rural areas.

There are also more fundamental problems of accountability that arise. While local justice systems regularly receive and resolve certain types of disputes, especially those relating to property ownership and inheritance, marital issues, sexual crimes, the manner in which they define the misconduct often imposes unfair costs on women, youths and children and serves to reinforce patriarchal power structures in local societies. Furthermore, existing justice services have been almost completely unable to pursue accountability for most offences committed towards these vulnerable groups.

In spite of the challenges, prosecutors and magistrates have been deployed to some rural areas. State legal advisers and judiciaries have begun to monitor customary courts and encourage chiefs to adhere to jurisdictional limitations. Several independent and locally driven initiatives have sought to improve justice services for rural populations, for example, by incorporating women into customary court structures and addressing the historical legacy of conflict through various forms of reparation as reported by *Farouk of South Sudan Law*.

In reference of the above, the improvement in the performance of local justice providers - particularly with regards to the needs of women and youth- leading to increased engagement with justice mechanisms there is need of statutory and customary law trainings; mentoring program for justice actors; provision of legal resources; community legal meetings and undertake a community-rooted research leading to policy reform as envisioned in the program activities.

Objective 6: *Develop a law and policy package on legal aid and Objective 7:* *Local and national level policy makers and donors have access to knowledge gained from research on rural justice issues and project implementation to strengthen reforms to legislative and policy framework.*

The Constitution of South Sudan guarantees the provision of Legal Aid through Article 19 subsection 7- Right to legal representation; Article 20- Right to Litigation; Article 135 subsection 3-Public Attorneys to the government and Article 136 sub section 36 on the Bar Association. There exists a Department of Legal Aid and Human Rights in the Ministry of Justice established in 2006 but with a fragmented and not well coordinated legal aid policy. In a more developed justice system, legal aid providers are able to fill the gap and ensure that certain minimum standards of due process of legal aid to those deserving are met. *“In South Sudan, however, legal aid—or the provision of legal services to people who would otherwise not be able to afford them -is in its infancy. The Directorate ought to come up with a proper policy that leads to Law as regard to Legal Aid. At present, funding for legal aid providers is made on an ad hoc basis and is not sustainable for legal aid providers who want to develop long-term projects to provide legal support and assistance to vulnerable clients”* as alluded by Mr Joof of IDLO.

Paralegals perform important functions in lobbying for reforms in local justice systems, channelling cases to appropriate forums and mediating minor disputes that arise within their home areas. However, they do not have legal capacity to represent clients in statutory courts. Community paralegals are not effectively trained on identification of human right abuses in the community and report to the legal aid desk or defence counsels for action. The few paralegals in the communities also experience barriers working with the police and prisons.

Through Legal expert support to Directorate of Legal Aid and Human Rights; assessment of barriers to access to justice and support to grassroots legal aid efforts, there will be increased capacity of the Directorate of Legal Aid and Human Rights to execute its functions related to legal aid provisions in

South Sudan. Meanwhile, integrated Justice and conflict research will increase access to authentic information by the actors to improve access to justice by the vulnerable targeted South Sudanese.

4. Respecting “Do No Harm” and conflict sensitivity.

A risk assessment with regards to the project reveals the following possible risks and challenges that may hinder the realization of the projects’ goal and ToC:

- a. *“The fluid political context offers no guarantee of peace and serenity in the country”*, SFCG M&E officer. This means a risk of the environment not remaining favourable (in case of increased fighting by both sides) to air the human rights and access to justice messages.
- b. The restriction of freedom of expression and association, as well as the population’s suspicion and reticence to disclose information due to instability in the country, may affect the quality of participation in certain project activities. Especially community forums and dialogues where a certain degree of comfort expressing individual opinions openly is required.
- c. There is still a conflict between the legal pathways, customary law systems and the statutory system, since many of the locals, irrespective of high levels of rights knowledge, do not know which courts have jurisdiction to handle type of cases leading to hindrance in accessing justice.
- d. As per the SFCG, IDLO and IPCA project team, the risk of the change in donor policy due to the political instability in South Sudan could lead to discontinuation of the funding by the donor.
- e. There is currently high inflation in the country and, therefore, the project budget might not be able to accomplish all the intended project activities unless the situation normalizes soon.
- f. Ineffective collaborations between the partners, especially with some of the local CSOs. If partner CSOs are not well managed and their capacities, especially in accountability and reporting, are not built.
- g. Capacity building efforts are at risk of ineffectiveness if only the capacity of paralegals, police and prison officers are built without building the necessary justice infrastructures such as court rooms or mobile courts in the counties¹³. This might lead to citizens not able to access justice irrespective of being knowledgeable about their rights.

In addition, the following constitute an assessment of conflict sensitivity:

- a. The risk of limited legal capacity and human rights knowledge of script writers and radio presenters on how to identify the problem areas in the justice system to help develop messaging that resonates with the different target groups might result into a likelihood of less impact on the messages.
- b. Project implementers or media partners could take non-neutral positions or speak in a way that is not conflict sensitive in the implementation of the project activities, which could jeopardize the project and cause tension among the communities.
- c. The risk of not fully involving the local authorities including the security agencies in the five counties and at the national level at all stages of the project implementation to fully understand the purpose of the project might lead to impediments to the implementation of the project activities especially those involving the community participation.
- d. There is a risk that because of a lack of women and youth’s voices within the APC, those groups’ voices will not be well represented in programming, even though they are key target groups for the project.

¹³These were referred to as part of the barriers to justice among the communities.

RECOMMENDATIONS

- 1. Improve effectiveness the scope of work of the Legal and Justice System: Study results reveal a number of challenges faced by both the demand and supply side as far as access to and provision of justice services are concerned.** On the supply side, human and financial under-resourcing of the Directorate of Legal Aid and Human Rights in the Ministry of Justice including lack of a Legal Aid Board and a Legal Aid Fund as envisaged by the Ministry's Legal Aid Strategy (2011-13) translates to inability to outsource legal aid to lawyers in private practice. Other challenges faced by the supply side include lack of refresher capacity building in *free legal aid* services and legal courses as well as provision of transport facilities for the pro-bono lawyers and the paralegals, and poor coordination across Ministries and institutions, especially in the criminal justice sector. On the demand side, there is a perceived lack of transparency, accountability, integrity and fairness in the justice sector, high costs of administration of justice and issues of affordability, delayed administration of justice, and issues related to geography and distances to legal and justice sector agencies.
- 2. Strengthen legislative capacity of Parliament through CSOs work:** Study research shows that there is no Legal Aid Act to establish the Legal Aid Board to oversee legal aid and human rights in South Sudan as well as guide related administrative processes. This has contributed to the inability of the Directorate of Legal Aid and Human Rights to optimally carry out its functions as related to legal aid provision.
- 3. Strengthen the capacity of the local partner CSOs in the areas of governance, programme development and delivery, monitoring and evaluation, financial management and Sustainability and Beneficiary Accountability:** Governance as a key organizational capacity area was deemed inadequate in four out of the six assessed organizations with specific areas of concern that should be addressed: lack of adequate training or qualification/experience in relation to organizations' programming such as local resource mobilization; lack of project specific reporting and accountability; lack of networking and collaborations; and lack of strategies for project sustainability. Under programme development and delivery there is a lack of a mechanism for registering complaints voiced by service recipients and where a mechanism exists, lack of awareness amongst service recipients of how to utilize the mechanism, and inadequate participation of women, youths and other disadvantaged groups in key decision-making especially at activity level and or planning stages. Study results show that there is inadequate documentation of lessons learned and development of case studies/learning documents. Key gaps noted in the area of financial management include: financial documentation not kept in a secure location; a lack of auditing by committee auditor and CSOs; a lack of stored records of all financial audits; and a lack of a schedule and post-audit management plan for resolving audit findings.
- 4. Improve Mass Media Communication:** As reported by 82% of all surveyed community members (80% of men and 82% of women), radio is the most popular medium for receiving information on legal and justice issues. Specifically, Eye radio is the most popular radio station across the 4 counties with exception of Bor. Miraya FM (24%), Voice Radio (16%) and Jonglei Radio (10%) are the other most popular radio stations in the target regions.
- 5. Build the capacity of traditional leaders in customary courts:** While use of customary courts (87%) is higher as compared to use of formal justice systems (57%), approximately 58% indicated that they were satisfied with the quality of justice delivered by the traditional justice system.
- 6. Gender Responsiveness:** While all surveyed community members including women, youth and non-youth face a number of challenges in accessing justice as earlier reported, study results show that a higher proportion of women (70%) as compared to men (32%), children (25%) and the aged (26%) are more disadvantaged due to customary in the society. Due to

existing cultural practices, women face marginalization hence likely to experience extended delayed administration of justice with the net effect of increased costs of administration of justice.

7. **Effective collaborations of the justice actors and the government officials:** Due to divergent strategies and goals, coordination across Ministries and institutions, especially in the criminal justice sector, was reported as very weak which was mainly attributed to a lack of inter-agency cooperation.

1.0 INTRODUCTION

1.1 Reflection on South Sudan Conflicts and Access to Justice

The war between the North and the South erupted one year before Sudan gained independence in 1955 and continued until a peace agreement was signed in Addis Ababa in 1972. The greatest and most detrimental war broke out in 1983 between the Government of Sudan and Sudan People's Liberation Movement/Army (SPLM/A) following the breakdown of the 1972 Addis Ababa Agreement. The war was largely caused by disputes over resources, power, the role of religion in the state and self-determination. The two-decade conflict deprived the south and Darfur area of peace and development, causing over two million deaths and four million displaced people with 600,000 becoming refugees in other countries.

A comprehensive peace agreement was signed in 2005 under the mediation of Intergovernmental Authority on Development (IGAD), which enabled South Sudan to conduct a referendum and become a sovereign state on July 9, 2011.

During the process of South Sudan's formation, there were many challenges and opportunities. Armed conflict erupted again in December 2013 between members of the Sudan People's Liberation Army (SPLA); a group broke off from the SPLA and declared they were "In Opposition" (SPLA-IO) to the main group, which then resulted in a humanitarian crisis. After pressure from the international community, the government and the opposition signed a Peace Agreement in August 2015 to end the 20-month conflict, which had resulted in the displacement of 2.3 million. Since independence, the country has also suffered from governance issues, inefficient service delivery, few economic opportunities and human rights violations. This instability has had considerable detrimental effects on families including poor governance structures, high illiteracy levels, and poverty.

Following the signature of the Agreement for the Resolution of the Conflict in the Republic of South Sudan (ARCSS) in August 2015, Dr. Riek Machar returned to Juba on 26 April 2016 to take up the position of First Vice-President in the Transitional Government of National Unity, alongside President Salva Kiir. The delay in his return held up the implementation of the Agreement for nearly eight months. Nevertheless, Dr. Machar's return resulted in some steps being taken to complete the arrangements enshrined in the Agreement, including the establishment of a Transitional Government of National Unity and power-sharing arrangements between the signatories to the Agreement, namely SPLA, SPLM/A in Opposition, the Group of Former Political Detainees and the Group of Other Political Parties.

In spite of these steps, recurring violent conflict has persisted. In this context of ongoing uncertainty and instability, the fragile justice system has thus far failed to provide effective legal remedies to the most vulnerable segments of South Sudanese population, particularly women and youth in marginalized rural communities across the country. The absence of information, trust, and confidence in the justice sector has limited the population's demand for effective legal remedies. Further, inadequate capacity of civil society in the justice sector has hindered their ability to fill the critical gaps in the current justice system, placing the responsibility in the hands of limited interventions by international actors.

2.0 METHODOLOGY

This chapter deals with the methodology employed in the baseline evaluation. In addition, this chapter also offers justifications for the various methodologies used.

a. Project rationale

The Access Partnership Consortium (APC), comprising Search for Common Ground (SFCG), in partnership with the International Development Law Organization (IDLO) and the Initiative for Peace Communication Association (IPCA), proposed the two year project, “*Facilitating Access to Justice in South Sudan.*” The project’s overall goal is *to improve access to justice services that provide legal remedies to rural and marginalized citizens in five South Sudanese counties.* The overall goal of the project will be achieved through a three-pronged approach that will: 1) increase demand for effective justice services, 2) improve supply of quality legal remedies for the most marginalized populations, and 3) produce community-rooted research leading to policy reform to ensure nationwide impact.

The project is being implemented in five counties, namely: Pageri county in Imatong State of former Eastern Equatoria State; Juba county in Jubek State; Rumbek county in Lakes State; Wau in the Western Bahr Ghazel State and Bor county in Jonglei state.

The project’s TOR, after start-up of implementation and reflection with all partners was expanded from,

The project’s implementation strategies and principles are based on the theory of change (ToC) that *if* marginalized citizens have increased access to an improved justice sector, *and* this access is complemented by interconnected media and civil society support, *then* the foundation will be laid for a more functional and equitable justice sector, and improved peaceful coexistence at the community level.

To,

The project’s implementation strategies and principles are based on the theory of change (ToC) that “*If* marginalized citizens have increased access to an improved justice sector, *and* this access is complemented by interconnected media, civil society, government, and development partner support, *then* the foundation will be laid for a more functional, responsive, **sustainable** and equitable justice sector, and improved peaceful coexistence at the community level.”

It is expected that the project will build on existing access to justice programs, particularly with the provision of legal aid clinics, building on their successes and expanding the impact with creative and quality programming that addresses the *demand*, *supply*, and *policy* aspects of access to justice. This programming will be complemented by intensive and integrated research to inform project activities and document results.

b. Purpose and objectives of the Baseline evaluation

The specific objectives of baseline evaluation are as follows:

1. Investigate the intersection between justice and conflict in South Sudan (and relevant gaps and opportunities)
2. Conduct a needs assessment to determine the capacities of the following groups in supporting access to justice:
 - Justice sector
 - Civil Society Organizations (CSOs)
 - Police and prison officers
3. Assess the project Objectives, Indicators and Theory of Change (TOC), and potential to carry out Objectives 4-7 in the scope of the project.

4. Conduct a risk assessment in order to ensure “Do No Harm” and conflict sensitivity are respected in the project.

c. Baseline methodology

The baseline evaluation adopted a mixed methods approach including qualitative and quantitative components. The approach allowed for complementarity of data sources, thus ensuring reliable and valid conclusions based on findings from three different methodologies.

As detailed in Table 2 below, the study design assumed a three-pronged approach: 1) desk research entailing review of relevant documents with a view to streamline the methodology and to inform instrument design and report writing; 2) quantitative survey employed due to the need to cover a large number of sampled population units and generate statistically reliable results; and 3) qualitative tools including Focus Group Discussions (FGDs) and Key Informant Interviews (KIIs) to provide a more in-depth analysis of community perceptions of service availability, referral pathways, mapping of access challenges and potential entry points.. Project issues are difficult to measure solely through the mentioned quantitative survey.

Table 1: Methodological Framework

Methodology	Rationale	Approach	Tools
<ul style="list-style-type: none"> • Desk review 	Review of relevant literature to improve study design, tools and reporting	Review of Facilitating Access to Justice in South Sudan programme documents and other relevant documents that include: <ol style="list-style-type: none"> a. Project Narrative Proposal b. Preliminary situation analysis framework (SAF) for the project c. British Council on access to justice in South Sudan d. Baseline Evaluation guidelines e. Project logical framework matrix (log frame) and indicators f. Republic of South Sudan Laws g. Relevant Republic of South Sudan policies on Citizen’s Access to Justice and Rule of Law h. Intended Guidelines on Community Dialogues 	Relevant literature
<ul style="list-style-type: none"> • Quantitative design 	Serves to produce quantitative data for establishing numerical logical framework indicators	Use of face to face survey questionnaires with general citizenry of South Sudan in the target counties	Structured survey questionnaire
<ul style="list-style-type: none"> • Qualitative design 	Serves to capture the target subjects’ experiences, opinions and attitudes. These target subjects include: Project Implementers, Policy Makers and Change Agents in the community.	Use of focus group discussions with general citizenry of South Sudan in the target counties Also entails face-to-face interviews with Key Informants or experts including: <ol style="list-style-type: none"> 1. Judges 2. Paralegals and Attorneys 3. Police and prosecutors 4. Prison departments 5. South Sudan Law Society 6. Civil Society Organizations (CSOs) in the proposed target counties working in Access to Justice Issues 7. Relevant Ministry departments 	Semi-structured FGD guide Semi-structured KII guide

	Serves to capture the target CSO's capacity in areas of implementing their work in the project implementation.	at state level; 8. Community leadership 9. Administrators & Chiefs); SFCG Facilitating Access to Justice in South Sudan 10. Project staff & INL representatives 11. Partner radio stations	
		Capacity Assessment of identified partners	OCA Tool (OCAT)

a. Desk research

The desk research as a secondary source of information entailed review of relevant study documents with a view to streamline the methodology and more specifically to inform on instrument design and report writing. Further, documents reviewed for the developing of context/discussion on conflict/access to justice in South Sudan. Key documents that were reviewed are captured in *Table 1* above.

b. Quantitative and qualitative methodologies

In carrying out the quantitative and qualitative designs of the baseline evaluation, a combination of probability and purposive sampling methods were employed depending on the composition of each category of target group.

In drawing the quantitative sample, a probability sampling methodology was used entailing selection of villages at first stage and households at second stage while making use of population proportional to size (PPS) sampling. The general populations of the target counties formed the basis for computation of respective sample sizes of target groups that were covered in the baseline evaluation.

Thus, a representative sample of randomly selected 400 households were targeted and reached successfully as detailed in *Table 2* below.

Table 2: Target survey sample and achieved survey sample

State	County	Target and achieved sample		
		Total population	Male	Female
Jonglei	Bor	85	46	39
Jubek (Central Equatoria)	Juba	140	77	63
Western Equatoria	Wau	38	20	18
Imatong (Eastern Equatoria)	Pageri (Nimule)	59	32	27
Lakes	Rumbek Centre	78	44	34
Total		400	219	181

The qualitative design through FGDs and KIIs employed purposive sampling of target households and key informants. A total of ten FGDs comprising of four FGDs with beneficiary household respondents of 8-10 were targeted and successfully conducted. A breakdown of the FGD target sample scope and achievement is detailed in *Table 3* below.

Table 3: Qualitative FGD target and achieved sample composition

State	County	Target group	Target and Achieved number of FGDs
Jonglei	Bor	Males & females separately	2

Jubek (Central Equatoria)	Juba	Males & females separately	2
Western Equatoria	Wau	Males & females separately	2
Imatong (Eastern Equatoria)	Pageri (Nimule)	Males & females separately	2
Lakes	Rumbek Centre	Males & females separately	2
Total			10

A breakdown of the KII target sample scope and achievement is detailed in *Table 4* below.

Table 4: *Qualitative KII target and achieved sample composition*

Category	Stakeholder group	Target number of interviews	Achieved number of interviews
State actors	Ministry of Justice and Constitutional Affairs	1 national level	1
	Directorate of Legal Aid and Human Rights Execution	1 national level	1
	Police officers including prosecutors	10 (2 per county)	3
	Prison officers	10 (2 per county)	2
	Judges including traditional judges	10 (2 per county)	3
	Administration officers (Payam/Boma Chiefs and assistant chiefs)	10 (2 per county)	9
Non-state actors	Civil society organizations (CSOs)	10 (2 per county)	6
	Lawyers and Paralegals	10 (2 per county)	6
	Community leaders	10 (2 per county)	10
	Partner radio stations	7	7
Total		84	48

c. Organization Capacity Assessment (OCA)

This tool was purposefully used to capture the targeted CSO's capacity in areas of implementing their work in the project implementation. Capacities of local CSOs assessed were in the six domains of 1) Governance, 2) Human Resources, 3) Programme Development and Delivery, 4) Monitoring, Evaluation, and Learning, 5) Financial Management, and 6) Sustainability and Beneficiary Accountability.

The rating scale of 1 to 5 where 1 is nothing in place, 2 is weak and needs substantial attention, 3 is average and needs some improvements, 4 is above average but needs minor adjustments, and 5 is system being adequately implemented/utilized was used by the consultants to rate the CSOs. The grades were based on the CSOs' available public organizational documents. Each sub section had a rating score ranging from 1 to 5. The total score were (when all attributes rated 5) 360 representing 100% score. These scores were worked into percentages as presented within the report.

d. Data Analysis

Data collected through the quantitative survey was analysed using IBM SPSS Statistics Version 23. Sample proportions of key attributes were computed and differences, especially with regards to gender, were measured. Analysis of qualitative data collected through FGDs and KIIs entailed grouping of collected information by themes guided by study objectives and project indicators to facilitate content and thematic analysis.

e. Training of Enumerators

Prior to carrying out a pre-test of the data collection tools and procedures, a total of 16 research assistants comprising seven females and nine males were trained mainly on three key areas: 1) instrument administration; 2) interview techniques and procedures, and 3) importance of the evaluation and research process. The training took two days. Specific objectives included; familiarization with the evaluation Terms of Reference (ToR); survey questions and questionnaire flow; recording of information; integrity during data collection; and informed consent and confidentiality as key components of research ethics.

f. Ethical Considerations

Prior to conducting interviews with all target respondents, written and oral consents were sought and obtained from literate and illiterate respondents respectively after they were explained the purpose of the study in a language that they fully understood. To ensure confidentiality, respondents' names and addresses were not recorded during data collection.

g. Challenges and limitations of the baseline evaluation and their mitigations

During the baseline evaluation, a number of limitations and challenges were observed. These included:

- i. Authorization to conduct the research by the Rural Social Services (RSS) took longer than estimated thus delaying the quantitative phase of the evaluation. With a close collaboration between the consultants and SFCG, an authorization was sought with RSS at the head office in Juba and the regional offices in the counties of the project implementation.
- ii. The curtailed freedom of speech and association hindered free sharing of information on access to justice and human right issues by the participants due to fear of victimization as was experienced in interviewing the key informants and the citizenry. To mitigate this, the evaluation team ensured to explain the purpose of the survey, confidentiality of information and the voluntarily nature of participation in the survey.
- iii. Owing to their busy schedules, some of the target KII respondents were not immediately available for the interviews at the proposed times. This meant fieldwork took longer than anticipated the target number of KIIs were not reached.
- iv. Key informants drawn from the police, judiciary and the prison department were not easily available for interviews in absence of the specific institutional authorization to conduct the research and the target number of interviews was not conducted. From the brief with the APC, the specifically targeted departments in the Prisons, Police were yet to be identified at the time of the Baseline evaluation.
- v. Over the life of the project, the APC intends to build the capacities of over 10 CSOs, at the time of the baseline six had already been identified. The consultant contacted and assessed the capacity of all the six identified CSOs.
- vi. The OCA tool for assessing the capacities of CSOs is limited in the insight it provides because the scoring system for potential partner CSOs relies on documents provided by the CSOs and lacks details on the organizations' implementation capabilities.
- vii. There was a language barrier between the consultant and the local communities who do not speak or understand English thus inability by the consultants to verbatim record the information. To mitigate this, the evaluation team engaged the use of the enumerators who were locals for the translation and repeated the questions and a repeat translation of the same.

3.0 FINDINGS

This section presents the baseline findings as per the four general baseline evaluation objectives.

3.1 Investigate the intersection between justice and conflict in South Sudan (and relevant gaps and opportunities)

Many of the South Sudanese saw the declaration in October 2015 creating twenty eight states of South Sudan as a scheme to favour the Dinka community. The declaration was not well received by many people, including politicians, and because it was said to violate the peace agreement and the sovereign constitution of the people of South Sudan. As a result, there was intense fighting between forces loyal to the government and those loyal to former vice president Dr. Riek Machar. The violence was mainly in the capital Juba, but it quickly spread to the other regions of the country. Most of the opposition leaders fled to Kenya, Uganda and the Democratic Republic of Congo. The violence was so intense that it resulted in the international community, through IGAD and the African Union, establishing a regional peacekeeping and security force South Sudan. The peacekeeping force was meant to protect civilians from violence by fighters allied to SPLA and SPLM.

A UNMISS report revealed that between the year 2016 and 2017 there were increased reported cases of sexual violence especially amongst women and young girls.¹⁴ In February 2017, the South Sudan Protection Cluster reported a 61% increase in the number of cases of sexual or gender-based violence.¹⁵ In the Protection Strategy baseline survey conducted by the United Nations Population Fund (UNFPA) in the PoC sites in Juba, it was found that 72 % of women had reported having been raped and 75 % had been forced to watch someone else being raped.¹⁶ The report indicated that sexual violence had been mainly perpetrated by SPLA, SPLM/A and armed groups aligned to them, members of the National Security Services and the police.¹⁷ During the conflict the National Security Service arrested and detained suspects and seized property without justification or regard for the freedom of expression or of the press as required in the Transitional Constitution of South Sudan. Human rights activist and representatives of civil society organizations, including faith-based representatives, reported that the National Security Service had infiltrated civil society groups, thereby contributing to environment of mistrust among colleagues.¹⁸

Since December 2013, it is reported that tens of thousands of civilians have been killed in horrific attacks, often targeted on the basis of their tribe or perceived allegiances.¹⁹ A national survey²⁰ carried out from October 2014 to April 2015 confirmed that victims wanted perpetrators to be held criminally accountable. In its commitment as the Transitional Government of National Unity to criminal liability for atrocities committed during the conflict, the President granted amnesty to the South Sudan National Liberation Movement/Army in Gbudue and Maridi States.²¹ Nearly 60% of South Sudanese respondents interviewed in a survey conducted in 2014/15²² opposed granting amnesty to encourage the warring parties to adhere to the terms of a political settlement.

According to the same survey, those who advocate for violence are the minority, but are also increasing in number. 12% of those surveyed in 2015 said they would personally prefer to fight in

¹⁴UN Special Representative of the Secretary-General on Sexual Violence in Conflict concludes first mission to South Sudan with agreement with Government”, United Nations, press release, 13 October 2014.

¹⁵South Sudan Protection Cluster, Protection Trends: South Sudan, 2015 – 2016, February 2017, p. 14.

¹⁶OHCHR and UNMISS, “Violations and abuses of international human rights law and violations of international humanitarian rights law in the context of the fighting in Juba, South Sudan, in July 2016”, January 2017.

¹⁷Ibid.

¹⁸A/HRC/34/63.

¹⁹A/HRC/34/63.

²⁰South Sudan Law Society, *Search for a New Beginning: Perceptions of Truth, Justice, Reconciliation and Healing in South Sudan*, June 2015.

²¹New States created pursuant to establishment order No. 36/2015.

²²South Sudan Law Society, *Search for a New Beginning: Perceptions of Truth, Justice, Reconciliation and Healing in South Sudan*, June 2015.

response to conflict.²³ That number increased to 17% in 2016. Further, this research found that access to formal decision-making and service provision is predominantly limited to elders, while key groups that influence conflict are left out. Therefore, unequal access to services and formal decision-making groups diminishes community resilience against manipulation and violence. Other research findings also indicate that women in South Sudan are likely to believe violence was a valid way to solve conflicts.²⁴

I. Current Conflict Issues

This section presents some of the key factors and dynamics in the current conflict in South Sudan.

a. Lack of political good will

The peace agreement signed in August 17, 2015 includes concrete provisions to enhance access to justice and initiate transitional justice and reconciliation initiatives. But, since the signing of the agreement there has been inadequate commitment from both parties to undertake sincere action on the issues of access to justice. Some government officials of South Sudan increasingly oppose the work of the civil society and international actors promoting good governance, access to justice and human rights. It is worthy to note that lack of good will from the leaders forms barriers to improved access to justice for citizens, and requires continued dialogue targeting both those receptive and non receptive. Continued support for local civil society organizations in South Sudan is required to stimulate dialogue and empowerment on justice issues in the communities.

b. Increased poverty, inadequate resources and high rates of unemployment

Unemployment in South Sudan is very high with the youths mostly affected. With more idle time on their hands, lack of economical opportunities and inability to provide for their families and themselves, some resort to illegal means of acquiring income. Lack of gainful engagements exposes the already vulnerable youths for recruitment into the militias.

The scramble for the few resources for grazing, farming land and water points among pastoralist and farming communities are to some extent a cause of conflict among the people of South Sudan.

The increase in levels of poverty, high inflation²⁵ and violence has reduced people's resilience. The conflicts and resulting displacement, deliberate destruction of markets and restrictions of the freedom of movement have led to severe food insecurity across the country. In many IDP and refugee camps, state and the national capitals, poverty is a very serious factor in violence, driving some to turn to criminality and others build or join cartels that disadvantage the already economically vulnerable lives.

c. Ethnic segregation and emergence of communal defence mechanisms through armed groups and gangs

In South Sudan conflict, there has been the targeting of civilians and cycles of revenge attacks among communities. The conflict has predominantly involved the larger communities of the Nuer and Dinka resulting in the destruction of people's property, rape, torture, executions, and forced disappearances.

During conflicts the communities often organize defence forces to provide security. These forces lack training and proper command-and-control; have differing motivations and highly localized interpretations of the conflict. Once these forces, especially youth, have been armed and drawn into

²³ SFCG Conflict Analysis reports 2015 and 2016 <https://www.sfcg.org/wp.../2016/10/SFCG-South-Sudan-Conflict-Analysis-2-pager.pdf...>

²⁴ SFCG Conflict Analysis reports 2015 and 2016 <https://www.sfcg.org/wp.../2016/10/SFCG-South-Sudan-Conflict-Analysis-2-pager.pdf...>

²⁵ World Bank Group- Economic review update 20th October, 2016.

the conflict, it is difficult to disarm and demobilize them.²⁶ A culture of violence, acts of brutality, gender-based violence and domestic violence have become the norm in some communities in the current conflict situation in South Sudan.

d. . Escalating insecurity and confrontations

In South Sudan there is often violence between cattle herders and farmers. It can escalate further due to ethno-politics propagated by political leaders. A new, more urban and digitally connected South Sudanese generation, including the diaspora, can also catalyse violence.²⁷

II. Reflection on the Justice System in South Sudan

During the conflict between the North and the South, two parallel sets of laws were operational: formal laws and customary laws. Customary law was and is still particularly prevalent in Southern Sudan. During the civil war, units of the armed forces and militias ruled by force of arms, and in many cases the accused were summarily tried and punished, especially for offences against public order. Within the former SPLM controlled areas, SPLM de facto laws and decrees were undermined by a severe lack of judicial facilities and lack of trained personnel in the judiciary and law enforcement. These institutional shortcomings still pose serious challenges to justice reform and access to date in South Sudan.

The states of South Sudan have generally continued to have the two systems of formal and customary laws operating concurrently. Currently the statutory courts are located mainly in major towns. However, their role, in terms of case pathways, is not well understood by the public. Citizens' access to the formal courts has been hampered by: Costly judicial processes, corruption in the courts, lack of sufficient and well-trained attorneys and lawyers to represent citizens, cumbersome formal procedures, lack of means of transport to the court, coupled with long distances, especially in poor rural communities.

Limited operational budgets hinder the courts from hearing cases in rural areas and judges/legal administration officers to monitor and guide traditional courts on points of law and procedures. *“One of the main objectives of customary law is the establishment of peace and harmony between the parties and society as a whole through compromise, conciliation, and compensation or restoration of social imbalance created by the commission of wrong or criminal acts”*, Justice John Wuol Makec in "Legal Aid and its Problems in Sudan: Proposed Supplementary Mechanisms"

a. Customary Law and Tribal Courts

Customary law is the expression of the customs, beliefs and practices of the people of South Sudan. There are over fifty tribes in the region and most have customary laws reflecting individual tribal identities. Customary law is perceived to be relatively biased²⁸ in terms of human rights protections for women and children as they are based on cultural beliefs which mostly are unfair to women. At the customary courts, judgment is carried out in open communal spaces often under a tree or in dilapidated community structures made of local materials as no investment or resources are channelled to improve customary law courts or their judges.

The customary courts are staffed by respected community elders and enforce customary laws that are sometimes considered to be inconsistent with the formal laws as per the constitution. Due processes in customary courts do not appear to be clearly defined, rendering them vulnerable to arbitrary application of the laws. In conjunction, and possibly contradictorily, the Local Government Act of 2009 establishes customary law courts with the following hierarchy: Town Bench Courts, A Courts or

²⁶South Sudan Law Society, *Search for a New Beginning: Perceptions of Truth, Justice, Reconciliation and Healing in South Sudan*, June 2015.

²⁸ Bias towards customary practices like forced or early marriages that affect women and even juveniles excludes them from the justice sector especially where statutory courts are non-existent. This translates to lack of access to justice especially, among the poor and marginalized like women and juveniles.

Executive Chief's Courts, B Courts or Regional Courts, and C Courts. In practice, however, customary law courts are not always established this way. The customary law courts have jurisdiction to deal with customary disputes and make judgments in accordance with the customs, traditions, norms and ethics of the communities. The Act specifically states that a customary law court shall not have jurisdiction to hear criminal cases except those criminal cases with a customary interface referred to it by a competent statutory court.

b. The Statutory Court System

The 2011 Transitional Constitution established a judiciary, which is composed of the Supreme Court, Courts of Appeal, High Courts, County Courts and other courts or tribunals that may be deemed necessary. The Supreme Court is based in Juba and is the highest court. Under this, there are three regional Courts of Appeal, one for Greater Equatoria based in Juba, one for the Greater Upper Nile based in Malakal and one for the Greater Bahr El Ghazal based in Rumbek. Additionally, each of the original ten states has a High Court. The Judiciary Act of 2008 establishes County and Payam Courts that are presided over by judges of the first, second, and third grades²⁹.

c. Legal Aid in South Sudan

According to a Ministry of Justice³⁰ report, 95% of individuals in prison make their way through South Sudan's criminal justice system without legal counselling. Due to high illiteracy rates and low education levels and without legal aid, most prisoners are unable to follow the status of their case or to effectively participate in their trial. It is not easy for the accused to understand and challenge the evidence presented against them or to call and prepare witnesses in their defence, and almost impossible for them to contest a forced confession or seek redress for torture or mistreatment by police. Majority of the defendants are also unable to seek for bail or for a reduced or non-custodial sentence.

South Sudan has not made sufficient progress towards fulfilling the right of those facing criminal charges to legal aid under international law, which requires that detained individuals who cannot afford an attorney be assigned legal counsel by a judicial or other authority without payment.³¹ The domestic legal framework does not sufficiently guarantee access to free legal counsel for those without means. The Code of Criminal Procedure requires defendants desiring legal aid to personally make an application to the Minister of Justice in Juba.³²

The defendants, who often lack understanding of the role of defence counsel, are unaware of their right to legal aid the procedures involved.. Few are able to file requests, meaning that in practice, the right to counsel is elusive.³³ Judges routinely proceed to hear cases in the absence of defence counsel and these sometimes results to unfair trials for the accused. Thus in the face of the most recent conflict in South Sudan and the challenges afflicting both the demand and the supply sides of access to justice and related services, it is important to continue assessing the knowledge and perceptions of citizens with regard to their rights, what justice means to them, how conflict and justice intersect, their confidence in the justice system, how they access information on the law, points of entry to access justice, and barriers that they face in accessing justice. It is equally important to assess the capacities of actors in the legal and justice sector as far as service provision is concerned and to identify systemic problems that impede access to justice.

III. Gaps and Opportunities

²⁹As per the Key informant interview with the South Sudan Law Society

³⁰ Ministry of Justice Legal Aid Strategy, p. 9.

³¹ICCPR, art. 14(3)(d); Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, Principle 17. <https://books.google.com/books?isbn=9211541220>

³³ Human Rights Watch interview with Stephen Kang, director of human rights and legal aid, Ministry of Justice, Juba,

The Transitional Constitution of South Sudan has numerous provisions on human rights but the protection of these rights has been a challenge. The process of constitutional amendments in any State needs to be very transparent. This means that any amendments to the current Transitional Constitution of South Sudan must involve public participation and be adopted democratically. South Sudan's Transitional Constitution's progressive and extensive list of human rights remains at odds with the undeveloped operations and practices of political institutions that are supposed to enforce these rights. The South Sudan's 2015 peace agreement did not provide for a list of procedures for implementing of the constitution. At this time, there is a need for dialogue to implement the rights as documented in the constitution as part of the democratic process that drives the peace-making, rather than simply serving the interests of the political class. This means ensuring that the constitution continues to serve as a substantive source of unification, especially in terms of combining customary and international laws. The need to combine traditional or tribal customs with many of the provisions for human rights is an urgent need.

The Republic of South Sudan has not yet established a formal justice system that can provide access to justice for its all civilians in all parts of the country.³⁴Local sources, including legal providers, and key informant interviews with South Sudan Law Society (SSLS) and South Sudan Human Rights Commission (SSHRC) report that there are no courts routinely hearing cases in rural areas. Accessibility of the formal justice system throughout the remaining states is restricted to very few areas, which are urban and wealthy.³⁵ This was corroborated by FGD participants and key informant findings. As a female FGD participant in Wau explained, *"We most often don't go to the government court in case of conflicts as it is far away in town and we don't have money for transport."*

High youth unemployment in the country provides an opportunity for easy access and recruitment into the army and militia.

An opportunity exist to lobby for the attainment of Goal 16 of the Sustainable Development Goals (SDGs) that recognizes the importance of peace, justice and strong institutions based on the rule of law for sustainable development. Being a central element of SDG 16, access to justice is crucial to addressing the key areas of armed violence and insecurity which have a negative impact on a country's development, affecting economic growth and often resulting in long standing grievances that can last for generations, and lead to future conflict.

Goal16.3 of the SDGs focuses on the promotion of the rule of law at the national and international levels and ensuring equal access to justice, recognizing the link between access to justice, poverty reduction and inclusive growth. Access to justice is key to ensuring effective governance as well as guaranteeing human rights, peace and stability. Other key constructs of Goal 16 of the SDGs which are interrelated with Goal 16.3, and key in attaining the overall goal of peace, stability and strong institutions are: ensuring public access to information and protection of fundamental freedoms, in accordance with national legislation and international agreements; development of effective, accountable and transparent institutions at all levels, to ensure responsive, inclusive, participatory and representative decision-making at all levels; and promotion and enforcement of non-discriminatory laws and policies for sustainable development.

³⁴Deng, DK, *Challenges of Accountability: An Assessment of Dispute Resolution Processes in Rural South Sudan* (March 2013) p. 1

³⁵ Ibid.

3.2 Conduct a needs assessment to determine the capacities of the following groups in supporting access to justice: Justice sector, Civil Society Organizations (CSOs) and Police and prison officers

ACTIVITY STREAM 1: Improved Demand for Legitimate and Effective Justice Mechanisms that address the needs of the most critically vulnerable populations

Objective 1: Citizens are aware of their legal rights and duties

Understanding awareness of legal rights and duties is important in assessing barriers to accessing and attaining justice. Specifically, this study sought to measure citizen’s knowledge regarding awareness of their legal rights, sources of information on their legal rights with specific reference to mass media, level of demand for legal and justice services, and specific legal right information which citizens need to access and attain justice.

Outcome Indicator: % increase in demand for justice services in the targeted communities as a result of improved access to information

To assess demand for justice services, surveyed community members were asked if they or their family members use available key structures in the justice system mainly customary and formal courts, mobile courts, police desks, free legal aid services. As shown in *Table 5* below, approximately 53% of all surveyed community members comprising 47% of males and 59% of females have used justice services provided by customary and/or formal courts, mobile courts, police desks, free legal aid services. Specifically, approximately 87% of all surveyed community members indicated that they use customary courts as compared to 57% who indicated that they use services provided by statutory courts. Further, 20%, 32% and 67% of surveyed community members indicated they used mobile courts, special police desks and free legal aid respectively.

Table 5: *Current demand for justice services from customary, formal courts and mobile courts, special police desks for GBV cases, and free legal aid*

Legal and justice structure	Sex		Total (N=400)
	Male (n=212)	Female (n=188)	
Use the customary court system to seek their rights	86%	87%	87%
Use the statutory court system put in place by the government to seek their rights	53%	61%	57%
Access justice through the mobile courts in this area	15%	26%	20%
Use special desk at police stations for GBV cases mainly affecting women & girls	25%	40%	32%
Access free legal aid (Free assistance with legal information or representation in a court of law)	57%	79%	67%
Overall demand for justice services	47%	59%	53%

The surveys, key informant interviews and focus group discussions also showed that citizens of South Sudan face numerous barriers when seeking to access justice. These include corruption in the justice sector manifesting as a lack of transparency, accountability, integrity and fairness; lack of judges to hear cases; lack of knowledge among the police on how to conduct proper investigations, lack of forensic equipment, lack of judges due to constraints such as lack of transport; key sectors’ lack of knowledge on human rights such as the police and military; lack of knowledge on human rights and access to justice; lack of legal documentation and poor case management; and poor coordination amongst legal and justice actors leading to wasted resources.

Output 1a: % listenership rate in all target communities

When asked how they acquire information on legal and human rights, survey results show that approximately 82% of all surveyed community members, comprising 80% of males and 82% of females, reported that they obtain information on legal and justice issues and messages through radio.

A look at specific radio stations shows that Eye radio is the most popular radio station amongst surveyed male and female community members as 44% of all respondents reported it as a station where they receive information on legal and justice issues. Miraya FM (24%), Voice radio (16%) and Jonglei radio (10%) are also popular radio stations in the target regions where listeners receive this kind of information. As shown in *Table 6* below, except for Juba and Bor Counties where Miraya FM and Jonglei radio are the most popular (in the two Counties respectively), the baseline findings show that Eye radio is the most popular radio station in Wau, Pageri (Nimule) and Rumbek central. Further analysis is provided in the table below.

Table 6: *Radio stations through which surveyed community members acquire information on legal and justice issues and messages*

Radio station	County					Total N=323
	Juba n=107	Bor n=65	Wau n=38	Pageri n=49	Rumbek Central n=64	
Eye radio	40%	9%	61%	61%	63%	44%
Voice of Hope Radio (Wau only)	0%	0%	21%	39%	38%	16%
Mayardit (Warap State only)	1%	5%	13%	0%	0%	3%
Jonglei FM (Bor only)	0%	48%	0%	0%	0%	10%
Miraya Fm	57%	20%	5%	0%	0%	24%
City Fm	3%	3%	0%	0%	0%	2%
Bakita radio	14%	0%	3%	0%	0%	5%
South Sudan Broadcasting Corporation (Radio Juba)	8%	3%	0%	0%	0%	3%
Other Radio stations combined	13%	18%	5%	0%	0%	19%

Disaggregation of evaluation data by sex shows that Eye radio is the most popular radio station for both sexes as reported by 46% of male respondents and 42% of female respondents. Further, across all age groups, Eye radio is still the most popular radio station³⁶ across the four counties in the dissemination of human rights issues. A further analysis by sex is provided in *Table 7* below.

Table 7: *Radio stations through which surveyed community members acquire information on legal and justice issues and messages*

Radio station	Sex		Total (N=400)
	Male (n=212)	Female (n=188)	
Eye Radio	46%	42%	44%
Miraya FM	27%	20%	24%
Voice of Hope Radio	14%	18%	16%
Radio Jonglei	9%	10%	10%
Bakhita Radio	5%	5%	5%
South Sudan Broadcasting Corporation (Radio Juba)	4%	3%	3%
Mayardit FM	2%	3%	3%
Other radio stations combined	11%	11%	11%
None	20%	18%	19%

Outcome 1: % of respondents in target communities reporting increased knowledge of and familiarity with their legal and human rights and the judicial system

Study data from key informants shows that citizens of South Sudan are faced with human rights abuses including those related to: lack of freedom of speech; lack of freedom of association; lack of freedom of movement; unlawful arrest; child abductions; and impunity by the state authorities. However, survey data from community members shows that they are cognizant of their rights first as human beings and secondly as citizens of South Sudan which provides a good starting point from which to addressing human rights abuses.

³⁶Table **Error! Main Document Only.**: Radio stations through which surveyed community members acquire information on legal and justice issues and messages

As shown in *Table 8* below, most surveyed community members are aware of four rights that they have as human beings and as citizens of South Sudan: 44% of all respondents indicate that they are aware of their right of expression; 28% cited right to life; 24% mentioned right to education; and 22% mentioned freedom of movement and association. But specific awareness of rights relevant for this project were low, reported by the survey citizens at 9% for Right to be treated fairly & equally before the law and 13% for Right to own property .

Further, based on the baseline quantitative findings, 59% of women and 53% of men interviewed have accessed and used customary courts and are satisfied with the outcome of their cases at 62% and 55% respectfully. “*At the village courts headed by chief and village elders, the cases are handled fairly based on our customs and in a language that all understand*”, says a female focus group discussion participant.

Table 8: What are your legal and constitutional rights that you are aware of?³⁷

What are your legal and constitutional rights that you are aware of?	County						Sex		
	Juba n=123	Bor n=80	Wau n=12	Pageri n=57	Rumbek Central n=60	Total N=332	Male n=178	Female n=154	Total N=332
Freedom of expression	46%	43%	33%	51%	37%	44%	51%	36%	44%
Right to life	20%	51%	33%	18%	22%	28%	27%	29%	28%
Right to education	37%	30%	25%	4%	8%	24%	24%	24%	24%
Freedom of movement	11%	25%	25%	25%	37%	22%	21%	22%	22%
Right to own property	11%	34%	25%	0%	0%	13%	13%	13%	13%
Freedom of worship	2%	18%	8%	19%	10%	11%	11%	10%	11%
Right to vote	21%	4%	8%	4%	2%	10%	10%	10%	10%
Right to be treated fairly & equally before the law	7%	20%	8%	7%	3%	9%	10%	8%	9%
Right to Citizenship	12%	0%	0%	0%	0%	5%	5%	4%	5%
Right to food	5%	5%	0%	0%	0%	3%	4%	1%	3%
Right to security	7%	1%	0%	0%	0%	3%	4%	1%	3%
Right to Medication	3%	4%	0%	0%	0%	2%	2%	3%	2%
Right to Privacy	3%	3%	8%	0%	0%	2%	2%	3%	2%

In as much as the community members are likely to be aware of their rights, they are not likely to claim them in case of human rights violations since most of them are not aware of where to report such cases and they mostly believe that state authorities are powerful, hence supersede their rights. While many community members are aware of their rights (to a certain extent), 51% of them (43% of males and 60% of females) reported having experienced human rights violations themselves. This included mainly gender based violence (GBV) (18%) and rape (13%), killing of relatives (18%), stealing and destroying of property (15%), lack of freedom of expression (15%) and movement (6%), torture (7%) and detention (4%). Further analysis by sex is provided in *Table 8* below

Analysis from *Table 8* indicates that despite the incidence of abuse, more than four in every 10 surveyed community members (44%) (Comprising 45% of males and 43% of females) indicated that they did not/will not take any action following human rights abuses that they have experienced or may experience in future, At the County level, a higher proportion of respondents in Pageri (73%) and

³⁷Other key rights mentioned include: right to own property (13%); freedom of worship (11%); right to vote (10%); right to be treated fairly and without discrimination (9%); right to citizenship (5%); right to good health including access to medication and food (4%); right to security (3%); and right to privacy (2%). While awareness of freedom of expression as a right is low in all surveyed Counties, awareness of the right to be treated fairly and equally before the law is low. A higher frequency of respondents (20%) is Bor County as compared to 7% in Juba, 8% in Wau, 7% in Pagari and 3% in Rumbek Central are aware of their right to be treated fairly and equally before the law. Further analysis by sex shows that approximately 83% of surveyed community members comprising 84% males and 82% females are aware of their legal and human rights. More males (51%) than females (36%) are aware of their right to freedom of expression while no significant differences were observed between males and females with regard to awareness of right to life, right to education, freedom of movement, right to own property, freedom of worship, right to vote and right to be treated fairly and equally before the law.

Rumbek Central (67%) as compared to 41% of respondents in Juba, 27% in Bor and 31% in Wau indicated that they did not or will not to take any action for human rights abuses that they experience. However, analysis by sex did not show any significant differences between males and females. Further analysis is provided in *Table 10* below.

Table 9: Action taken or likely to be taken for human rights abuses by surveyed community members who reported having experienced human rights violations

Action taken	County						Sex		
	Juba n=102	Bor n=48	Wau n=26	Pageri (Nimule) =30	Rumbek Central n=21	Total N=227	Male n=103	Female n=124	Total N=227
Do nothing	41%	27%	31%	73%	67%	44%	45%	43%	44%
Do something	59%	73%	69%	27%	33%	56%	55%	57%	56%
Total	100%	100%	100%	100%	100%	100%	100%	100%	100%

A look at individual actions that were/would be taken in cases of human rights abuses shows that 34% of those surveyed reported/would report the abuse to the police, 16% reported/would report the abuse to the chief and 7% reported/would report the abuse to a customary court. At County level, more respondents drawn from Wau County (50%) as compared to Bor (42%), Juba (36%), Pageri (13%) and Rumbek Central (19%) indicated that they reported/would report to the police. Further analysis is provided in *Table 11* below.

Table 10: Action taken or likely to be taken for human rights abuses by surveyed community members who reported having experienced human rights violations

Action taken	County						Sex		
	Juba n=102	Bor n=48	Wau n=26	Pageri n=30	Rumbek Central n=21	Total N=227	Male n=103	Female n=124	Total N=227
Report to the police	36%	42%	50%	13%	19%	34%	30%	38%	34%
Do nothing about it	29%	17%	8%	47%	14%	25%	20%	29%	25%
Report to the chief	17%	17%	19%	10%	14%	16%	17%	15%	16%
I will remain locked up in the house	5%	0%	4%	20%	38%	9%	9%	9%	9%
Report to customary court	7%	15%	4%	3%	0%	7%	10%	5%	7%
I will run into hiding	4%	2%	15%	3%	10%	5%	7%	4%	5%
Self defense	3%	8%	4%	3%	5%	4%	9%	1%	4%

The above findings are corroborated by key informants interviewed who demonstrated why so few respondents indicated they did or would do something if they experienced human rights abuse. They felt that lack of implementation of the peace accord resulting in the current conflict in South Sudan has had the following consequences: mistrust in most sectors of the government including the justice system; and economic constraints including lack of judges and resources such as transport and security for available judges and for the accused to attend court.

Output 2a: % of surveyed participants at each project activity who are able to demonstrate increased understanding on legal and human rights issues

This Output indicator data was not collected because no project events had yet taken place at the time of the survey. The data will be collected through monitoring.

Output 2b: # of citizens that have access to legal/human rights information as determined by average reach of published materials

Published materials have not yet been disseminated in the Access to Justice project. However, across all target Counties, both sexes, approximately 98% of all surveyed community members comprising 98% males and 99% females indicated they have access to legal and human rights information, mainly through radio (82% Other key sources of information include: places of worship (35%); family (39%) and friends (22%); community dialogue meetings (22%); television (21%); public gathering spaces such as markets (16%); published pamphlets (5%) from NGOs; and through drama and theatre (4%). The focus group discussions with the community members confirm these findings with a further corroboration by the key informant interviews with the IPCS M&E officer and the radio presenters. Further analysis by sex is provided in *Table 10* below.

Table 11: Community members' current of sources of information on legal and human rights

Source of information	County					Total N=393	Sex		
	Juba n=136	Bor n=82	Wau n=38	Pageri n=67	Rumbek Central n=70		Male n=207	Female n=186	Total N=393
Radio	79%	82%	95%	72%	91%	82%	80%	84%	82%
Worship places (Churches & Mosque)	29%	30%	53%	46%	31%	35%	36%	34%	35%
Family	21%	35%	53%	27%	24%	29%	31%	26%	29%
Friends	18%	30%	8%	30%	21%	22%	28%	16%	22%
Community dialogues/meetings	10%	59%	55%	1%	1%	22%	17%	26%	22%
Television	21%	41%	53%	0%	0%	21%	15%	27%	21%
Public gathering e.g. markets	6%	21%	53%	7%	17%	16%	14%	18%	16%
Pamphlets	3%	17%	0%	0%	0%	5%	6%	3%	5%
Drama and theatre performance	7%	7%	0%	0%	0%	4%	4%	3%	4%

Objective 2: Citizens, including indigent individuals accused of serious crimes, are provided with legal aid

Availability, access, affordability and use are vital aspects of access to justice for community members especially the poor and marginalized who have been accused of crime or require representation when they are the accuser. This study sought to understand community members' capacities with regards to awareness of legal aid, ability to access and use available legal aid and counsel provided by professional lawyers in public defence systems and through *pro bono* representation. From the supply side, capacities of legal aid clinics to offer *pro bono* services in the target regions were also assessed.

Outcome 2: % increase in capacity of legal aid clinics to offer free legal aid services to citizenry in key target areas

In this project, IPCA, a partner to APC, is charged with running legal aid services in the target regions of South Sudan. Survey results for interviewed lawyers show that IPCA has experience running legal aid clinics in South Sudan including in, Juba County with newly established field presence in Bor and Wau. These programmes are implemented by fully established lawyers who offer pro-bono services to community members through the Legal Aid services. Overall, IPCA's capacity with regard to offering *free legal aid* services through its legal clinics was rated at 80%. However, refresher capacities building in pro bono services and legal courses, as well as provision of transport facilities for pro bono lawyers and paralegals are some of the key areas to improve in order to increase the capacity of legal aid clinics to officer pro-bono services as recommended by the pro-bono lawyers interviewed.

Indicator 3a: % increase in technical and institutional capacities

A total of six CSOs participated in the study namely Rebuilding the New Nation (RNN), Women Training & Promotion (WOTAP), Steward Women, Church & Development, Global Aim and Friend for justice. The six CSOs' technical and institutional capacities to provide *pro bono* services were assessed on a scale of 1 to 5 where 1 was "very poor", 2 "poor", 3 "average", 4 "good" and 5 "excellent." As shown in Table 1 below, survey results show that currently, the six intended partner CSOs have an average score of 60% with regard to their technical and institutional capacities to offer *pro bono* services. The simplified scoring system that was used poses a limitation in assessing this indicator due to the high scores achieved by the participants. Moreover, the averages were taken from a 1-5 Likert scale and translated to percentages and they were not based on implementation capabilities, but on documentation provided by the organizations themselves. It emerged that Steward Women, Women Training and Promotion (WOTAP), Friends for Peace and Global Aim have previously run Legal Aid clinics in the target regions of Rumbek, Pageri and Juba and have prior experience in implementing Access to Justice Programmes. In addition, the four CSOs have vast experience in case assessment, case documentation, court representation and offering legal advice to clients free of charge. However, Church and Development as well as Rebuilding the New Nation (RNN), each scoring 20%, have no prior and specific experience in the implementation of the Access to Justice Programmes. Further analysis is provided in the table below.

Table 12: *Technical and institutional capacities of local partner CSOs in providing free legal aid*

Name of CSO	Overall score on technical and institutional capacities to offer <i>pro bono</i> services
Rebuilding the New Nation (RNN)	20%
Women Training & promotion (WOTAP)	80%
Steward Women	80%
Church & Development	20%
Global Aim	80%
Friend for justice	80%
Overall Score	60%

Overall, IPCA will coordinate and oversee the CSOs partners' activities, including attaching *pro bono* lawyers to them where necessary. IPCA has vast experience in running Legal Aid Clinics in the target regions of Juba, Wau and Bor.

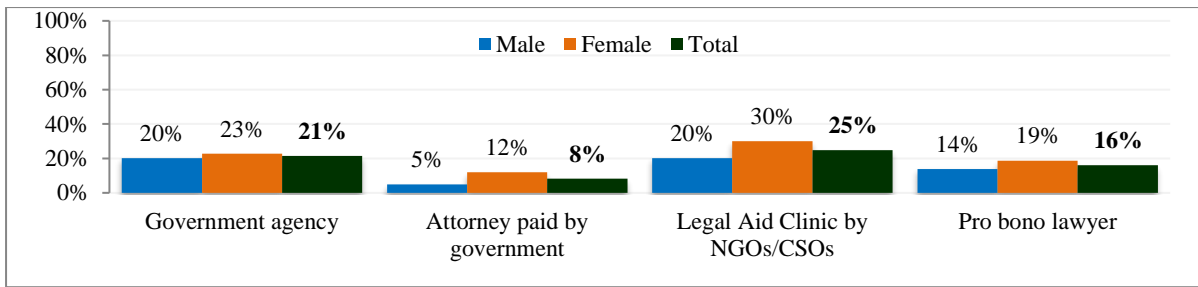
Outcome 2: % increase in capacity of legal aid advocates and paralegals to offer pro-bono and legal aid services on the part of targeted CSOs

At the time of the survey, no legal aid advocates other than the four at IPCA, and paralegals had been recruited and attached to the partner CSOs.

Outcome 2: % increase in citizen access to legal aid services through strengthened clinics, mobile courts and pro-bono legal services

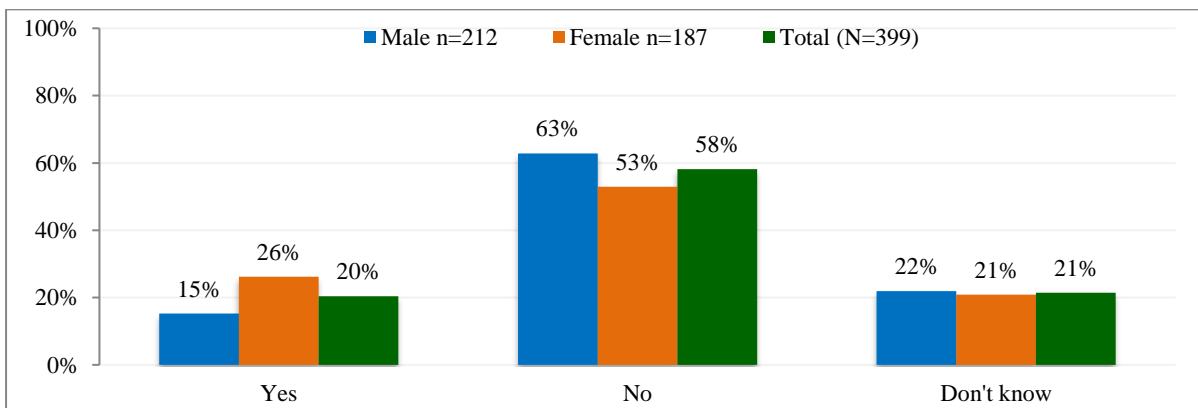
Approximately 53% of all surveyed community members (50% males and 58% females) reported they are aware of where to acquire free legal aid. This may reflect perceptions of points of access as opposed to experience with points of access. Specifically, 14% of all surveyed community members who are aware of where to access free legal aid cited *pro bono* lawyers, while government agencies and legal aid clinics by NGO/CSOs were cited by 21% and 25% of surveyed community members respectively. Further analysis is provided in Figure 1 below.

Figure 1: *Community members' perception of sources of free legal aid*



Further analysis of survey data shows that only 20% of all community members surveyed (22% of males and 21% of females) have used legal and justice services provided through mobile courts available in their communities. Further analysis by sex is provided in *Figure 2* below.

Figure 2: Community members surveyed who have used legal and justice services provided through mobile courts



Objective 3: CSOs more effectively facilitating access to justice, with an eye toward project sustainability

The development of the civil society’s accountability and monitoring capacities is important to ensure improved facilitation of legal and justice services as well as strengthening overall accountability within the justice system. Specifically, sustainability of actions in this access to justice project can only be achieved by supporting relevant CSOs in legal advocacy, legal research and monitoring with human and financial resources as well as the development of capacities.

Outcome 1: % improvement in the capacity of targeted CSOs in key target areas (organizational, financial, fundraising, rule of law)

A total of six CSOs participated in the study namely Rebuilding the new Nation (RNN), Women Training & promotion (WOTAP), Steward Women, Church & Development, Global Aim and Friend for justice. Using an Organizational Capacity Assessment (OCA)³⁸ tool covering six domains 1) Governance, 2) Human resources, 3) Programme Development and Delivery, 4) Monitoring, Evaluation, and Learning, 5) Financial Management, and 6) Sustainability and Beneficiary Accountability.

The six CSOs were rated on a scale of 1 to 5 where 1 is *nothing in place*, 2 is *weak and needs substantial attention*, 3 is *average and needs some improvements*, 4 is *above average but needs minor adjustments*, and 5 is *system being adequately implemented/utilized*.

Table 13: CSO capacity assessment results

³⁸Methodology 2.4

Domain	Sub-area	Score	Overall score
Governance	Board/Committee	91%	92%
	Activity Planning	94%	
	Strategic plan	90%	
Human resources	Human Resources	90%	90%
Programme Development and Delivery	Programme Development and Delivery	87%	87%
Monitoring, Evaluation, & Learning	M&E	92%	90%
	Learning	87%	
Financial Management	Financial Procedures	92%	88%
	Budgeting & Internal Controls	89%	
	Financial Documentation	85%	
Sustainability and Beneficiary Accountability	Relationship with project participants	87%	85%
	Funding	88%	
	Networking/Linkages	77%	
	Institutional	80%	
Total Score		88%	88%

An analysis of individual capacity areas for each organization was carried out. Overall, Rebuilding the New Nation (RNN) recorded a lower score in the Governance domain as compared to the remaining five organizations. An analysis of sub-domains covered under the Governance domain shows that four out of the six assessed organizations (Rebuilding the New Nation (RNN), Steward Women, Church & Development and Global Aim) lack adequate training or qualification/experience in relation to organizations' programming such as local resource mobilization, project specific reporting and accountability, networking and collaborations, and project sustainability. All the affected organizations indicated that junior committee members are the most affected in this regard. Further analysis is provided in *Table 15* below:

Table 14: CSO capacity assessment results of the Governance domain

Organizational area	Category	Measurement area	Organizations and scores						Total score	Total Maximum score
			Rebuilding the new Nation (RNN)	Women Training & promotion (WOTAP)	Steward women	Church & Development	Global Aim	Friend for justice		
Governance	Board/ Committee	Organization has a Management Committee	4	5	5	5	5	5	29	30
		The committee plays an active leadership role for the Organization including fundraising	4	5	5	5	5	5	29	30
		Committee have appropriate training or qualification/experience in relation to organization's programming	4	5	3	3	4	5	24	30
		Roles, responsibilities & authority (Bi-laws) of the Committee are clear and documented	4	5	5	5	5	5	29	30
		Committee is representative of diversity and equity (gender, religion, ethnicity/tribe etc.)	3	4	5	5	5	3	25	30
		Sum of scores	19	24	23	23	24	23	136	150
		Standardized scores	76%	96%	92%	92%	96%	92%	91%	
	Activity Planning	Organization undertakes annual activity planning	4	5	5	5	5	5	29	30
		Existence of a clear written document that provides focus	4	5	4	4	5	5	27	30

	and direction of the CSO/Association and is reviewed after two years (e.g. constitution, strategic plan)									
	Organization has a clearly defined vision and mission that guides all of its work	4	5	5	5	5	5	5	29	30
	Sum of scores	12	15	14	14	15	15	15	85	90
	Standardized scores	80%	100%	93%	93%	100%	100%	94%		
Strategic plan	Organization has a strategic plan developed by Management, Staff and membership in strategic planning	4	5	4	5	4	5	5	27	30
	Sum of scores	4	5	4	5	4	5	5	27	30
	Standardized scores	80%	100%	80%	100%	80%	100%	90%		
Total sum of scores		35	44	41	42	43	43	43	248	270
Overall Standardized scores		78%	98%	91%	93%	96%	96%	92%		

In the Programme Development and Delivery domain, Rebuilding the new Nation (RNN) and Global Aim recorded lower total per cent comparative score in those domain scores as compared to the remaining four organizations. Under this domain, a key area of weakness across virtually all organizations is a lack of a mechanism for registering complaints voiced by service recipients and where a mechanism exists; there is a lack of awareness amongst service recipients of how to utilize the mechanism. In addition, there is inadequate participation of women and other disadvantaged groups in key decision-making especially at activity level and or planning stages. This was reported by Rebuilding the new Nation (RNN), Women Training & promotion (WOTAP), Steward Women and Friend for justice. A further analysis is provided in *Table 16* below.

Table 15: CSO capacity assessment results of the Programme Development and Delivery domain

Organizational area	Category	Measurement area	Score						Total score	Total Maximum score
			Rebuilding the new Nation (RNN)	Women Training & promotion (WOTAP)	Steward women	Church & Development	Global Aim	Friend for justice		
Programme Development and Delivery	Programme Development	Staff understand objectives of organization's projects	4	5	5	5	4	5	28	30
		Organization's services meet real needs of project participants	4	5	5	4	5	5	28	30
		Staff have experience to carry out programme activities	4	5	5	5	5	4	28	30
		Projects are implemented in accordance with project plans and within budget.	4	4	5	4	4	3	24	30
		The staffs know how to take records, do referrals, follow up of cases and give feedback to beneficiaries.	4	5	5	5	4	5	28	30
		Organization meets objectives/indicator targets	4	5	5	4	5	4	27	30
		Organization communicates relevant information to project participants.	4	5	4	4	5	5	27	30
		There exists a mechanism for complaints to be voiced by the participants and participants are aware of	2	1	3	5	4	1	16	30

	how they can voice concerns or register a complaint about service provision.									
	Project participants feel “ownership” with regards to the organizations’ activities.	4	5	5	5	5	5	29	30	
	Women and other disadvantaged groups participate in decision-making (at activity level and or planning stages)	4	4	4	5	5	3	25	30	
	Sum of scores	38	44	46	46	46	40	260	300	
	Overall standardized scores	76%	88%	92%	92%	92%	80%	87%		

In the Monitoring, Evaluation and Learning domain, virtually all organizations visited, there are adequate systems in place to collect analyse and manage information from project activities as key component of monitoring and evaluation. Under learning, there is inadequate documentation of lessons learned and development of case studies/learning documents. A further analysis is provided in *Table 17* below.

Table 16: CSO capacity assessment results of the Monitoring, Evaluation, and Learning domain

Organizational area	Category	Measurement area	Score						Total score	Total Maximum score
			Rebuilding the new Nation (RNN)	Women Training & promotion (WOTAP)	Steward women	Church & Development	Global Aim	Friend for justice		
Monitoring, Evaluation, Learning	M&E	Activity plans are developed and used.	4	5	5	5	5	5	29	30
		Materials for managing project’s progress (forms, letters, referrals).	4	5	5	5	4	5	28	30
		Organization uses indicators to monitor progress of work.	4	5	4	5	4	5	27	30
		Quality & regularity of reporting (training/events and donor reports).	4	5	5	5	5	5	29	30
		Quality & regularity of monitoring carried out.	4	4	5	5	5	5	28	30
		Systems exist to collect, analyze and manage information from project activities.	4	5	3	4	2	5	23	30
		Information on all activity implementation is documented and accessible.	4	5	5	5	5	5	29	30
		Sum of scores	28	34	32	34	30	35	193	210
	Standardized scores	80%	97%	91%	97%	86%	100%	92%		
	Learning	Programme lessons learned documented and developed into case studies/learning documents.	1	3	5	4	4	5	22	30
Organization regularly collects feedback from project participants on the quality of projects and activities.		4	5	5	5	5	5	29	30	
Organization has evidence that it learns from its experience (learning culture).		4	5	5	5	3	5	27	30	

	Sum of scores	9	13	15	14	12	15	78	90
	Standardized scores	60%	87%	100%	93%	80%	100%	87%	
	Total sum of scores	37	47	47	48	42	50	271	300
	Overall standardized scores	74%	94%	94%	96%	84%	100%	90%	

In the Financial Management domain, across virtually all organizations, there was a lack of operational chart of accounts. Compared to other organizations Rebuilding the new Nation (RNN) recorded a lower total score in the Financial Management domain. RNN recorded a number of gaps in the Financial Management domain including: financial documentation was not kept in a secure location; a lack of auditing by committee auditor and CSOs; a lack of stored records of all financial audits; and a lack of a schedule and post audit management plan for resolving audit findings. A further analysis is provided in *Table 18* below.

Table 17: CSO capacity assessment results of the Financial Management domain

Organizational area	Category	Measurement area	Score						Total score	Total Maximum score
			Rebuilding the new Nation (RNN)	Women Training & promotion (WOTAP)	Steward women	Church & Development	Global Aim	Friend for justice		
Financial Management	Financial Procedures	Organization has written financial procedures.	4	5	5	5	5	5	29	30
		Organization has petty cash systems and policies.	4	5	5	5	5	5	29	30
		Are donor funds separately identified in the Financial System? Are they reconciled monthly?	4	5	5	5	5	5	29	30
		Organization has an operational chart of accounts.	4	5	4	5	4	1	23	30
		Sum of scores	16	20	19	20	19	16	110	120
		Standardized scores	80%	100%	95%	100%	95%	80%	92%	
	Budgeting & Internal Controls	Organization has a budget monitoring system.	1	5	5	5	5	4	25	30
		Board/Committee is included in planning and approval of budgets before submitting to donor.	4	5	5	4	5	5	28	30
		Appropriate members have access to books, records and cash.	4	3	5	5	5	5	27	30
		Sum of scores	9	13	15	14	15	14	80	90
		Standardized scores	60%	87%	100%	93%	100%	93%	89%	
	Financial Documentation	Organization has financial documentation kept in a secure location.	1	5	5	5	5	4	25	30
		Organisation was audited by committee auditor and CSOs.	1	5	5	5	4	5	25	30
		Organisation keeps records of all financial audits.	1	5	5	5	5	5	26	30
		Is there a schedule and post audit management plan for resolving audit findings?	1	5	5	5	4	5	25	30
		Organization understands and is able to submit	4	5	5	4	4	5	27	30

	financial reports on time and in accordance with reporting requirements.									
	Sum of scores	8	25	25	24	22	24	128	150	
	Standardized scores	32%	100%	100%	96%	88%	96%	85%		
	Total sum of scores	33	58	59	58	56	54	318	360	
	Overall standardized scores	55%	97%	98%	97%	93%	90%	88%		

In the Sustainability and beneficiary Accountability domain, compared to other organizations %, Rebuilding the New Nation (RNN) recorded the lowest score in this domain. Evaluation results show that Rebuilding the new Nation (RNN), Women Training & Promotion (WOTAP) and Friend for Justice lack a complaints mechanism for facilitating concerns raised by service recipient regarding service provision. In addition, there is a lack of sharing of activities and progress reports within the organizations' network, a key source of poor linkages. This was mainly reported by Rebuilding the new Nation (RNN), Women Training & promotion (WOTAP) and Global Aim. A further analysis is provided in *Table 19* below.

Table 18: CSO capacity assessment results of the Sustainability and beneficiary Accountability domain

Organizational area	Category	Measurement area	Organization and Score						Total score	Total Maximum score
			Rebuilding the new Nation (RNN)	Women Training & promotion (WOTAP)	Steward women	Church & Development	Global Aim	Friend for justice		
Sustainability and beneficiary Accountability	Relationship with Project participants	Needs assessment and project design participation by programme community.	4	5	3	5	5	5	27	30
		Project design consultation with CSOs and line ministry/ local authorities.	4	5	5	5	5	5	29	30
		Cost sharing/ resource contribution by the community or CSO.	4	5	3	5	5	5	27	30
		Progress updates to the community and to the CSOs.	4	5	5	5	4	5	28	30
		Organization has a very good understanding of the needs and capabilities of the beneficiary groups it currently services.	4	5	4	5	5	5	28	30
		Complaints & response mechanism.	1	1	5	5	5	1	18	30
		Sum of scores	21	26	25	30	29	26	157	180
	Standardized scores	70%	87%	83%	100%	97%	87%	87%		
	Funding	Organization has the ability to generate credible proposals and concept notes.	2	5	5	4	5	5	26	30
		Organization has more than one donor or funding mechanism.	1	5	5	5	5	5	26	30
Organization core operating budget is covered for at least one		1	5	4	5	5	5	25	30	

	year.								
	Organization lives up to contractual agreements.	4	5	5	5	4	5	28	30
	Sum of scores	8	20	19	19	19	20	105	120
	Standardized scores	40%	100%	95%	95%	95%	100%	88%	
Networking – Linkages	Organization is an active member of state CSO coordination networks.	1	5	5	5	5	5	26	30
	Organization shares activities, progress reports with network.	1	3	5	5	1	5	20	30
	Sum of scores	2	8	10	10	6	10	46	60
	Standardized scores	20%	80%	100%	100%	60%	100%	77%	
Institutional	Organization currently has limited reliance on mentor or SFCG for activity implementation.	3	5	4	4	3	5	24	30
	Sum of scores	3	5	4	4	3	5	24	30
	Standardized scores	60%	100%	80%	80%	60%	100%	80%	
Total sum of scores		34	59	58	63	57	61	332	390
Overall standardized scores		52%	91%	89%	97%	88%	94%	85%	

Outcome 3: % increase in engagement³⁹ in justice system activities on the part of targeted CSOs

To contribute to ensuring improved government accountability, improved collaboration and dialogue between the CSOs and justice institutions, improved access to transparent, accountable, quality and satisfactory judicial proceedings and therefore increased public confidence in the justice system, there is need to increase CSOs engagement in the justice system activities through increased monitoring activities and enhanced watchdog role, policy making and advocacy, public education and research and development. A key area of assessment in this study was the role of CSOs in ensuring access to justice services in the form of *free legal aid services* to the general public.

The local partner CSOs were rated on a scale of 1 to 5, where 1 meant the CSO engages in justice system activities *to a very little extent*, 2 *to a little extent*, 3 *to an average extent*, 4 *to a large extent* and 5 *to a very large extent*. The results show that the local partner CSOs have an average score of 63% with regard to the extent to which they are currently engaging in justice system activities in the target regions. As shown in *Table 20* below, survey results show that currently, Steward Women (80%), Women Training and Promotion (WOTAP) (80%), Friends for Peace (80%) and Global Aim (98%) are engaged in advocacy and offering *pro bono* services. However, Church and Development (20% score) and Rebuilding the new Nation (RNN) (20% score) are engaged in any justice system activity in the target regions of the Access to Justice Programme.

Table 19: Technical and institutional capacities of local partner CSOs in providing free legal aid

Name of CSO	Overall score on technical and institutional capacities to offer <i>free legal aid</i> services
Rebuilding the new Nation (RNN)	20%
Women Training & promotion (WOTAP)	80%
Steward Women	80%
Church & Development	20%
Global Aim	98%
Friend for justice	80%
Grand Total Score	63%

³⁹Participation on dialogues, lobbying and awareness creation

Outcome 3: % increase in program sustainability and expanded impact in access to justice over a two-year period through capacity building of local CSOs

At the time of the survey, capacity building of local partnering CSOs had yet to take off. However, interviews with staff and partners shows that a number of strategies are in place to ensure program sustainability and expanded impact in access to justice beyond the lifetime of the program. Broadly, these include:

- ✓ Capacity building of legal and justice actors especially judicial officers, paralegals and law enforcement officers comprising the police, prosecutors and prison officers;
- ✓ Partnering with existing grassroots CSOs in the legal and justice sector and building their capacity, hence ensuring continuity after lifetime of the program;
- ✓ Capacity building of *paralegals* and retaining some of them after the end of the program for continuity;
- ✓ Continuous sensitization and educational forums through mass media and other platforms; ensuring community participation in decision making and implementation through built-in contribution and using programme beneficiaries as ambassadors for access to justice.

Indicator 3a: % increase in operational and technical knowledge

At the time of the baseline survey, local CSOs had not undergone the planned training. This data will be collected through monitoring (pre- and post- tests).

a. Activity stream 2: improved supply of quality legal remedies that meet the unique needs and rights of marginalized populations

Objective 4: Rule of law actors, including police, prosecutors, and prisons, are provided with increased support to carry out their core functions

There existed a lack of functioning state institutions. Participants noted that South Sudan's state institutions including the police force and other state institutions do not function as such. State institutions therefore are unable to serve the needs of the South Sudanese people. Moreover, they do not serve all equally. Although the system is broken, participants disagreed on the necessary steps to address this problem. Some favored a complete overhauling of the system; others considered it more productive to work with what is there. The lack of functioning of state institutions has severe consequences for access to justice. Worth noting is that state institutions will not be able to provide the access to justice that South Sudanese need as they are supposed to. State institutions will also not be able to address all justice and reconciliation needs in the near future. It is therefore necessary to expand the reach of justice beyond what is possible through state action alone, including traditional justice and reconciliation mechanisms and paralegal or legal aid programs.

In order for rule of law actors, charged with enforcing orders, settlements and decisions arising from formal and/or traditional adjudication, to optimally enforce court decisions and institute reasonable appeal procedures against arbitrary court rulings and actions it is vital that their capacities are enhanced. Thus, this baseline sought to assess knowledge and capacities of rule of law actors with regards to carrying out their core functions, as well as the level of coordination between them.

Outcome 1: % of targeted rule of law actors demonstrating increased knowledge to carry out their core functions.⁴⁰

At the time of the baseline, the training of law enforcement actors had yet to be carried out by IDLO.

⁴⁰This will be measured through pre-and post-tests based on a training needs analysis that will be administered during the inception period.

Indicator 3a: % increase in capacity on the part of trained police

At the time of the baseline, the training of law enforcement actors had yet to be carried out by IDLO.

Outcome 2: Improved coordination between rule of law actors⁴¹

Baseline data from nearly all key informants interviewed shows that currently there is poor coordination between legal and justice actors. *“The police and the prosecutors are not in synch when handling a case and these results even in loss of case files”*, says James Long, Human Rights Coordinator-South Sudan Human Rights Commission. With divergent strategies and goals, coordination across Ministries and institutions, especially in the criminal justice sector, is very weak. *“The civil societies actors in the human rights and justice sector have no coordination and rarely know what each does”*, South Sudan Law Society, Mr. Farouk, Programme Officer. Where various rule of law actors are involved, comprehensive strategies towards a common goal are not easily implemented. This was mainly attributed to a lack of an inter-agency cooperation or lack of working through a single agency with guidance of a multi-stakeholder steering committee. Study results show that even among actors such as law enforcement and judicial officers who should be working in concert towards a common goal of impartial and successful adjudication, poor coordination was reported.

Objective 5: Justice Service providers, including customary law courts and statutory courts, are providing citizens with effective legal remedies

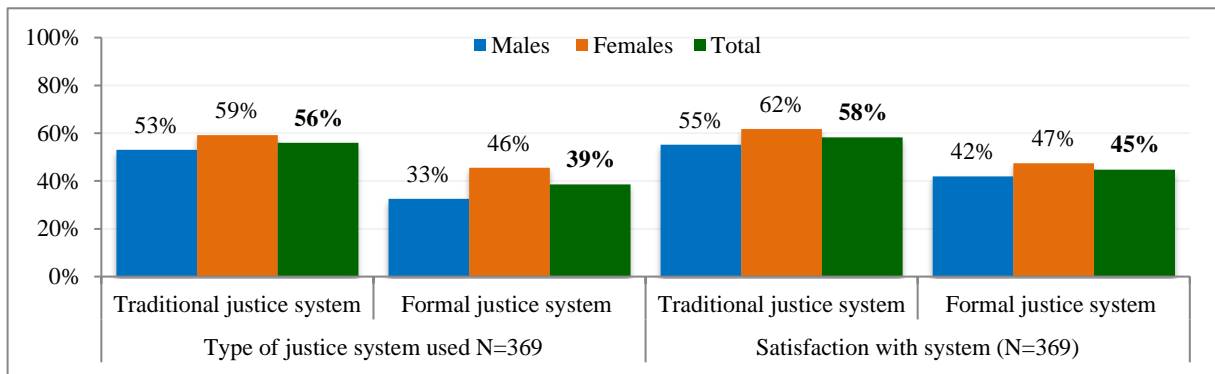
A critical component of access to justice is the development of capacities of justice providers including judicial officers, law enforcement officers and local administration officers. Specifically, judicial officers have the core function of determining the appropriate type of redress regulated by formal law through courts and other judicial and administration bodies and by traditional justice systems. The police and local administration are charged with law enforcement so should also be assessed. Thus to assess capacity of judicial service providers from the stand point of service seekers (community members), the baseline sought to measure the current level of effectiveness of the existing judicial system, both formal and traditional. The study also sought to assess the capacities of the judicial and administrative service providers in carrying out their core function of administering and enforcing justice.

Outcome 5: % of targeted community respondents that report an improvement in the effective performance of local justice providers

To assess the perceived level of effectiveness with regards to performance of local justice providers, surveyed community members were asked if they are satisfied with services provided by the local administration, the police and judicial officers with regard to maintaining law and order, enforcing government policies and court orders and adjudication. Specifically, surveyed community members who have accessed and used formal and traditional justice services were asked if they were satisfied with the judicial case flow and quality of justice delivery. Survey results show that 56% of all surveyed respondents have used traditional justice system while 39% have used services provided by formal justice systems. Of the proportion of community members that have used either of the systems, approximately 58% indicated that they were satisfied with the quality of justice delivered by the traditional justice system while 45% indicated that they were satisfied with quality of justice delivered by formal courts. Further analysis is provided in *Figure 3* below.

Figure 3: *Proportion of community members that have used formal and traditional justice systems and whether they were satisfied with the quality of justice delivery*

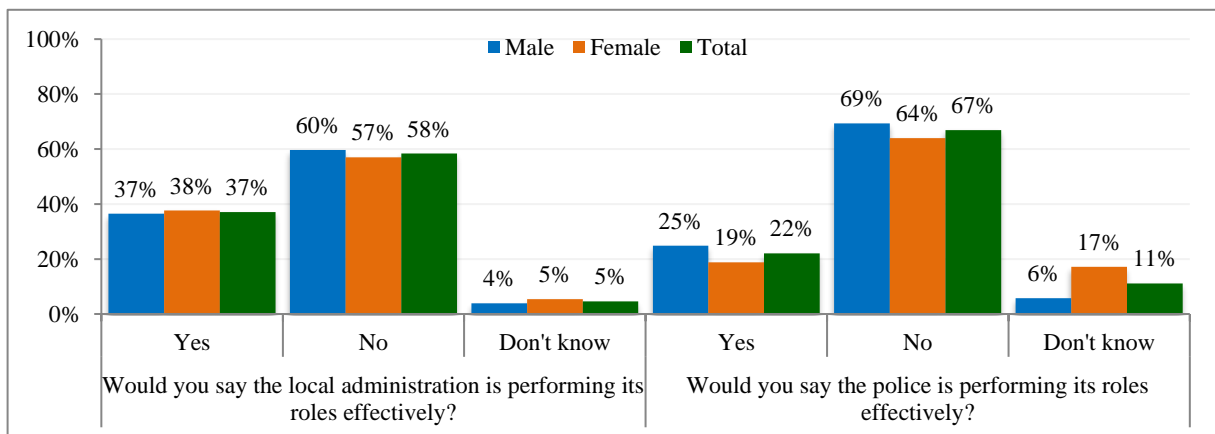
⁴¹A survey questionnaire will be held at the end of the program to determine the number of coordination meetings and the number of matters addressed.



Further, when asked if they were satisfied with the role of the police in maintaining law and order and enforcing government policies and court orders, approximately 37% women and 22% men of all surveyed community members replied in the affirmative with regards to the local administration and the police/prisons, respectively.

As per the quantitative findings, 59% of women and 53% of men interviewed have used traditional courts and are satisfied with the outcome at 62% and 55% respectively. “*At the Payam, the chief listens to our cases in a fair manner unlike when at the government court in Juba where the judges do not even understand our culture*”, says a focus group discussion participant. Further analysis is provided in Figure 4 below.

Figure 4: Proportion of community members that believe that the local administration and the police have effectively performed in their respective roles



Survey respondents singled out the police as the weakest link in the criminal justice system thus impacting on the effectiveness of the overall criminal justice system, rule of law sector and access to justice. In South Sudan, the police are mainly drawn from the army ranks and have little to no training in crime prevention, detection and investigation and lack skilled personnel and equipment to adequately cope with crime. Key informants also perceived prison overcrowding as a consequence of failed prosecutions due to lack of training, skills and experience of police in gathering evidence and interrogation to meet the standard of proof for criminal cases. In addition, customary courts were also cited as contributing to the current situation in prisons in South Sudan with minor offenders including traffic cases, civil debts or damages and women accused of adultery being sent to prison. “*This situation has been compounded further by the police and local chiefs sending the petty offenders to prison sometimes without trials, James Long, Human Rights Co-ordinator-South Sudan Human Rights Commission*. Overall, this perceived lack of awareness or ignorance of legislation on pre-trial detention and detention during trials on the part of the police and prisons officers negatively impacts performance of the police and prisons as local justice providers.

Further, key informants indicated that the right to legal representation, as captured in Section 19 (7) of the 2011 Transitional Constitution of South Sudan, is rarely observed and those meeting the criteria

are rarely provided with legal aid. This is partly due to the lack of funds of the Directorate of Legal Aid under the Ministry of Justice, rendering them unable to outsource legal aid to privately practicing lawyers. As previously documented on the part of citizens, a limited understanding of the law and their rights, legal processes, their right to legal aid also contributes to poor outcomes with regards to performance of the local justice sector in South Sudan. Overall, approximately 40% of all surveyed community members (40% of males and 40% of females) believe that the local justice providers, mainly composed of the courts, police and local administration, are effectively performing their roles including adjudication, maintaining law and order and enforcing government policies and court orders.

Outcome 5: % of trained justice service providers that are effectively utilizing new techniques and resources at the end of the project

This data was not collected since the justice service providers had not yet to receive any training at the time of the baseline survey. This data will be collected through monitoring.

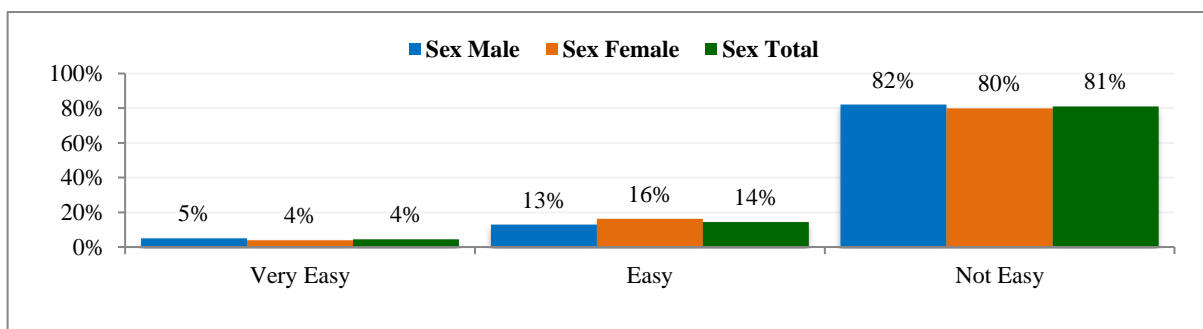
Indicator 5a: % increase in capacity on the part of trained local justice service providers

This data was not collected since the justice service providers had not yet to receive any training at the time of the baseline survey. This data will be collected through monitoring.

Outcome 5: % of women and juveniles who state legal remedies have improved in addressing their unique issues and concerns

Survey data from sampled community members show that only 20% of females are currently able to easily access legal remedies mainly with regard to enforcement of rights. Overall, 18% of all surveyed community members indicated that it is easy to access judicial remedies. Of all the survey participant of ages 18 years to 35years, reported at 38% mistrust by the security forces, 33% lack of resources or costly judicial processes in accessing the justice and limited knowledge on their legal rights. Further analysis is provided in *Figure 5* below.

Figure 5: Perception of community members with regard to access to appropriate judicial remedies to protect their rights



Key informants indicated that a lack of awareness of women’s and children’s rights, together with limited representation of women and youths at key decision-making levels, including the policy-making level, has continued to be an impediment to women’s, youths and children’s access to justice. In addition, and as reported in other sections of this report, women, youths and children bear the biggest burden in terms of human rights violations, including sexual and gender-based violence and child abductions. Additionally, the extreme poverty affecting predominantly women and youth affects them from accessing justice due to the inability to pay for legal advice or representation and the cost of litigation. The lack of financial capability further hinder the youths from owning property.

Lack of economic development and education, access to basic services, high unemployment, denied rights to citizenship, the inability of the state to provide security and increase in dowry for marriage in certain states leads the youths to crime which often lands them at cross roads with the law enforcers.

Further, access to judicial remedies are fraught with a number of challenges including perceived lack of transparency and accountability in the courts (33% of respondents), cost of administration of justice/affordability (28% of respondents), delayed administration of justice (20% of respondents), and distances to legal and justice sector agencies (14% of respondents). Further analysis is provided in Table 14 below.

Table 20: Challenges faced by surveyed community members in accessing legal remedies

Challenges accessing judicial remedies	Sex		Total N=349
	Male (n=187)	Female (n=162)	
Corruption in the courts	28%	39%	33%
Costly judicial processes	31%	25%	28%
Delay in settlement of the cases	23%	16%	20%
Distance to courts	16%	12%	14%
Lack of transport to the court	9%	10%	9%
Poor accessibility to police station	6%	4%	5%
Insecurity	2%	1%	1%

Further, women and youths face more challenges in accessing justice at the courts due to their weak economical positions in the society and biased cultural customs as reported in a FGD discussion “Women and young people without income face a lot of difficulties in getting a fair outcome in court. We mostly lack money for transport to courts for both the offended and witnesses, fear of rebuke by men or community at large when women report offences against them” reports a woman participant.

Outcome 5: % increase in community members that state that they now better engage with mechanisms to help them understand justice systems

At the time of the survey, the project’s community dialogues and forums involving community members were yet to be conducted or established. This data will be collected through monitoring.

Indicator 4a: % of surveyed community members participating in forums that demonstrate an increased understanding of international standards of effective legal remedies (improve knowledge on Bill of Rights, Child Act and Local Justice Act for South Sudan, right to fair trial, understand roles and responsibilities for accessing justice)

At the time of the survey, the project’s forums involving community members were yet to be conducted or established. This data will be collected through monitoring.

b. Activity stream 3: community-rooted research leading to policy reform to ensure nationwide impact

Objective 6: Develop a law and policy package on legal aid.

Outcome6: % increase in capacity of Directorate of Legal Aid and Human Rights to execute its functions as related to legal aid provision

Among interviewed key informants, the Directorate of Legal Aid and Human Rights in the Ministry of Justice recorded an overall score of 60% with regard to execution of its core function of enabling legal aid provision in South Sudan. Interviewed key informants attributed the average score to human and financial under-resourcing of the Directorate of Legal Aid and Human Rights and therefore inability to outsource legal aid to lawyers in private practice. This is compounded by the lack of a Legal Aid Fund as envisaged by the Ministry’s Legal Aid Strategy (2011-13). Finally, the Legal Aid Act is required to establish the Legal Aid Board to oversee the legal aid and human rights in South Sudan and guide related administrative processes. The fact that this Act has not been passed has contributed to the inability of the Directorate to carry out its functions as related to legal aid provision optimally.

Outcome 2: A legal, policy and institutional action plan framework for legal aid provision in South Sudan

While numerous efforts have been made by the state and non-state actors to enhance access to justice in South Sudan including through provision of legal aid, there is no comprehensive policy to guide these efforts. The baseline findings show that key legislation exist son legal aid, such as the 2012 Legal Aid Training Institute Act that establishes the South Sudan Legal Training Institute as a legal entity. However, key informants surveyed indicated that the lack of a Legal Aid Act, which is required to establish the Legal Aid Board to oversee the legal aid and human rights in South Sudan and guide related administrative processes, is the core issue. A key consequence of the lack of a legal aid policy and regulatory framework for legal aid service provision is a lack of standards for service delivery and clear mechanisms to regulate legal and justice services, including legal aid, in South Sudan. A key example provided by interviewed key informants is a lack of oversight in ensuring that practicing lawyers and attorneys undertake *free legal aid* services at least once every year.

Objective 7: Local and national level policy makers and donors have access to knowledge to inform and strengthen reforms to the legislative and policy framework.

Outcome 1: % of surveyed local and national-level policy makers who state that they have access to new, useful information to guide their work and improve access to justice.

At the time of the survey, new published materials were yet to be made available to stakeholders. This data will be collected through monitoring.

Indicator 1a: # of local stakeholders included in this research component

At the time of the survey no research had been undertaken at this level. This will be tracked through project monitoring and evaluation.

3.2 b. Baseline summary table for the project indicators

No	Objective	Baseline Indicators
1.	Obj. 1	53% (47% of males and 59% of females) in demand for justice services in the targeted communities as a result of improved access to information. 44 % listenership rate in all target communities in the five targeted counties. 44% of respondents in target communities reporting increased knowledge of and familiarity with their legal and human rights and the judicial system. 51% of respondents in target communities reporting increased knowledge of and familiarity with their legal and human rights and the judicial system; ⁴²
2.	Obj.2	60 % in technical and institutional capacities. 80% in capacity of legal aid clinics to offer pro-bono services to citizenry in key target areas; (Only IPCA was assessed on this).
3	Obj.3	88 % in operational and technical knowledge. 53% (50% males and 58% females) in citizen access to legal aid services through strengthened clinics, mobile courts and free legal aid services. 0% ⁴³ in capacity of legal aid advocates and paralegals to offer pro-bono and legal aid services on the part of targeted CSOs.

⁴² It is noteworthy to state that specific awareness of the most relevant rights for this project are reported by the survey citizens at 9% for Right to be treated fairly & equally before the law and Right to own property at 13%.

		0%* in program sustainability and expanded impact in access to justice over a two-year period through capacity building of local CSOs ⁴⁴ (through baseline/final evaluation of target CSOs.);
		88% in the capacity of targeted CSOs in key target areas (organizational, financial, fundraising, rule of law).
4	Obj.4	56% in capacity on the part of trained police.
5	Obj.5	0%* in capacity on the part of trained local justice service providers.
		63% in engagement in justice system activities <i>on the part of targeted CSOs</i> .
		% of targeted rule of law actors demonstrating improvement in carrying out their core functions in a manner that is in line with international human rights standards;
		60% in the capacity of the Directorate of Legal Aid and Human rights to execute its functions as related to legal aid provision
7	Obj.7	0%* of local stakeholders included in this research component.

3.3 Assess the project Objectives, Indicators and Theory of Change (TOC), and potential to carry out Objectives 4-7 in the scope of the project

This Facilitating Access to Justice project’s intended implementation strategies and principles were based on the theory of change (ToC) that: “ *If* marginalized citizens have increased access to an improved justice sector, *and* this access is complemented by interconnected media, civil society, government, and development partner support, *then* the foundation will be laid for a more functional, responsive, **sustainable** and equitable justice sector, and improved peaceful coexistence at the community level.”

In relation to the *Rule of law actors, including police, prosecutors, and prisons, are provided with increased support to carry out their core functions* the survey found that there existed a lack of effective functioning state institutions due to a myriad of challenges. The survey participants reported that the state justice institutions are unable to serve the needs of the South Sudanese people. Because of that it is necessary to expand the reach of justice beyond what is possible not just through state action alone, but also traditional justice and reconciliation mechanisms; and an empowered paralegal or legal aid programs.

Justice Service providers, including customary law courts and statutory courts, are providing citizens with effective legal remedies albeit at an average 50-60% levels of satisfactions for both customary and statutory courts respectively. Judicial officers have the core function of determining the appropriate type of redress regulated by formal law through courts, administration bodies and by traditional justice systems. The police and local administration are charged with law enforcement and their capacity assessment duty bearers or service providers from the stand point of community members essential as reported at 37% men and 38% women reporting local administration is performing their roles effectively while reporting 25% of men and 19% of women reporting the police is performing their work effectively. If marginalized communities will have access to justice it is

⁴³ At the time of the survey, no legal aid advocates other than the four at IPCA, and paralegals had been recruited and attached to the partner CSOs.

*Means Not ased at the time of baseline due to lack of data since justice service providers were yet to receive any training by IDLO at the time of the survey

⁴⁴At the time of the baseline survey, local CSOs had not undergone the planned training. This data will be collected through monitoring (pre- and post- tests). However, interviews with staff and partners shows that a number of strategies are in place to ensure program sustainability and expanded impact in access to justice beyond the lifetime of the program.

important to increase the capacity of all the justice sector players in terms of training, institutional supports, infrastructure development and other necessary empowerment. For the citizens of South Sudan to have access to the justice and an improved justice sector, then it is important to build the capacity of all the various players in the legal system of South Sudan, ranging from the police, prison waders and even court officials as envisioned in the project design.

For marginalized communities to have effective access to justice there is a need for local and national level policy makers and donors to have access to knowledge to inform and strengthen reforms to the legislative and policy framework. This should take a deliberate and targeted messaging through the local CSOs and the media. The media has to play a crucial role in ensuring that the citizens get justice, and legal information concerning their human rights. This is a fact reported by the surveyed respondents when asked how they acquire information on legal and human rights, survey results show that approximately 82% of all surveyed community members, comprising 80% of males and 82% of females, reported that they obtain information on legal and justice issues and messages through radio.

There is a need to pass legislation that empowers policy makers to start initiatives to promote peace and reconciliation at the community level. To ensure wide coverage, local radio stations must form part of a wider communication strategy of the project, which should also include places of worship such as mosques, churches and community dialogue meetings as these were also identified as key platforms for disseminating justice sector issues and messages as per this baseline findings.

With the above findings and analysis the *Facilitating Access to Justice Project* TOC is viable and the expected change is a realistic one.

In relation to assessing the potential to carry out Objectives 4-7 in the scope of the project, below is the analysis as regard each objective:

Objective 4: *Rule of law actors, including police, prosecutors, and prisons, are provided with increased support to carry out their core functions.*

There is a policing gap in the country, years after independence; the police service has yet to fully establish itself in rural areas. This is same to the statutory courts and the prisons that are lacking in the rural areas where most of the marginalized and vulnerable people are. According to past estimates from senior police officers, there should be at least 2,000 police officers in every state, with around 120 officers deployed in each county.⁴⁵ In practice, however, police tend to stay close to urban centers due to the lack of accommodation, food, transport and security in rural areas. Rural areas in South Sudan are confronted with numerous enforcement gaps especially at the Payam and Boma levels. Limited police presence in rural areas, unprofessional conduct of some members of the police service, impunity and inadequate statutory justice services for crimes and abuse perpetrators all pose fundamental challenges to local justice actors.

Perceived abuse of power, and corruption often associated with alcoholism, is also a systemic problem in the police service. People often complain that for small bribes, the police will release suspects from custody. According to a resident interviewed through FGD: *“If a person committed a crime in the villages and arrested, the police normally ask for pounds in order to release the suspect and thereafter frustrate the victim. “Criminals [in Wau] are well aware that if they are caught, they will be able to bribe their way to freedom.”*

Prisons face similar resource constraints as police, most prison facilities in South Sudan are in a severe state of disrepair and escapes are commonplace. Low capacity⁴⁶, prison congestions and resource constraints⁴⁷ all contributes to in effective performance by rule of law actors. Empowerment through technical capacity building and change of perception to increase citizen trust in rule of law

⁴⁵ SAS, SYMPTOMS AND CAUSES, *supra* note 33, 9.

⁴⁶ Law knowledge on human right issues and rule of law as per the constitution, lack of effective accountability mechanisms, poor procedures in case bookings for trials, evidence taking, preservation, witness protection and dispensing of cases.

⁴⁷ Insufficient funding from the government, salary delays and under human resource in the judiciary

actors through improvement in their ability to carry out their duties in line with human rights standards as per the project activities is essentially for achievement of the objective.

Objective 5: *Justice Service providers, including customary law courts and statutory courts, are providing citizens (including women and youth) with effective legal remedies.*

Local justice systems in South Sudan encompass a variety of formal and informal mechanisms, ranging from mediation within close social networks to adjudication in customary and statutory courts. For the most part, the more formal mechanisms tend to have a limited reach in rural areas and the bulk of disputes are handled by mediation or through the customary courts.

However, the justice sector suffers from under-resourcing, culture of impunity and a general lack of transparency, and many government actors do not have the necessary expertise to oversee South Sudan's complex judicial systems. Given these constraints, restrictions that government actors place on customary courts in circumstances where the statutory system does not provide a viable alternative, whether due to limited physical presence or capacity, inevitably results in accountability gaps⁴⁸. Local justice systems also face problems of witness protection. Additionally, Chiefs that cooperate with police and prosecutors can be subject to harassment and beatings by the relatives of accused criminals and such acts hinder access to justice to the vulnerable.

Reflective of the challenges faced by rule of law actors, survey data shows that most South Sudanese at 34% are most likely to report disputes to the police and the rural communities at 16% will report to the chiefs, family members or neighbours. Despite the reforms and support by development partners and the government, numerous problems of access to justice still remain. Statutory court judges and government prosecutors have restricted the jurisdiction of customary courts without providing alternatives for populations residing in rural areas where there are no judges. The lack of an effective police force, particularly at the payam and boma levels of local government, makes it difficult for chiefs to enforce judicial decisions, and logistical difficulties, such as lack of transportation to state courts, that justice service providers and disputing parties encounter when manoeuvring through state hierarchies sometimes leads to long delays in judicial processes and unlawfully extended detentions in rural areas.

There are also more fundamental problems of accountability that arise. While local justice systems regularly receive and resolve certain types of disputes, especially those relating to property ownership and inheritance, marital issues, sexual crimes, the manner in which they define the misconduct often imposes unfair costs on women, youths and children and serves to reinforce patriarchal power structures in local societies. Furthermore, existing justice services have been almost completely unable to pursue accountability for most offences committed towards these vulnerable groups.

While local justice systems demonstrate a degree of accessibility and efficiency, 56% of those surveyed having used traditional justice system with 58% reporting satisfaction with the outcome, they also suffer from several gaps that undermine their ability to provide effective justice services. For example, courts face major enforcement gaps in rural areas, particularly at the payam and boma levels of local government. Ambiguities in the relationship between the statutory and customary systems undermine the enforcement of judicial outcomes. Lines of appeal are not clearly defined and statutes of limitations are not consistently enforced, allowing disputing parties to pursue litigation indefinitely in many different forums.

In spite of the challenges, prosecutors and magistrates have been deployed to some rural areas. State legal advisers and judiciaries have begun to monitor customary courts and encourage chiefs to adhere

⁴⁸ The accountability gaps discussed arise through either the existing complaint mechanisms are unable to investigate, prosecute and enforce decisions related to the crimes, or else the local justice system is able to process the dispute but the manner in which the dispute is resolved imposes unfair or discriminatory decisions on third parties.

to jurisdictional limitations. Several independent and locally driven initiatives have sought to improve justice services for rural populations, for example, by incorporating women into customary court structures and addressing the historical legacy of conflict through various forms of reparation as reported by *Farouk of South Sudan Law*.

In reference of the above, the improvement in the performance of local justice providers -particularly with regards to the needs of women and youth- leading to increased engagement with justice mechanisms there is need of statutory and customary law trainings; mentoring program for justice actors; provision of legal resources; community legal meetings and undertake a community-rooted research leading to policy reform as envisioned in the program activities.

Objective 6: *Develop a law and policy package on legal aid and* **Objective 7:** *Local and national level policy makers and donors have access to knowledge gained from research on rural justice issues and project implementation to strengthen reforms to legislative and policy framework.*

The Constitution of South Sudan guarantees the provision of Legal Aid through Article 19 subsection 7- Right to legal representation; Article 20- Right to Litigation; Article 135 subsection 3- Public Attorneys to the government and Article 136 sub section 36 on the Bar Association⁴⁹.

Additionally, there exists a Department of Legal Aid and Human Rights in the Ministry of Justice established in 2006 but with a fragmented legal aid policy not well coordinated. In a more developed justice system, legal aid providers are able to fill the gap and ensure that certain minimum standards of due process of legal aid to those deserving are met. *“In South Sudan, however, legal aid—or the provision of legal services to people who would otherwise not be able to afford them -is in its infancy. The Directorate ought to come up with a proper policy that leads to Law as regard to Legal Aid. At present, funding for legal aid providers is made on an ad hoc basis and is not sustainable for legal aid providers who want to develop long-term projects to provide legal support and assistance to vulnerable clients”* as alluded by Mr Joof of IDLO.

In South Sudan, paralegals perform important functions in lobbying for reforms in local justice systems, channelling cases to appropriate forums and mediating minor disputes that arise within their home areas. However, they do not have legal capacity to represent clients in statutory courts. Community paralegals are not effectively trained on identification of human right abuses in the community and report to the legal aid desk or defense counsels for action. The few paralegals in the communities also experience barriers working with the police and prisons.

Through Legal expert support to Directorate of Legal Aid and Human Rights; assessment of barriers to access to justice and support to grassroots legal aid efforts, there will be increased capacity of the Directorate of Legal Aid and Human Rights to execute its functions related to legal aid provisions in South Sudan. Meanwhile, integrated Justice and conflict research will increase access to authentic information by the actors to improve access to justice by the vulnerable targeted South Sudanese.

3.4 Conduct a risk assessment in order to ensure “Do No Harm” and conflict sensitivity are respected in the project

3.4.1 Risk Assessment

The following are assessment of the possible risks and challenges that may hinder the realization of the projects’ goal and ToC. The key contextual and project-related risks as per the findings from various sources that required monitoring throughout the project cycle are as follows:

- a. *“The fluid political context offers no guarantee of peace and serenity in the country”*, SFCG M&E officer. This means a risk of the environment not remaining favourable (in case of increased fighting by both sides) to air the human rights and access to justice messages. Additionally, in the

⁴⁹ Source: The Transitional Constitution of South Sudan

event of increased insecurity due to fighting, the accessibility of the project sites would also be hindered and delays to achieving project objectives and targets would likely occur.

- b. The restriction of freedom of expression and association, as well as the population's suspicion and reticence to disclose information due to instability in the country, may affect the quality of participation in certain project activities. Especially community forums and dialogues where a certain degree of comfort expressing individual opinions openly is required. *"We fear talking in public and especially in groups about human right issues or any other issues that might cause frictions with the security apparatus"*, FGD participant. As much as the media plays a crucial role in the dissemination of legal information to the locals, it might not be easy for them to report on certain sensitive issues due to fear of victimization from security apparatus or the government. *"As you know in South Sudan, the media is not really free to air issues that are regarded sensitive such as rights issues as they should be without watering down the intended meaning of the message,"* Mary Ajith, Director CRN-Catholic Radio Network.
- c. There is still a conflict between the legal pathways, customary law systems and the statutory system, since many of the locals, irrespective of high levels of rights knowledge, do not know which courts have jurisdiction to handle type of cases leading to hindrance in accessing justice. This coupled with the high illiteracy levels leads to so many missing out on justice and political mediation and disputes.
- d. As per the SFCG, IDLO and IPCA project team, the risk of the change in donor policy due to the political instability in South Sudan could lead to discontinuation of the funding by the donor.
- e. There is currently high inflation in the country and, therefore, the project budget might not be able to accomplish all the intended project activities unless the situation normalizes soon.
- f. Ineffective collaborations between the partners, especially with some of the local CSOs. If partner CSOs are not well managed and their capacities, especially in accountability and reporting, are not built. *"To effectively ensure the success of this project, the partnering CSOs expectations should be managed, their work ethics and capacity needs to be improved through skill and technical empowerment. This too calls for close and effective collaborations"*, James Andrug, M&E – Search for Common Ground (SFCG). This point is reinforced by Emanuel Joof of IDLO, *"Some of the CSOs in South Sudan are in this for livelihood due to the deteriorating economic situation and in this regard, their expectations too need to be well managed."*
- g. Capacity building efforts are at risk of ineffectiveness if only the capacity of paralegals, police and prison officers are built without building the necessary justice infrastructures such as court rooms or mobile courts in the counties⁵⁰. This might lead to citizens not able to access justice irrespective of being knowledgeable about their rights.

3.4.2 Conflict Sensitivity/ Do No Harm

From the baseline assessment through the literature review and key informant interviews with the project team, the evaluation team found out that;

- a. The risk of limited legal capacity and human rights knowledge of script writers and radio presenters on how to identify the problem areas in the justice system to help develop messaging that resonates with the different target groups might result into a likelihood of less impact on the messages.
- b. Project implementers or media partners could take non-neutral positions or speak in a way that is not conflict sensitive in the implementation of the project activities, which could jeopardize the project and cause tension among the communities.
- c. The risk of not fully involving the local authorities including the security agencies in the five counties and at the national level at all stages of the project implementation to fully understand the purpose of the project might lead to impediments to the implementation of the project activities especially those involving the community participation.
- d. There is a risk that because of a lack of women and youth's voices within the APC, those groups' voices will not be well represented in programming, even though they are key target groups for the project.

⁵⁰These were referred to as part of the barriers to justice among the communities.

4.0 CONCLUSIONS AND RECOMMENDATIONS

a. Conclusions

The baseline revealed limited capacity among justice officials, especially state public authorities, law enforcement officials-the police and prisons, judicial and legal officers attached at Ministry level as well as traditional leaders working in customary courts.

According to survey participants, customary courts are the most used justice system, as compared to formal statutory courts. Customary courts are fraught with weaknesses and challenges such as poor investigation, lack of knowledge on prevailing laws and human rights, and lack of knowledge in case management. In addition, bias towards customary practices like forced or early marriages that affect women and even juveniles excludes them from the justice sector especially where statutory courts are non-existent. This translates to lack of access to justice especially, among the poor and marginalized like women, juveniles and the aged.

Survey results show that human rights violations are widespread in the five target regions. In addition, irrespective of high level of legal rights awareness by the surveyed communities, there is a low awareness and trust of the formal legal processes, and knowledge of justice pathways by citizens meaning that they are not able to effectively claim their rights within the statutory court system.

There are limitations on capacity of officials and substantial under-resourcing, of the legislation supporting the provision of free legal aid provided for by the laws of South Sudan. Government wide funding deficits substantially contribute to the inability of the Directorate of Legal Aid and Human Rights to carry out its prescribed functions.

The evaluation documented the popular use of radio with specific reference to Eye Radio in four targeted counties of Rumbek, Juba, Pageri, and Wau, and Miraya FM, Voice of Hope Radio and Jonglei FM Radio reaching Bor and other targeted locations as the main channels through which information on legal and justice issues and messages is accessed by communities in the target region. It is important to note that Eye radio broadcasts in English language and thus a wider reach of different communities and regions.

The capacity of the local CSOs was assessed in the 6 domains of 1) Governance, 2) Human resources, 3) Programme Development and Delivery, 4) Monitoring, Evaluation, and Learning, 5) Financial Management, and 6) Accountability. Capacity strengthening is required for several in the areas that directly impact Access to Justice. In addition certain areas of organizational' programming supported by local resource mobilization, project specific reporting and accountability, networking work to assure better organizational sustainability.

b. Recommendations

1. **Improve effectiveness the scope of work of the Legal and Justice System:** Study results reveal a number of challenges faced by both the demand and supply side as far as access to and provision of justice services are concerned. On the supply side, human and financial under-resourcing of the Directorate of Legal Aid and Human Rights in the Ministry of Justice including lack of a Legal Aid Board and a Legal Aid Fund as envisaged by the Ministry's Legal Aid Strategy (2011-13) translates to inability to outsource legal aid to lawyers in private practice. Other challenges faced by the supply side include lack of refresher capacity building in *free legal aid* services and legal courses as well as provision of transport facilities for the pro-bono lawyers and the paralegals, and poor coordination across Ministries and institutions, especially in the criminal justice sector. On the demand side, there is a perceived lack of transparency, accountability, integrity and fairness in the justice sector, high costs of administration of justice and issues of affordability, delayed administration of justice, and issues related to geography and distances to legal and justice sector agencies.
 - To support access to legal aid as envisioned in Section 19 (7) of the 2011 Transitional Constitution of South Sudan, SFCG should identify individual needs of targeted local justice sector actors – including the police, the courts judicial officers, prosecutors, social workers, prison officials, traditional leaders, paralegals, traditional councils and other local arbitrators – to ensure a targeted approach to capacity building. The police and prison officers with little or no knowledge on prevailing laws, rights of citizens including women and children may require trainings with longer modules on language proficiency.
 - To improve coordination among local justice actors in South Sudan, it is important that SFCG, together with its partners, carry out intensive lobbying with the aim of establishment of a working interagency cooperation including consideration of working through a single agency with guidance of a multi-stakeholder steering committee.
2. **Strengthen legislative capacity of Parliament through CSOs work: Study results show that there is no Legal Aid Act to establish the Legal Aid Board to oversee legal aid and human rights in South Sudan as well as guide related administrative processes. This has contributed to the inability of the Directorate of Legal Aid and Human Rights to optimally carry out its functions as related to legal aid provision.**
 - Foster conversation around the development of a Family Law Act and Gender-based Violence Act that provides a statutory alternative to marriages under customary law: Family Law Act and Gender-based Violence Act, all based on research that identifies pressing issues, should be designed to give meaning to the rights in the Transitional Constitution and the Child Act and should lay out clear procedures for combating practices that harm women, youths and children, such as forced marriage, abduction, denial of inheritance rights, the circumstances in which individuals may apply for a divorce and the distribution of property upon divorce. A gender-based violence law could explicitly prohibit the most egregious and widespread forms of gender-based violence by defining and prohibiting domestic violence, including marital rape, establishing criminal sanctions for parties that practice or facilitate girl child compensation and setting the minimum marital age at 18. Institutional mechanisms, such as a Task Force on gender-based violence or an alternative mechanism, should be established to ensure proper implementation of the law and allow the many women and girls across South Sudan demanding protection of their rights to voice their concerns.
 - SFCG and its CSO partners should support the legislature's capacity through a stimulated dialogue and lobby to establish an appropriate framework for legal aid provision including laws for improving the capacity of existing local institutions such as the Directorate of Legal Aid and Human Rights, supporting decentralization of legal aid and other governance activities crucial for access to justice especially amongst the poor and marginalized.

3. **Strengthen the capacity of the local partner CSOs in the areas of governance, programme development and delivery, monitoring and evaluation, financial management and Sustainability and Beneficiary Accountability:** Governance as a key organizational capacity area was deemed inadequate in four out of the six assessed organizations (Rebuilding the New Nation (RNN), Steward Women, Church & Development and Global Aim) with specific areas of concern that should be addressed: lack of adequate training or qualification/experience in relation to organizations' programming such as local resource mobilization; lack of project specific reporting and accountability; lack of networking and collaborations; and lack of strategies for project sustainability. Under programme development and delivery across all six assessed organizations, there is a lack of a mechanism for registering complaints voiced by service recipients and where a mechanism exists, there is a lack of awareness amongst service recipients of how to utilize the mechanism, and inadequate participation of women and other disadvantaged groups in key decision-making especially at activity level and or planning stages. While all assessed organizations have adequate systems in place to collect analyse and manage information from project activities as key component of monitoring and evaluation, study results show that there is **inadequate documentation of lessons learned and development of case studies/learning documents**. Key gaps noted in the area of financial management include: **financial documentation not kept in a secure location; a lack of auditing by committee auditor and CSOs; a lack of stored records of all financial audits; and a lack of a schedule and post-audit management plan for resolving audit findings**. Compared to other assessed organizations, Rebuilding the New Nation (RNN) was the only organization with a higher capacity deficit in the area of financial management. In the Sustainability and Beneficiary Accountability domain, Rebuilding the new Nation (RNN), Women Training & Promotion (WOTAP) and Friend for Justice lack a complaints mechanism for facilitating concerns raised by service recipient regarding service provision in addition, to inadequate sharing of activities and progress reports within the organizations' network.
4. **Improve Mass Media Communication:** As reported by 82% of all surveyed community members (80% of men and 82% of women), radio is the most popular medium for receiving information on legal and justice issues. Specifically, Eye radio is the most popular radio station across the 4 counties with exception of Bor. Miraya FM (24%), Voice of Hope Radio (16%) and Jonglei FM Radio (10%) are the other most popular radio stations in the target regions.
- To ensure a wide reach of the Access to Justice Programme, the most popular radio stations identified through the study must form part of the project's communication strategy.
 - The team should also carry out a pre-test of the radio program and messages to have feedback before roll out. The project must also ensure the use of gender sensitive language in messaging and respect the communities' cultures and norms when carrying out the activities.

5. **Build the capacity of traditional leaders in customary courts:** While use of customary courts (87%) is higher as compared to use of formal justice systems (57%), approximately 58% indicated that they were satisfied with the quality of justice delivered by the traditional justice system.
- The IDLO should leverage available customary law research and reference materials at the Ministry of Justice’s Customary Law Centre to build the capacity of traditional leaders in the widely popular customary courts on prevailing laws and human rights, including rights of women and juveniles. This will ensure that traditional systems in South Sudan evolve towards serving a justice that is cognizant of international human rights.
 - Low capacity⁵¹, prison congestions and resource constraints⁵² all contributes to in effective performance by rule of law actors. Empowerment through capacity building and change of perception to increase trust in rule of law actors through improvement in their ability to carry out their duties in line with human rights standards as per the project activities is essentially.
6. **Gender Responsiveness:** While all surveyed community members including women, youth and non-youth face a number of challenges in accessing justice as earlier reported, study results show that a higher proportion of women (70%) as compared to men (32%), children (25%) and the aged (26%) are more disadvantaged due to customs in the society. Due to existing cultural practices, women face marginalization hence likely to experience extended delayed administration of justice with the net effect of increased costs of administration of justice.
- Women and youths should be one key target groups of all of the project’s activities, and through every component of the project, the APC should take an approach that goes beyond gender sensitivity and is effectively **gender-responsive**, ensuring that women’s voices and concerns with regards to access to justice are fully addressed. SFCG must ensure all research and M&E must be disaggregated by sex, with a target of 60% participation of women and youths in project activities, and should conduct targeted gender research to assess the impact on access to justice for women.
7. **Facilitate more effective collaboration between justice actors and government officials:** Due to divergent strategies and goals, coordination across Ministries and institutions, especially in the criminal justice sector, was reported as very weak which was mainly attributed to a lack of inter-agency cooperation. There is a great need for the coordination of work and information sharing between the local CSOs such as South Sudan Bar Association (SSBA), South Sudan Law Society, South Sudan Human Rights Commission and the government agencies such as Directorate of Public Prosecution, Legal Justice of the Court of Appeal.

⁵¹ Law knowledge on human right issues and rule of law as per the constitution, lack of effective accountability mechanisms, poor procedures in case bookings for trials, evidence taking, preservation, witness protection and dispensing of cases.

⁵² Insufficient funding from the government, salary delays and under human resource in the judiciary

5.0 ANNEXES

Annex 1: List of Key Informants Interviewed

	Name	Organization and Designation
1	Peter Kuot	PM-Search for Common Ground (SFCG)
2	James Andrugá	M&E – Search for Common Ground (SFCG)
3	Ben Vuchiri	Finance Manger- Search for Common Ground
4	Tombe Stephen Benson	Project Manager -IPCA
5	Moro Jackson	M&E IPCA
6	Emanuel Joof	IDLO
7	Wani James Mardadi	Pro-bono Lawyer
8	Brian Oboyi	Pro-bono Lawyer
9	Thomas Vuyaya	Pro-bono Lawyer
10	Farouk	SSLS- South Sudan Law Society
11	Victor LowiLa	SSLS- Director of Legal Aid - South Sudan Law Society
12	Augustine	Customary Court Judge (Wau)
13	Deng Chuol	Community Leader
14	Topista	CSO leader/program Coordinator- CINA (Bor)
15	AchiekArou	CSO leader C&N (Bor)
16	Bol Dong	Police Officer (Rubek)
17	DociraAluzio	Payam Leader (Nimule)
18	Isaac	Prison Officer (Rumbek)
19	Joseph Lagun	Payam Leader (Juba-Munuki)
20	Gabriel Diing	IPCA Lawyer (Bor)
21	Topista	CSO Project Coordinator (CINA)
22	John Bullen	CSO leader – C&D (Bor)
23	Moori	Paralegal (Nimule)
24	Mark	Paralegal (Nimule)
25	Charles	CSO leader – Global Aim (Nimule)
26	Stella	CSO – Steward Women (Nimule)
27	David Kuacreng	CSO leader –Friends of Justice (FJ) (Rumbek)
28	Susan Niel	Paralegal (Wau)
29	GeofreyAdek	Police Officer (Wau)
30	TerezaTindo	CSO leader –WOTAP (Wau)
31	Nikola Diter	Prison Officer (Wau)
32	Susan	Local Admin. Chief (Wau)
33	AugustinoKaluki	CSO Deputy leader/Paralegal-Rebuilding the New Nation
34	Susan Sebit	Director- National Alliance for Women Lawyers
35	Hon. SabriWani	Deputy Public Prosecutor
36	Dr. Justice Geri	Legal Justice of the Court of Appeal
37	Philip Anyang	Secretary- South Sudan Bar Association (SSBA)
38	LualMabil	Human Rights Co-ordinator-South Sudan Human Rights Commission
39	James Long	Human Rights Co-ordinator-South Sudan Human Rights Commission
40	Mary Ajith	Director CRN-Catholic Radio Network
41	SebitEdimon	Program Development Officer -SSWLA

ANNEX 2: Link to [OCA Tool - SFCG CSO Assessment.docx](#)

ANNEX 3: Tools (Survey questionnaire, KII & FGD guides)

Quantitative Household Questionnaire

Introduction: My name is _____ and I am conducting a Baseline survey on behalf of SFCG. We are asking people in this area about their awareness of legal rights and duties, Accessing Legal Assistances, Legal Aid knowledge about Justice Issues and Justices Actor and Jurisdiction in South Sudan. You could greatly help in this if you agree to answer a series of questions that we will ask you. We will not discuss your responses with anyone and your name will not appear in connection to the information you give us. The interview will last approximately 60 minutes.

Do you have any question? Yes No

State:	County:	Payam:
Boma:	Village:	Date:
Collected by:	Respondent:	Tick Respondent sex: (Male) (Female)
Tick respondent status:	Host: ()	IDP: ()
Respondents Age ranges/Age group 18-19 Adolescence <input type="checkbox"/> 20-24 Early Youth <input type="checkbox"/> 25-29 Middle Youth <input type="checkbox"/> 30-35 Late Youth <input type="checkbox"/> 36-40 Early Adulthood <input type="checkbox"/> 41-49 Middle Adulthood <input type="checkbox"/> 50-59 Late Adulthood <input type="checkbox"/> 60+ years Elderly <input type="checkbox"/>		

1. What is your understanding of a) Peaceful coexistence? b) Access to justice?

2. How do you or the community ensure peace with neighbors and/or in your community?
 a. Sharing of resources
 b. Worshipping together
 c. Attending cultural celebrations together
 d. Playing together
 e. Others (Specify) _____

3. What does “conflict” mean to you and what types of disagreements do you consider “conflict in”?

4. In your opinion does a conflict always have to be violent?
 Yes No Don't Know

5. What type of conflict occurs most often in your community?

- a. Political conflicts
- b. Abuse of power
- c. Domestic conflict
- d. Land conflict
- e. Access to economic resources
- f. Access to services
- g. No response
- h. Others (specify) _____

6. What divides people in your community?

- a. Cultural differences
- b. Differences of opinion
- c. Difference of religion ;belief
- d. Inequality (economic)
- e. Impunity
- f. Ethnic differences
- g. No response
- h. Others (specify) _____

7. What are your legal and constitutional rights that you are aware of?

-

8. Does the Constitution of South Sudan allow for men and women to be equal under the law?

Yes No Don't Know

9. What human right violations have ever occurred to you?

10. If that violation occurred to you, what action did you or would you take?

11. Do citizens in your areas use the customary court system to seek their rights?

Yes No

12. Do citizens in your areas use the statutory court system put in place by the government to seek their rights?

Yes No

13. Have you ever reported/seek/secure justice through informal/traditional justice systems?

Yes No

14. If yes, what form of informal system was it?

- a. Customary court
- b. Family members
- c. Chief

d. Others (Specify) _____

15. Were you satisfied with the outcome of the judgment or resolution?

Yes No

16. Have you ever reported/sought/secure justice through formal (the statutory) justice systems?

Yes No

17. If yes to Q16, were you satisfied with the outcome of the judgment or resolution?

Yes No

18. Is there a government appointed judge in the area?

Yes No

b) If Yes, please specify the distance of the court from your home _____Kilometres

17. How easy is it to access formal court processes for resolving disputes over mutual rights and responsibilities?

a. Very Easy

b. Easy

c. Not Easy

18. Kindly explain your response above?

19. Does the Constitution allow for a person to be imprisoned for crimes committed by family members?

Yes No Don't Know

20. Does the law of South Sudan provide for those people accused of murder to be brought to a government court to be given a lawyer for free?

Yes No Don't Know

21. Do the laws of South Sudan say it is okay to revenge if blood compensation is not paid?

Yes No Don't Know

22. Does the Constitution of South Sudan grant the freedom to express opinions?

Yes No Don't Know

23. Does the Constitution of South Sudan allow for the freedom to meet and join groups?

Yes No Don't Know

24. What were the challenges you experienced in getting a fair outcome of the case? Probe for

a. Marginalization

b. Cost of litigation (Paying attorney, transport etc.)

c. Distance covered

d. Time taken for the case to be dispensed

e. Others (Specify) _____

25. Who are mostly affected by the above challenges?

a. Men

b. Women

c. Children

d. The old and disabled

e. Others (Specify) _____

26. Is everyone in the society (including government officials) subject normal civil or criminal law? And can citizens bring charges against politicians and officials?

Yes No Don't Know

27. Are there remedies available for citizens affected by misadministration of justice (Is there an ombudsman or equivalent)?

Yes No Don't Know

28. If Yes to Q 27, kindly elaborate/mention the remedy.

29. What is your perception on the availability of the following in your area?

- | | | | | |
|--|-----|----|--------------------------|--------------------------|
| a. Adequate legal representation in criminal trials; | Yes | No | <input type="checkbox"/> | <input type="checkbox"/> |
| b. Access to more informal legal processes such as small claims courts and Administrative tribunals; | Yes | No | <input type="checkbox"/> | <input type="checkbox"/> |
| c. Availability of legal advice; | Yes | No | <input type="checkbox"/> | <input type="checkbox"/> |
| d. Public legal education by the government agencies | Yes | No | <input type="checkbox"/> | <input type="checkbox"/> |
| e. Public legal education by the development agencies | Yes | No | <input type="checkbox"/> | <input type="checkbox"/> |

30. Which organizations, local or international, which you may know that, are working in supporting 'access to justice' in South Sudan?

31. If organization is mentioned above, how are they carrying out their work or what are the current approaches being taken?

32. In reference to the organization mentioned above, how does it undertake its duties?

33. In reference to the organization mentioned above, what would you say are its weakness (gaps)?

34. In reference to the organization mentioned above and its weakness (gaps) and how can they be addressed and by whom?

35. Would you or your household go to the police to report a rape?

Yes No Don't Know

If No, Please Specify why? _____

36. Do you know that there exists a special desk at the police station for women who are beaten or raped?

Yes No Don't Know

If yes, how did you learn about these special desks? (Select all that applies)

- Through mass awareness Campaign
- Through Radio talk shows
- Through friends
- Through the chiefs
- Through the paralegal in the community
- Fliers and leaflets with messages
- If _____ other,

please

specify_____

37. Have you or your household gone to the special desk for assistance?

Yes No

38. If yes, how satisfied were you with the services provided?

- Completely satisfied
- Somewhat satisfied
- Neither satisfied nor dissatisfied
- Somewhat dissatisfied
- Completely dissatisfied

If No, Why have you not gone to seek assistance from the special desk?

39. If you required a free legal advice or aid, where would you get it?

- a. Government agency
- b. Attorney paid by government
- c. Legal Aid Clinic by NGOs/CSOs
- d. Pro bono lawyer
- e. Don't Know
- f. Others (Specify)_____

40. If Legal Aid Clinic or Pro- bono lawyer mentioned in Q37, please probe for the CSO/Organization and location.

41. In your opinion what role do/should the local administrations play in access to justice to the citizens?

- a. Maintain law and order
- b. Disseminate legal and human right information
- c. Treat everyone equal before the law
- d. Ensure peace and harmony in the community
- e. Dissemination of government policies to the citizens
- f. Other (Specify)_____

42. In your opinion what role do/should the police play in access to justice to the citizens?

- g. Maintain law and order
- h. Disseminate legal and human right information
- i. Treat everyone equal before the law
- j. Inform a suspect of reasons for arrest
- k. Use not torture as a means of extracting information
- l. Other (Specify)_____

43. How do you/the community acquire information on legal and human rights?

- a. Radio
- b. TV

- c. Community dialogues/meetings
- d. Worship places(Churches & Mosque)
- e. Public gathering e.g. markets
- f. Family
- g. Friends
- h. Pamphlets
- i. Comic books
- j. Drama and theatre performance
- k. Other (Specify)_____

44. If radio is mentioned in Q43, which radio station did you receive the legal and human rights message from?

45. Which of the mentioned above is your most trusted and preferred choice for receiving the legal and human rights?

KEY INFORMANT INTERVIEW GUIDES

SFCG FACILITATING ACCESS TO JUSTICE PROJECT MANAGER

1. Which kinds of people in the community will this facilitating access to justice project target?
2. What strategies shall SFCG use or are in place to achieve project objectives? What factors shall contributed to the success of each strategy?
3. Which key actors will SFCG work with to achieve project objectives?
4. How do you intend to select the CSOs, paralegals, pro-bono lawyers and others?
5. From your mapping of the intended implementing partners, what are the strengths and weaknesses of each actor? Probe on police, paralegals, and prisons, implementing partners, strategic partners, networks and community groups. Why is it necessary to work with each of the mentioned actor in this project?
6. What are the key assumptions and risks under this Facilitating Access to Justice? Particularly, what are the contextual and project-related risks that require monitoring throughout the project?
7. What are the considered key strengths of SFCG that could result to this projects success?
8. If any, are there currently any key weaknesses in the project design, implementation and management that you feel needs to be improved upon by SFCG to enable better results of the project?
9. How has the project assured it is conflict sensitive and respects “Do No Harm” principles?
10. What aspects of South Sudanese Laws are you focusing on? Which areas/laws do you think are most important in your work?
11. What do you feel needs to be improved upon by SFCG and partners to enable better results for this project?
12. Do you agree with the 2-year time frame for the implementation of the project to be sufficient? Or do you for see an extension period necessary for the project implementation? If so, is it cost or no cost extension?
13. How will you ensure that work or project activities are carried out within appropriate deadline?
14. In your opinion, what role do the media, civil society, and security sectors play in the delivery of justice in these areas?
15. What are their capacities in supporting access to justice? In the course of your work, do you collaborate with in the media and civil society justice campaigns or programs?
16. How do coordinate to improve and expand justice services with the media, civil society, and other justice sectors like the police, courts, among others?
17. What are the sustainability strategies in place to insure the continuity of possible gains or impacts or the project?
18. What recommendations would you give specifically to the design and implementation of the access to justice project and for adaptations to improve the potential impact of the project?

SFCG M&E MANAGER

- What are the key indicators that will be tracked under this project? Kindly elaborate each one of them as per the access to justice log frame/result framework.
- Describe the intended monitoring data flow or hierarchy under this project?
- What monitoring tools the following to collect project information will use?
 - Community Development Officers (Field Officers)
 - Attorneys/Paralegals
 - Implementing Partners - CSOs
 - Project Manager
 - M&E manager
- What are the key assumptions and risks under this Facilitating Access to Justice? Particularly, what are the contextual and project-related risks that require monitoring throughout the project?
- What can be said are the intended impact of the project in the proposed locations of implementation?
- What are the key challenges anticipated in the implementation of the project and their mitigations?

- What are the sustainability mechanisms intended to be in place for;
 - Legal Aid Clinics
 - Paralegals
 - Cases on-going even after project shall have ended
- What do you feel needs to be improved on by SFCG and partners to enable better results for this project?
- How has the project assured it is conflict sensitive and respects “Do No Harm” principles?
- Do you agree with the 2-year time frame for the implementation of the project to be sufficient? Or do you for see an extension period necessary for the project implementation? If so, is it cost or no cost extension?
- How will you ensure that work or project activities are carried out within appropriate deadline?
- In your opinion, what role do the media, civil society, and security sectors play in the delivery of justice in these areas?
- What are their capacities in supporting access to justice? In the course of your work, do you collaborate with in the media and civil society justice campaigns or programs?
- How do coordinate to improve and expand justice services with the media, civil society, and other justice sectors like the police, courts, among others?
- What are the sustainability strategies in place to insure the continuity of possible gains or impacts or the project?
- What recommendations would you give specifically to the design and implementation of the access to justice project and for adaptations to improve the potential impact of the project?

SFCG GRANTS MANAGER

- Kindly tell us about the Access to Justice Project grant? Amounts, timeframe for the grant, sub-grants).
- What are the foreseeable financial risks in working with the partners?
- What are the key grant disbursement conditions to the implementing partners (CSOs)?
- How long will it take from the partners’ first proposal to SFCG to disbursement time?
- What budget tracking systems are in place to track project spend rates?
- What capacity building plans are in place for the partners to adhere to grants agreement and limit financial risks?
- Which are the grey areas of the project grant modalities that the SFCG project team/Field Officers or partners will not understand? How will they be made to understand them?
- How will you monitor project budgets and expenditure? How will your coordination with Program manager to ensure effective programing (ensure smooth running of the project based on disbursements and financial reporting)?
- How will you monitor and analyse all budget trends? How will you advise on low spend rates and late disbursements if it occurs? And what recommendations will you make on cost control for the grant and sub-grants.
- What are the project strategies on asset distributions and management during project implementation? And what are the assets recoveries or disposal plans?
- How will you ensure that work or activities are carried out within appropriate deadline? And how will the financial reporting be channelled from partners to SFCG and to the donor?
- Do you agree with the 2-year time frame for the implementation of the project to be sufficient? Or do you for see an extension period necessary for the project implementation? If so, will it be cost or no cost extension?
- In your opinion, what role do the media, civil society, and security sectors play in the delivery of justice in these areas?
- What are their capacities in supporting access to justice? In the course of your work, do you collaborate with in the media and civil society justice campaigns or programs?
- How do you intend to coordinate to improve and expand justice services with the media, civil society, and other justice sectors like the police, courts, among others?

- What recommendations would you give specifically to the design and implementation of the access to justice project and for adaptations to improve the potential impact of the project?

SFCG FACILITATING ACCESS TO JUSTICE COLLABORATORS - ACCESS PARTNERSHIP CONSORTIUM (IDLO/IPCA)

- a. What necessitated your collaborations under the Facilitating Access to Justice Project?
- b. What are your roles in the design and implementation of the project?
- c. In performing your roles above, what areas of capacity building do you anticipate?
- d. How did you/intend the selection of the CSOs, paralegals, pro-bono lawyers and others done?
- e. From your mapping of the intended implementing partners, what are the strengths and weaknesses of each actor? Probe on police, paralegals, and prisons, implementing partners, strategic partners, networks and community groups. Why is it necessary to work with each of the mentioned actor in this project?
- f. What are the key assumptions and risks under this Facilitating Access to Justice? Particularly, what are the contextual and project-related risks that require monitoring throughout the project?
- g. What are your considered key strengths of those of the Consortium that could result to this projects success?
- h. What do you feel needs to be improved on by you, SFCG and partners to enable better results for this project?
- i. Are there any notable key weaknesses of the consortium in the implementation of the project? Probe for key weaknesses in the project design, implementation and management that you feel needs to be improved on by APC to enable better results of the project?
- j. How has the project assured it is conflict sensitive and respects “Do No Harm” principles?
- k. Do you agree with the 2-year time frame for the implementation of the project to be sufficient? Or do you for see an extension period necessary for the project implementation? If so, is it cost or no cost extension?
- l. In your opinion, what role do the media, civil society, and security sectors play in the delivery of justice in these areas?
- m. In your opinion, what are their capacities in supporting access to justice? In the course of your work, do you collaborate with the media and civil society justice campaigns or programs?
- n. How would you coordinate to improve and expand justice services with the media, other civil society, and justice sectors like the police, courts, among others?
- o. What are the sustainability strategies in place to ensure the continuity of possible gains or impacts or the project?
- p. What recommendations would you give specifically to the design and implementation of the access to justice project and for adaptations to improve the potential impact of the project?

DONOR REPRESENTATIVE (INL)

1. Why was it necessary to fund Access to Justice Project through SFCG in South Sudan?
2. What key impacts do you (the donor) expect from implementation of this project?
3. How does INL intend to carry out monitoring of this access to justice project progress?
4. During the project monitoring and field visits to project areas, how will you ensure the key findings and recommendations in the course of the project monitoring and implementations?
5. Generally how do you expect the partnership to perform in terms of reporting, information sharing, financial accountability and mentorship?
6. From your experience in the design of the access to justice, what are the anticipated key weaknesses in the project design, implementation and management that you feel needs to be improved on by your organization or SFCG to enable better results in the project in the future?
7. What recommendations would you give specifically to the design and implementation of the access to justice project and for adaptations to improve the potential impact of the project?

SOUTH SUDAN HUMAN RIGHTS COMMISSION (SSHRC) SOUTH SUDAN LAW SOCIETY (SSLS) SOUTH SUDAN WOMEN LAWYERS ASSOCIATION (SSWLA) AND SOUTH SUDAN BAR ASSOCIATION

- a. What are the key human rights issues that South Sudan is struggling with?
- b. In your opinion, what long-term and recent developments have affected conflict dynamics and access to justice?
- c. Which kind of people in the community do these issues affect most? Who are affected most by human rights abuses?
- d. In the course of your work, what would you say is the level of awareness of human rights and legal rights by the citizens in South Sudan and especially in project areas?
- e. Kindly, describe to us the justice system in South Sudan? What are its strengths and weaknesses of both the customary and statutory systems?
- f. What is the state of work supporting 'access to justice' in South Sudan? What are the current approaches being taken?
- g. What are the barriers to access to justice in South Sudan?
- h. What are the gaps (and entry points to address them) and opportunities for improved systemic response?
- i. In your opinions, what are the key drivers and triggers of conflict? What unifiers and dividers shape conflict?
- j. How do existing conflicts affect access to justice?
- k. How do your office/ organization contribute to justice (or facilitation of accessing justice) to the people of Juba County, Nimule, Wau, Rumbek and Bor areas?
- l. What is your opinion on the;
 - d. Level of coordination or inter- linkage among the judiciary, administration and Law Enforcement Agencies in ensuring access to justice at community level?
 - e. Accessibility of court processes for resolving disputes over mutual rights and responsibilities?
 - f. Availability of adequate legal representation in criminal trials?
 - g. Access to more informal legal processes such as small claims courts and administrative tribunals?
 - h. Availability of a fair hearing in informal/customary trials? Does this apply to both men, women and those accused of serious crimes?
 - i. Availability of legal advice?
 - j. Public legal education?
- e. What are the opportunities that could be explored to improve access to justice in project areas?
- f. Which specific statutes/legislations regulate legal aid so in South Sudan?
- g. What support do you think the police require in order to carry out their work effectively and efficiently? Same with prosecutors? What of prisons? What of paralegals?
- h. What are the most difficult challenges your office face in carrying out your mandate?
- i. How does your office deal with the challenges?
- j. What areas of your work do you require trainings or capacity building on?
- k. In your opinion, what role do the media, civil society, and security sectors play in the delivery of justice in these areas?
- l. What are their capacities in supporting access to justice? In the course of your work, do you collaborate with the media and civil society justice campaigns or programs?
- m. How do you coordinate to improve and expand justice services with the media, civil society, and other justice sectors like the police, courts, among others?

MEDIA

- a. What is the role of the media in this part of the country/area?
- b. What is the TV/Radio coverage (Viewership/listenership)? As a radio station what is your current reach and relevance of media and civil society justice campaigns or programs?
- c. Which human rights programs does the TV/radio air?
- d. Which topics are discussed? And whom do you target with these topics?
- e. Do you have specific consideration of gender when airing these topics? How is this done?
- f. How are the listeners engaged and involved in the discussion?

- g. Which organizations fund the human rights/access to justice programs?
- h. How does the government support or participate in such radio programs? And how does the development partners/ civil society support or participate in such radio programs?
- i. To what extent do media, civil society, and justice sectors coordinate to improve and expand justice services?
- j. How frequent have you been running human rights/access to justice program? Daily, weekly, monthly?
- k. When last did the station run any of the access to justice programs?
- l. What were the key topics of discussion during the access to justice programs you ran/aired last?
- m. Which kind of people in the community do such programs target?
- n. How was the listenership response and engagement during and after the discussions? Probe more on key issues they wanted clarification on.
- o. Who were invited to the studio from the (community/development partners/ government and civil society) and what did they focus on?
- p. What are the key challenges the TV/radio faces related to airing human rights/access to justice programs?

CSO LEADER/REPRESENTATIVE

- a. How were you or the organization selected to the project?
- b. What are your intended roles as under this project?
- c. What are the key human rights issues that South Sudan citizenry are struggling with in this area?
- d. Which kind of people in the community do these issues affect most?
- e. How would you describe the peace situation in your area? What factors or issues mostly lead to conflict in this area?
- f. In case of problems/conflicts, how are they solved in this area? And by who?
- g. What long-term and recent developments have affected conflict dynamics and access to justice in this area?
- h. What is your role as a civil society organization in tackling conflicts, human rights abuses and accessing justice by the community?
- i. What would you say is the level of awareness of human rights and legal rights by the citizens especially in this area?
- j. Describe to us in your own understanding the justice system in South Sudan? What are its strengths and weaknesses of both the customary and statutory systems?
- k. What are the barriers to access to justice in South Sudan?
- l. Have you ever been trained on conflict resolution and or human rights and access to justice issues? By who? And when?
- m. If so what areas were you trained on? Probe how the training was effective in enhancing the capacity of the CSO.
- n. In your capacity as a CSO, what areas of your work do you require trainings or additional capacity building on? Probe for;
 - 2 Project Management and Monitoring,
 - 3 Networking and collaborations
 - 4 Advocacy,
 - 5 Human resource or staff management
 - 6 Book Keeping,
 - 7 Reporting and report writing,
 - 8 Resource mobilization,
 - 9 Innovation and Sustainability
 - 10 Conflict resolution
- o. Have you ever been trained on conflict resolution and or human rights and access to justice issues? By who? And when?
- p. If so what areas were you trained on and why? Probe how the training was effective in enhancing the capacity of the paralegal.

- q. What are the most difficult challenges you anticipate to face in your work in implementing this access to justice project? Probe on specific challenges related to access to justice project to be implemented?
- r. How do you intend deal with the challenges mentioned?
- s. How do you intend to ensure that citizens continue receiving the benefits gained from the project even after the end of support from SFCCG?
- t. In your opinion, what role do the media, civil society, and security sectors play in the delivery of justice in these areas?
- u. What are your their capacities in supporting access to justice?
- v. What recommendations would you give specifically to the design and implementation of the access to justice project and for adaptations to improve the potential impact of the project?

PARALEGALS

- w. How were you selected to be a paralegal? And what are your intended roles as a paralegal under this project?
- x. What are the key human rights issues that South Sudan is struggling with?
- y. Which kind of people in the community do these issues affect most?
- z. How would you describe the peace situation in your area? What factors or issues mostly lead to conflict in this area?
 - aa. In case of problems/conflicts, how are they solved in this area? And by who?
 - bb. What long-term and recent developments have affected conflict dynamics and access to justice in this area?
 - cc. Which kinds of crimes affect women/men/children in your areas? What are the key human rights issues that are common in your area?
 - dd. What is your role in tackling conflicts, human rights abuses and accessing justice by the community?
 - ee. What is the level of awareness of human rights and legal rights by the citizens especially in project areas of Juba County, Nimule, Wau, Rumbek and Bor areas?
 - ff. Describe to us the justice system in South Sudan? What are its strengths and weaknesses of both the customary and statutory systems?
 - gg. What are the barriers to access to justice in South Sudan?
 - hh. What areas of your work do you require trainings or capacity building on? Have you ever been trained on conflict resolution and or human rights and access to justice issues? By who? And when?
 - ii. If so what areas were you trained on and why? Probe how the training was effective in enhancing the capacity of the paralegal.
 - jj. What are the most difficult challenges you anticipate to face in your work? Probe on specific challenges related to access to justice project to be implemented? And how do you intend deal with these challenges?
 - kk. What do you think are already in place to ensure that citizens continue receiving the benefits gained from the project?
 - ll. In your opinion, what role do the media, civil society, and security sectors play in the delivery of justice in these areas?
 - mm. What do you think should be done to enable the intended achievements to be realized by implementing this access to justice project even after the project end?
 - nn. What recommendations would you give specifically to the design and implementation of the access to justice project and for adaptations to improve the potential impact of the project?

ATTORNEYS AND PUBLIC PROSECUTOR

- a. What are the key human rights issues that South Sudan is struggling with?
- b. What long-term and recent developments have affected conflict dynamics and access to justice?
- c. Which kind of people in the community do these issues affect most?

- d. What is the level of awareness of human rights and legal rights by the citizens especially in project areas of Juba County, Nimule, Wau, Rumbek and Bor areas?
- e. Kindly, describe to us the justice system in South Sudan? What are its strengths and weaknesses of both the customary and statutory systems?
- f. What is the state of work supporting 'access to justice' in South Sudan? What are the current approaches being taken?
- g. What are the barriers to access to justice in South Sudan?
- h. What are the gaps (and entry points to address them) and opportunities for improved systemic response?
- i. In your opinions, what are the key drivers and triggers of conflict? What unifiers and dividers shape conflict?
- j. How do existing conflicts affect access to justice?
- k. How does your office contribute to justice (or facilitation of accessing justice) to the people of Juba County, Nimule, Wau, Rumbek and Bor areas?
- l. What is your opinion on the;
 - k. Level of coordination or inter- linkage among the judiciary, administration and Law Enforcement Agencies in ensuring access to justice at community level?
 - l. Accessibility of court processes for resolving disputes over mutual rights and responsibilities?
- m. Availability of adequate legal representation in criminal trials?
- n. Access to more informal legal processes such as small claims courts and administrative tribunals?
- o. Availability of a fair hearing in informal/customary trials? Does this apply to both men, women and those accused of serious crimes?
- p. Availability of legal advice?
- q. Public legal education?
- n. What are the opportunities that could be explored to improve access to justice in project areas?
- o. Which specific statutes/legislations regulate legal aid so in South Sudan?
- p. What support do you think the police require in order to carry out their work effectively and efficiently? Same to prosecutors? What of prisons? What of paralegals?
- q. What are the most difficult challenges your office face in carrying out your mandate?
- r. How does your office deal with the challenges?
- s. What areas of your work do you require trainings or capacity building on?
- t. In your opinion, what role do the media, civil society, and security sectors play in the delivery of justice in these areas?
- u. What are their capacities in supporting access to justice? In the course of your work, do you collaborate with the media and civil society justice campaigns or programs?
- v. How do you coordinate to improve and expand justice services with the media, civil society, and other justice sectors like the police, courts, among others?

STATE OR COUNTY PRISON OFFICERS

- a. What role does the prison play in the access to justice/ justice system of South Sudan?
- b. What differences exist between State prisons and county prisons?
- c. What reasons would lead to someone being remanded in the prison? And what crimes lead to being imprisoned in this prison?
- d. What are the gaps in delivering access to justice to the citizens by your office?
- e. What are the opportunities for improved systemic response to these gaps?
- f. In your opinions, what are the key drivers and triggers of conflict? What unifiers and dividers shape conflict?
- g. How do existing conflicts affect access to justice?
- h. How does your office contribute to justice (or facilitation of accessing justice) to the people of Juba?
- i. What is your opinion on the;
 - i. Level of coordination or inter- linkage among the judiciary, administration and Law Enforcement Agencies in ensuring access to justice at community level?
 - j. Accessibility of court processes for resolving disputes over mutual rights and responsibilities?
- k. Availability of adequate legal representation in criminal trials?

1. Access to more informal legal processes such as small claims courts and administrative tribunals?
- m. Availability of a fair hearing in informal/customary trials? Does this apply to both men, women and those accused of serious crimes?
- n. Availability of legal advice?
- o. Public legal education?
8. Specifically, what is the linkage of your roles with other justice actors?
9. From experience, how has the lack of impact of access to justice activities affected the prisons? Probe on number of prisoners, timeline of cases and remand period, numbers of appeals, prisoners' rights and linkages with police and paralegals?
10. What areas of training or capacity building would you require to effectively and efficiently perform your roles as a prison officer as per the South Sudan constitution?

CUSTOMARY LAW COURTS JUDGES

- a. How would you describe the peace situation in your area? What factors or issues to lead to conflict in this area?
- b. In case of problems/conflicts, how are they solved in this area? And by who?
- c. What is a customary court in the context of South Sudanese? Do women sit in these courts?
- d. Why or how are the customary courts important in these areas? How easy is it to access the customary courts in this area?
- e. Which kinds of cases are solved at the customary courts? And which kind of cases the customary courts cannot handle?
- f. Averagely how many cases does the court handle in a week?
- g. What are the gaps (and entry points to address them) and opportunities for improved systemic response?
- h. In your opinions, what are the key drivers and triggers of conflict? What unifiers and dividers shape conflict?
- i. How do existing conflicts affect access to justice?
- j. How does your office contribute to justice (or facilitation of accessing justice) to the people of Juba?
- k. What is your opinion on the;
 - e. Level of coordination or inter- linkage among the judiciary, administration and Law Enforcement Agencies in ensuring access to justice at community level?
 - f. Accessibility of court processes for resolving disputes over mutual rights and responsibilities?
 - g. Availability of a fair hearing in informal/customary trials? Does this apply to both men, women and those accused of serious crimes?
 - h. Access to more informal legal processes such as small claims courts and administrative tribunals?
 - i. Availability of legal advice?
 - j. Public legal education?
 - What areas of your work do you require trainings or capacity building on?
 - What challenges does the court face in terms of delivering fair judgement or justice?
 - What do you think should be improved to make the customary courts more effective in delivering justice to the locals?

STATUTORY LAW COURTS JUDGES

- a. How would you describe the peace situation in your area? What factors or issues to lead to conflict in this area?
- b. In case of problems/conflicts, how are they solved in this area? And by who?
- c. What is a statutory court in the context of South Sudanese? How are the processes?
- d. Do women sit in these courts?
- e. Why or how are the statutory courts important in these areas? How easy is it to access the statutory courts by citizens in this area?

- f. Which kinds of cases are solved at the statutory courts that can't be handled at the customary court?
- g. Averagely how many cases does the court handle in a week?
- h. What are the gaps in delivering access to justice to the citizens by your office?
- i. What are the opportunities for improved systemic response to these gaps?
- j. In your opinions, what are the key drivers and triggers of conflict? What unifiers and dividers shape conflict?
- k. How do existing conflicts affect access to justice?
- l. How does your office contribute to justice (or facilitation of accessing justice) to the people of Juba?
- m. What is your opinion on the;
 - k. Level of coordination or inter- linkage among the judiciary, administration and Law Enforcement Agencies in ensuring access to justice at community level?
 - l. Accessibility of court processes for resolving disputes over mutual rights and responsibilities?
- m. Availability of a fair hearing in informal/customary trials? Does this apply to both men, women and those accused of serious crimes?
- n. Access to more informal legal processes such as small claims courts and administrative tribunals?
- o. Availability of legal advice?
- p. Public legal education?
 - What areas of your work do you require trainings or capacity building on?
 - What challenges does the court face in terms of delivering fair judgement or justice?
 - What do you think should be improved to make the customary courts more effective in delivering justice to the locals?

REPRESENTATIVE OF PRISON REVIEW BOARDS

- a. What are the roles of the Prison Review Boards?
- b. Why was it necessary to establish Prison Review Boards?
- c. How effective has the boards been in carrying out their mandate?
- d. What can be mentioned as key successes of the Boards since its inception?
- e. What are the major challenges to the boards in carrying out its mandate? And how does it mitigate them.
- f. What do you think the development partners in the sector, other partners or the Government needs to do to make the Boards be more efficient?

POLICE OFFICERS

- a. What reasons would lead to someone being arrested and remanded in prison? What crimes lead to one being imprisoned?
- b. What are the challenges you experience in performing your duties as an enforcer of rule of law?
- c. Have you ever attended training on access to justice in the course of your work? If yes, what was the training about?
- d. What areas of your work do you require trainings or capacity building on?
- e. How do you think the impact of implementation of access to justice activities will affect your work?

COUNTY AND LOCAL ADMINISTRATORS (EXECUTIVE, PAYAM ADMIN, CHIEFS)

- a. How would you describe the peace situation in your area? What factors or issues mostly lead to conflict in this area?
- b. In your opinions, what are the key drivers and triggers of conflict? What unifiers and dividers shape conflict?
- c. How do existing conflicts affect access to justice?
- d. How does your office contribute to justice (or facilitation of accessing justice) to the people of Juba

- e. In case of problems/conflicts, how are they solved in this area? And by who?
- f. What long-term and recent developments have affected conflict dynamics and access to justice in this area?
- g. Who are the most affected by conflicts and human rights abuse in this area?
- h. Which kinds of crimes affect women/men/children in your areas? What are the key human rights issues that are common in your area?
- i. What is your role in tackling conflicts, human rights abuses and accessing justice by the community?
- j. How well are you empowered in performing these roles?
- k. Have you ever attended training on conflict resolution or access to justice in the course of your work? If yes, what was the training about?
- l. What are the gaps or weaknesses in delivering access to justice to the citizens by your office?
- m. What are the opportunities or strengths for improved systemic response to these gaps?
- n. What areas of your work do you require trainings or capacity building on?

FOCUS GROUP DISCUSSIONS: MEN/WOMEN

- 2) What is your understanding of peaceful coexistence? And access to justice?
- 3) How would you describe the peace situation in your area? What factors or issues to lead to conflict in this area?
- 4) What long-term and recent developments have affected conflict dynamics and access to justice in this area?
- 5) In case of problems/conflicts, how are they solved in this area? And by who?
- 6) Which kinds of crimes affect women/men/children in your areas? What are the key human rights issues that are common in your area?
- 7) What are the rights and privileges you are aware of as guaranteed by the South Sudan Transitional Constitution? Probe for knowledge/awareness?
- 8) Which laws in South Sudan protect the rights of women/men/children?
- 9) How does the community acquire information on legal and human rights and are they absorbed by the community members?
- 10) How do you regards receiving the information through drama, radio, theatre, and community dialogues?
- 11) What role do the local administration and police play in access to justice to the citizens?
- 12) Which kind of crimes are men/women involved in this area? Which kind of offences makes men/women be arrested, remanded or imprisoned?
- 13) How are men/women treated by the police when arrested?
- 14) To whom would you report a case of violation of your or family members right? Probe for the reasons of the preferred option?
- 15) In which courts are men/women in your community taken when caught in crime or with offence? Is it the statutory court or the traditional court?
- 16) How are men/women cases handled at the courts? Probe customary law courts, magistrate courts or courts of appeal?
- 17) How easy or difficult is it to access justice in your area? Probe for cost and timeframe involved?
- 18) How do women participate in the public issues? How do women acquire knowledge on their rights? And how do they advocate for their rights and participation in public spaces?
- 19) What kind of activities have you seen or heard under this facilitating access to justice project?
- 20) How are men/women involved in the project design and implementation in this area?
- 21) How do women participate in the public issues? How do women acquire knowledge on their rights? And how do they advocate for their rights and participation in public spaces?
- 22) Have you ever attended a public awareness session on legal and human rights, any group or listened to an awareness activity carried out on a radio? If yes, which radio station?
- 23) Have you or anyone/member of your household used any information he/she acquired from any awareness raising activity to claim for his/her rights or helped result a dispute?
- 24) Have you ever heard of legal aid clinic (s) operated in your area? If so, by who?

- 25) Have you ever visited a legal aid clinic and got legal advice, and was it helpful to you?
- 26) How do people in your community resolve conflicts and sustain peace?
- 27) What recommendations would you give specifically to the design and implementation of the access to justice project and for adaptations to improve the potential impact of the project?